The Planning Inspectorate

Appeal Decision

Site visit made on 9 January 2017

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 January 2017

Appeal Ref: APP/A1530/W/16/3157991
78 Villa Road, Stanway CO3 0RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr L Crosby against the decision of Colchester Borough Council.
- The application Ref 160969, dated 22 April 2016, was refused by notice dated 20 July 2016.
- The development proposed is demolition of existing bungalow and replacement with new 3 bedroom dwelling.

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council refer to Policy 1iii of the Colchester Local Development Framework Development Policies 2010 (the LDFDP) within their decision notice. They subsequently refer to Policy DP1 iii within their statement. I have therefore taken the reference in the decision notice to be a typographical error.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the residents of 80 Villa Road with particular regard to outlook.

Reasons

4. 78 Villa Road forms a modest bungalow set back on a similar line with neighbouring properties within a lengthy plot. The proposal is to demolish the bungalow and replace it with a two storey house that would have an attached single storey side garage. There would be a single storey utility room to the rear of the garage.

5. 80 Villa Road is a dormer bungalow with a single storey conservatory to the rear sited close to the boundary with No 78. The conservatory has glazing on all three sides above a brick plinth with a polycarbonate roof. Immediately to the rear of the conservatory is a patio area where I saw a table and chairs for sitting out. The boundary between No 78 and 80 is formed by a close boarded fence. The conservatory and garden currently have a relatively clear outlook above the boundary fence to the sky and trees beyond together with a flat roofed garage at No 78.

6. The Council state that the proposal would not comply with guidance within The Essex Design Guide 1997 (the SPD) regarding obstruction of light and outlook from an existing window. Although the rule relates to extensions, in this instance the relationship between No 80 and the proposed house raises issues relating to outlook. I therefore find the principle to be equally relevant to the appeal proposal.

7. The proposed house would be of a height at some point between No 80 and 76 Villa Road and the roof would slope away from the boundary with No 80 so that the highest point would be some distance away from the conservatory at No 80. Nevertheless the proposal would extend about 4 metres beyond the end of the conservatory and adjacent patio area with the garage and utility room of the proposed house immediately adjacent to the boundary.

8. Both would be single storey and the utility room roof would be flat. However, the height to eaves of the utility room would be considerable higher than that at Nos 80, 76 and the existing bungalow at No 78. As a result, the combination of the height and length of the utility room would create a large, bulky development, substantially higher than the existing boundary treatment. This together with its proximity to No 80 would lead to the proposal being significantly overbearing. As a result it would unacceptably dominate the outlook of the occupiers when seen from the side and rear windows of the conservatory and the garden immediately to the rear. Hence it would detract considerably from the occupier's ability to use both areas.

9. The neighbouring residents would still have the benefit of open views to the west, however this would not sufficiently mitigate the adverse impact on outlook I have identified in all other directions.

10. I am aware that planning permission would in most cases not be required for a single storey extension of a length of 4 metres from the rear of a house. Nevertheless, this is not a realistic prospect in this case. The part of the proposed dwelling at issue is to the side. If such an extension were to be erected on the current bungalow on site it would be located much further from the boundary than the appeal proposal. Therefore I do not consider this to be a realistic fall-back position.

11. I acknowledge that the proposal would facilitate the removal of the garage at No 78. However this is a small scale building sited away from No 80 and its main sitting out area which does not have a significantly adverse effect on outlook.

12. For the reasons above, I conclude that the proposal would be harmful to the living conditions of the occupiers of 80 Villa Road. It would therefore be contrary to Policies DP1 iii and DP13 of the LDFDP together with guidance in the SPD. These seek to avoid unacceptable impacts on amenity.

Other matters

13. I note that the appellant and other interested parties refer to part B of Policy DP13 regarding replacement dwellings. However, the Council confirm that this criterion relates to replacement dwellings in rural areas outside of residential areas. As the appeal site is within a settlement boundary, and a residential area, part B of the Policy has not therefore been determinative in this case.

14. A third party has also pointed to what they consider to be errors within the appellant's statement. However, based on the evidence in front of me and my

observations on site both at nos 78 and 80 Villa Road I am satisfied that my decision has been made based on relevant facts.

Conclusion

15. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR