



Appeal Decision

Site visit made on 15 January 2025

by Mr D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/J1535/D/24/3346018

97 Oakwood Hill, Loughton IG10 3ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class A paragraph A.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Manpreet Singh against the decision of Epping Forest District Council.
 - The application is Ref. EPF/0583/24.
 - The development proposed is described as SINGLE STOREY REAR EXTENSION UP TO 6M FROM THE EXISTING WALL.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Under Article 3(1) and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for the enlargement of a dwellinghouse, subject to limitations and conditions set out under paragraphs A.1 – A.4. The Council has refused prior approval due to its view of the effect upon the amenity (living conditions) of adjoining premises under A.4(7).
3. Under A.4, amongst other things, the Council must (5) notify each adjoining owner or occupier about the proposal, and (7) assess the impact of the proposal upon the amenity of all adjoining premises, taking into account (9) any representations received. My determination is made on the same basis.
4. The Council's reason for refusal refers to Policy DM9 of the Epping Forest District Local Plan 2011 – 2033 – Part 1 (2023) (the DLP) and the National Planning Policy Framework (2024) (the Framework). However, there is no requirement to have regard to the development plan and Framework as there would be for any development requiring planning permission. Therefore, I have only had regard to these insofar as they set out material which assists in assessing the impact of extensions upon the amenity of adjacent premises.

Main Issue

5. The main issue is whether or not prior approval should be given, having particular regard to the effect of the proposal upon the living conditions of Nos 95 and 99 Oakwood Hill with particular reference to daylight, overshadowing and whether or not it would be overbearing.

Reasons

6. The appeal site is one of a group of four pairs of semi-detached dwellings that address the highway at staggered angles. Their orientation means that most of the two-storey outer western gable wall of each pair is adjacent to the rear garden of the neighbouring property to its west. This layout limits the eastern outlook within the gardens and some internal rooms of the property west of the gables.
7. The eastern outlook from No. 99 Oakwood Hill includes the full depth two-storey gable of No 101 a short distance from the side boundary, resulting in some pre-existing enclosure on one side. Being on the opposite shared boundary at approximately 6m in depth, with a height well above the current hedge line, the appeal proposal would result in a significant reduction in outlook on the western side of No 99 from the garden space and nearest ground floor window.
8. While I noted some vegetation over part of No 99's nearest window, even with this removed, the proposal would result in a significant loss of outlook that would feel highly enclosing. The proposed height, depth, and proximity would result in the proposal feeling dominant and significantly overbearing from the nearest window and a sizeable proportion of the rear garden of No 99. Such would be the extent of this and given No 99's existing surrounds, the proposal would result in harmful living conditions to No 99 because it would feel overbearing both from the rear garden space and nearest ground floor window.
9. For No 95, despite its limited rear projection the eastern outlook includes much of the depth of the two-storey gable of the appeal property. At approximately 6m in depth, with a height well above the fence line, the appeal scheme would significantly extend the flank elevation of the host property near No 95's boundary. The resulting proximity, extent and considerable depth of built development would significantly reduce outlook and would appear highly dominant and overbearing for a large proportion of the garden of No 99, and when viewed from the nearest rear ground floor window. The proposal would therefore result in harmful living conditions to No 99 due to it being overbearing when viewed from both the garden space and nearest ground floor window.
10. While the resulting depth and extent of built development would be considerable when viewed from No 95, it would be due north east and east. There would be a reduction in levels of daylight within part of the garden and within the rear ground floor rooms, and some further overshadowing. However, given the limited setback from the boundary, the orientation, and the remaining southern and western aspect available to No 95, the further overshadowing would be for a limited proportion of the day. From late morning onwards the garden and rear rooms would receive good levels of sunlight and overall daylight.
11. As a matter of judgement and in the absence of detailed substantiation in the Council's delegated report, I consider the appeal proposal would not result in unacceptable effects upon No 95. Therefore, the proposal would not result in harmful living conditions at No 95 in respect of daylight or overshadowing.
12. The eastern aspect from No 99 is already limited to quite a degree by the flank elevation of No 101, meaning there is some pre-existing overshadowing and limit to sunlight and overall daylight received in the garden and through the rear ground floor window in the mornings. The appeal scheme, though single storey, would markedly reduce some of the remaining open aspect to the south west. It would

result in a marked further amount of overshadowing and reduced direct sunlight, and overall daylight, received by a sizeable part of the garden closest to the dwelling and through the rear ground floor window in the afternoons.

13. As such, the appeal proposal would mean that the amount of direct sunlight would be much more confined, and it would significantly increase the proportion of the day that part of the rear garden is in shadow. During the lighter longer days in summer, the effects would be limited. However, for much of the year even were vegetation around the window reduced, the effects would still be significant to No 99. Based upon the evidence before me, the effect of overshadowing and reduced daylight would be such that it would result in significantly adverse effects upon No 99, resulting in harmful living conditions in respect of daylight and overshadowing to the garden and room served by the ground floor rear facing window.
14. I note a reference to other properties with similar extensions, though no specific examples are put to me, and I could see no particular examples at my visit. This matter would not mitigate the effects upon the living conditions of neighbouring properties, and the limited evidence in this regard does not persuade me to depart from my findings set out above in respect of the site-specific circumstances and effects of this proposal, having regard to paragraph A.4(7) of the GPDO.
15. While I find that the proposal would not result in harmful living conditions to No 95 in respect of daylight and overshadowing, it would result in significantly adverse effects and harmful living conditions to No 95 because it would be overbearing, and to No 99 in respect of being overbearing, daylight and overshadowing. Therefore, the proposal is not considered acceptable having regard to the provisions of paragraph A.4(7) and A.4(9) of the GPDO.
16. In so far as it is of relevance the proposal conflicts with Policy DM9 of the DLP, which seeks that proposals are not overbearing resulting in materially adverse effects upon outlook, and ensure good sunlight and daylight to neighbouring buildings and land. It would also conflict with paragraph 135f) of the Framework which seeks that proposals provide a high standard of amenity for existing users.

Other Matters

17. A neighbouring occupier expresses concerns in respect of the party wall, damage to an existing hedge, the duration of construction works, loss of privacy, ability to open windows and access to a drain. However, as I am dismissing this appeal for other reasons, I have not considered these matters further.

Conclusion

18. For the reasons set out above, prior approval is not granted, and the appeal is dismissed.

Mr D Szymanski

INSPECTOR