
Appeal Decision

Site visit made on 6 August 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 August 2025

Appeal Ref: APP/M1520/D/25/3364303

Ashdown, Goldfinch Lane, Thundersley, Benfleet, Essex SS7 3LT

- 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 Sean Salt of Puma Energy (UK) Ltd against the decision of Castle Point Borough Council.
 - The application Ref is 25/0035/FUL.
 - The development proposed is installation of balcony balustrades on a flat roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I saw on my site visit that the development had been completed. Section 73A of the 1990 Act allows for the submission of retrospective applications, which are subject to the same considerations as those made prior to development commencing.

Main Issues

3. The main issues in this appeal are the effect of the proposal on:
 - the living conditions of 39 Goldfinch Lane, with particular reference to outlook, privacy and noise; and
 - the character and appearance of the host property and the surrounding area.

Reasons

Living conditions

4. The appeal site is located on the edge of Thundersley. Most of the property's rear garden, apart from the patio area, is within the Green Belt, as is the land to the side and rear of the property. The development is the addition of a balcony above a rear conservatory. The appellant's plans show the balcony with 1.8 metre high frosted balustrades next to the side boundary and 1.1 metre high clear glazed balustrades on the other two sides, secured by stainless steel poles and railings.
5. The balcony is positioned on the boundary with the adjacent dwelling, 39 Goldfinch Lane, which is a detached house of similar proportions to the appeal property and with a similarly long rear garden. The boundary between the properties is delineated by a timber fence together and a planted border containing a variety of species.

6. Because No 39 projects slightly further at the rear than the appeal property, the balcony faces partly towards the side elevation of No 39 and partly towards its patio area. The balustrades are translucent and their railings are below the top of the first floor windows of the appeal property. The vegetation on the boundary between the two properties partially screens the balcony. As a result, the balcony is not an imposing physical presence in relation to No 39, and does not harm the outlook from the patio; nor does it harm the outlook from the rear bedrooms of No 39.

7. At 1.8 metres high, the frosted balustrades next to No 39 largely obscure direct views over No 39's patio area. However, there are gaps between the supporting poles/railings and the balustrades, which creates a perception that the patio area of No 39 is being overlooked, since it will be evident to the occupiers of No 39 when the balcony is in use. I recognise that the rear bedroom windows of the appeal property formerly overlooked No 39's patio area – and that the frosted balustrades on the balcony have helped to ameliorate this – but the perception of overlooking from a balcony is greater than that from a rear-facing window.

8. On my site visit during the summer, I noted that the tall border planting effectively prevents overlooking of the rear garden of No 39 from the balcony. However, I cannot be certain what the relationship would be in winter, and nor can I be certain that the border planting would be maintained at the same height. Consequently, there may be occasions when the garden of No 39 will be overlooked from the part of the balcony where the balustrades are lower and clear glazed, with a resultant increased perception of overlooking.

9. The Appellant has highlighted a number of other houses in Goldfinch Lane that have balconies, but from my inspection of Figure 1 of the Appellant's Grounds of Appeal, it is evident that the other balconies are either inset within the roof, or fully enclosed by brick balustrades, or sited sufficiently far from their neighbours' patios to prevent overlooking. I therefore do not consider that the balconies referred to are directly comparable with the development the subject of this appeal.

10. The level of noise generated when the balcony is in use is unlikely to be significant, particularly as the balcony serves a bedroom rather than a living room. The noise level would in any case be comparable with that which would be generated by the patio area of the appeal property. I therefore do not consider that the balcony would generate a level of noise that would be harmful to the living conditions of No 39.

11. Policy H17 of the Castle Point Borough Council Local Plan Adopted 17th November 1998 (LP), which is referred to in the Officers Report but not relied on in the reason for refusal, requires the Council to have regard to its adopted design guidelines when assessing the design aspects of housing proposals. The Castle Point Residential Design Guide Supplementary Planning Document (RDG) came into effect on 1 January 2013, section RDG5 of which, entitled Privacy & Living Conditions, provides guidance on balconies. The accompanying text to RDG5 explains that privacy can relate to both visibility into and from windows, as well as amenity space.

12. Although RDG5 requires a minimum distance of 9 metres between the edge of a first floor balcony and the site boundary, it acknowledges that a reduction in this distance may be considered appropriate where there are no direct views between primary windows. As no such direct view exists in this instance, I am satisfied that a reduction below the minimum 9 metre separation distance is justified in this instance. However, I do not consider that the balcony as constructed incorporates sufficient

mitigation measures, despite the incorporation of a privacy screen, to prevent overlooking or the perception of overlooking of the patio area, and to a lesser extent the rear garden, of No 39.

13. I therefore conclude that the development would harm the living conditions of 39 Goldfinch Lane as a result of a loss of privacy, contrary to Policy H17 of the LP, the aims of which I have outlined above. I do not however find that the development would harm the living conditions of 39 Goldfinch Lane as a result of noise or a loss of outlook, and as such the development is not in conflict with policies EC3 or EC4 of the LP, which together require that development does not have a significant adverse effect upon residential amenity through, amongst other things, noise. I also do not find conflict with RDG3 of the RDG, which provides guidance on building lines in relation to the public realm.

Character and appearance

14. Ashdown is a relatively modern dwelling constructed of bricks and tiles. The balcony is a lightweight structure which is transparent apart from the frosted balustrade adjacent to No 39, and therefore does not obstruct views of the house from the adjacent countryside. Although the stainless steel used for the poles and railings is not found elsewhere on the dwelling, I consider that it complements the appearance of the dwelling and is unlikely to cause glare. I note that the property known as Lemon Tree in Goldfinch Lane has a balcony constructed of similar materials, which reinforces my conclusions about the suitability of the design in this locality.

15. The Council has argued that the balcony has an adverse effect on the surrounding landscape, highlighting that paragraph 3.3.4 of the supporting text to Policy EC16 indicates that development on the edges of existing settlements can be of particular visual prominence. However, as the balcony is viewed against the backdrop of the existing house, and given my conclusions regarding the design of the balcony, I do not consider that the character of the surrounding landscape is harmed by the balcony. The development would not therefore conflict with Policy EC16 of the LP, which is referred to in the Officers Report but not relied on in the reason for refusal. The balcony is located outside the Green Belt, albeit in close proximity to it, and would have no effect on the openness of the Green Belt.

16. I therefore conclude that the development would not have an adverse effect on the character and appearance of the host dwelling or the surrounding area and would comply with policies EC2 and EC16 of the LP, which together require a high standard of design for extensions to existing buildings, including design and external materials, and seek to protect the landscape from significant adverse visual impacts. Furthermore, I do not find conflict with RGD8 of the RDG, which provides guidance on the detailing of residential development.

Other Matters

17. An interested party has referred to the risk of birds being killed as a result of flying into the glass balustrades. However, glazing is a ubiquitous material on residential properties, and I have not been provided with evidence that glass balustrades present a particular danger to birds. I therefore give very limited weight to this matter.

Conclusion

18. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR