
Appeal Decision

Site visit made on 22 May 2025 by F Bradford BA (Hons)

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/W1525/D/25/3363012

17 Braganza Way, Chelmsford, Essex, CM1 6AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Haslam against the decision of Chelmsford City Council.
 - The application Ref is 24/01713/FUL.
 - The development proposed is a retrospective planning application for the construction of a flat roofed timber outbuilding to the rear garden.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. As noted from the appeal documentation and what I have observed on site, the development has been completed. Notwithstanding this, I have determined the appeal on the basis of the submitted drawings.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of number 45 Braganza Way with regard to their outlook.

Reasons for the Recommendation

5. The appeal dwelling is part of a planned housing development and benefits from a rear garden, enclosed by a boundary fence. Abutting the side boundaries is a small copse and the private rear garden of 19 Braganza Way, with the private gardens of numbers 43 and 45 Braganza Way abutting the rear boundary. The gardens of these two neighbouring properties are notably smaller, at approximately half the depth and width of the appeal dwelling.
6. The outbuilding is a sizeable mass within close proximity of the rear boundary shared with No.45 Braganza Way (No.45). Its height, measuring 3.5 metres, projects beyond the existing fence line substantially, and its width results in the occupation of a significant lateral proportion of No.45's rear boundary fence. The outbuilding, by virtue of its scale and proximity to the boundary of No.45, creates a dominant addition protruding above the fence line, resulting in an overbearing impact.

7. I further consider that the cumulative overbearing effect of the outbuilding, and then the depth of the garden at No.45, means the development also has an enclosing effect to the occupiers of No.45 when enjoying their garden and living room. From the evidence before me and the observations made on my site visit, the outbuilding has a harmful impact to the outlook of the occupiers of No.45 by way of overbearing and enclosure. I do note that on site, faux plant 'cladding' has been added to the rear elevation of the outbuilding, which whilst softening its appearance, would not mitigate against the harm identified above.
8. For these reasons I find harm to the living conditions of the occupiers of No.45 Braganza Way with regard to outlook. Consequently, I find conflict with the Chelmsford Local Plan with specific regard to policy DM29 (Protecting Living and Working Environments) which aims to, among other things, safeguard the living environment of nearby residential property by ensuring that development is not overbearing.
9. The appellants have drawn my attention to factors in support of the appeal. Though the neighbouring property (No. 45) has erected an outbuilding, the resulting effects to their own living conditions does not form a basis of precedence within this appeal, nor does the quantum of outbuildings within their rear garden. Furthermore, whilst there may be buildings and extensions that have been approved or constructed within the area that are of similar or larger scale than the outbuilding, I have no evidence before me to facilitate a basis for comparison.
10. Finally, whether a structure is 'dominant' is not exclusively based on its merits when viewed in isolation, but also its effect in a given context. From this, though the site is surrounded by two to three storey structures, which are taller than the appeal development, these structures appear to have been sited within the existing planned context of the housing development. As such, it is instead the aforementioned factors that mean the outbuilding is dominant. Having given due regard to the points raised by the appellants and for the reasons contained above, I have afforded these factors limited weight within my recommendation.

Other Matters

11. I note that the appellants have stated that the outbuilding does not cause impact to the light enjoyed by the occupiers of neighbouring properties. This issue is not contested by the council and as such I have afforded it minimal weight within my considerations.
12. I have considered the circumstances of the appellants and their family in this instance, and recognise their motivations for the development. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (the Act), which sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
13. The Act sets out the relevant protected characteristics which includes age, sex, and sexual orientation. However, it does not follow from the PSED that the appeal should succeed, and I am also mindful that personal circumstances and ownership of the land can change, but the effect of the development would be permanent. Informed by the evidence before me, in my view the adverse effects of dismissing the scheme

on those with protected characteristics would be proportionate having regard to the harm identified to the living conditions of neighbouring occupants.

Conclusion and Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Finlay Bradford

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR