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## Appeal Decision

Site visit made on 1 September 2025

by **SJ Desai BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 16 September 2025**

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**Appeal Ref: APP/V2255/D/25/3369562**

**91 Chaffes Lane, Upchurch, Kent ME9 7BG**

- 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 & Mrs D & A Seal against the decision of Swale Borough Council.
  - The application Ref is 24/505224/FULL.
  - The development proposed is First floor rear extension including utilizing roof space in new extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of 93 Chaffes Lane (No.93), with particular regard to outlook and sense of enclosure.

### Reasons

3. The appeal property is a semi-detached dwelling with a single-storey rear extension and a relatively generous garden. Its attached pair, No.93, has a modest rear projection and a considerably shallower rear garden.
4. The proposed first floor rear extension would be built up to the boundary with No.93, project approximately 4 metres in depth and based on the Council's measurements would have a height of 4.86 metres at eaves rising to 7.97 metres at the ridge.
5. Policies DM14 and DM16 of the Bearing Fruits 2031: The Swale Borough Local Plan (2017) (SBLP) collectively seek to protect residential amenity. The Council's 'Designing an Extension – a Guide for Householders' Supplementary Planning Guidance (the SPG) advises that first-floor rear extensions should not normally exceed 1.8 metres in depth, in order to safeguard the outlook and amenity of neighbouring occupiers.
6. The proposed extension would markedly exceed the SPG depth guidance and given its significant scale and proximity to the boundary, would present as an imposing and unrelenting mass immediately adjacent to the rear elevation and principal garden area of No.93. From both the ground and first-floor rear facing windows of that property, as well as from its more confined garden, the development would dominate outlook. The resultant sense of enclosure would be

pronounced and harmful, including diminishing the enjoyment of a private amenity space, creating an overbearing and oppressive relationship that would materially diminish the living conditions of neighbouring occupiers.

7. The harm is not offset by the retained, albeit reduced, availability of longer views across the open countryside from the first-floor windows of No.93, nor by the presence of the existing single-storey extension at the appeal site. The proposed intensification of built form at first-floor level represents a distinct and more intrusive form of development along the shared boundary.
8. The Council has not found an unacceptable loss of daylight or overshadowing and based upon the evidence before me, and my observations on site, I concur. However, the absence of such harm would be a neutral matter in the balance and does not weigh in favour of the appeal proposal, nor does it mitigate or outweigh the harm identified.
9. For the reasons set out above, I conclude that the proposal would unacceptably harm the living conditions of the neighbouring occupiers at No.93, with particular regard to outlook and sense of enclosure. As such, I find conflict with Policies DM14 and DM16 of the SBLP. These require, amongst things, that extensions protect residential amenity. For the same reasons, the proposal would also be contrary to the guidance within the SPG.

### **Other matters**

10. I acknowledge the first-floor rear extension at 89 Chaffes Lane. However, I do not have the full details of the decision-making context that led to this extension being accepted. From the evidence presented it appears the circumstances are materially different, given that the attached pair in that case already benefited from a rear extension and possessed a considerably larger garden than No.93. I therefore cannot be certain that it represents a direct parallel to the proposal before me. I have, in any event, determined the appeal based on its own planning merits and the existence of this other extension does not justify harmful development at the appeal site.
11. The appellant has referred to the application having been determined under delegated powers rather than by committee. Such procedural matters do not carry determinative weight in the context of this appeal and do not alter the planning merits or policy compliance of the proposal. Similarly, the absence of objections is not a reason in itself to allow development which would result in harm to the living conditions of current, or future, neighbouring occupiers.
12. From the evidence, my decision has the potential to affect persons with a protected characteristic for the purposes of the Public Sector Equality Duty (PSED) set out under the Equality Act 2010 and the appellant's rights to family life under Article 8 of the Human Rights Act 1998.
13. I have had due regard to the PSED and the appellant's or their family's human rights. However, set against the well-established and legitimate aim of the protection of the public interest, in this case safeguarding the living conditions of neighbouring occupiers, the harm caused by the appeal development outweighs its benefits, including in terms of eliminating discrimination against persons with the protected characteristics of age, advancing equality of opportunity for those persons and fostering good relations between them and others. I conclude that

there would be no violation of the appellant's or their family's human rights. It is proportionate and necessary to dismiss the appeal.

### **Conclusion**

14. The proposal does not accord with the development plan when considered as a whole and there are no material considerations of sufficient weight that indicate a decision should be made other than in accordance with it.
15. For the reasons given above, I conclude the appeal should be dismissed.

*SJ Desai*

INSPECTOR

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