
Appeal Decisions

Site visit made on 21 February 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 15th March 2017

Appeal A: APP/D1590/W/16/3163739

92 Marine Parade, Leigh-on-Sea, Southend-on-Sea, Essex SS9 2NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Coutts against the decision of Southend-on-sea Borough Council.
 - The application Ref 16/00330/AMDT, dated 24 February 2016, was refused by notice dated 5 May 2016.
 - The application sought planning permission to extend existing conservatory and replace with flat roof and roof lantern and erect first floor rear extension without complying with a condition attached to planning permission Ref 15/00812/FULH, 15 July 2015.
 - The condition in dispute is No. 2 which states that:
"The development hereby permitted shall be carried out in accordance with the following approved plans: 14493-08".
 - The reason given for the condition is:
"To ensure that the development is carried out in accordance with provision of the Development Plan".
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Appeal B: APP/D1590/W/16/3163572

92 Marine Parade, Leigh-on-Sea, Southend-on-Sea, Essex SS9 2NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Coutts against the decision of Southend-on-sea Borough Council.
 - The application Ref 16/01108/AMDT, dated 17 June 2016, was refused by notice dated 12 August 2016.
 - The application sought planning permission to extend existing conservatory and replace with flat roof and roof lantern and erect first floor rear extension without complying with a condition attached to planning permission Ref 15/00812/FULH, dated 15 July 2015.
 - The condition in dispute is No. 2 which states that:
"The development hereby permitted shall be carried out in accordance with the following approved plans: 14493-08".
 - The reason given for the condition is:
"To ensure that the development is carried out in accordance with provision of the Development Plan".
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Decisions

Appeal A: APP/D1590/W/16/3163739

1. The appeal is dismissed.

Appeal B: APP/D1590/W/16/3163572

2. The appeal is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. The application under Appeal A was made under Section 73 of the Town and Country Planning Act 1990 (As amended) for minor material amendments to a scheme for extensions to the dwelling that were approved by the Council on 15 July 2015. This type of application is possible as a condition was imposed on that permission specifying the approved plans. Both appeals seek the removal of the condition and replacement with a condition specifying the plans that reflect amended designs.
4. In Appeal A, because the proposal has been constructed I am therefore satisfied that in this particular case the appeal should proceed under Section 73A. However, in Appeal B the condition requires development to be carried out in accordance with a list of approved plans and documents and the appeal relates to changes to external appearance that have yet to commence. The appeal should therefore proceed under Section 73 as opposed to Section 73A. This is a technical matter that does not prejudice either party.
5. The main differences between the two schemes relate to the design of the roof element and its appearance. In Appeal B the proposal is for the erection of a pitched roof, tile hung to the gable in place of the existing flat roof design in Appeal A. Whilst I have considered each proposal on its own merits, in order to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issue

6. The main issue in both appeals is the effect of varying the condition on the character and appearance of the host property and area.

Reasons

7. The host property is a semi-detached, two storey property in a row of similar properties. The area is predominantly residential in character on this side of the parade, overlooking the Belton Hills nature reserve and the Thames estuary. There are variations in the form and appearance of the dwellings in the wider area and it was evident from my site visit that surrounding properties benefitted from number of extensions and alterations, including box projecting flat roof dormer windows within the rear facing roof slopes.
8. Although the proposal in Appeal A is not entirely visible from Marine Parade, save for a small part of its roof that extends slightly beyond the existing roof plane, it is clearly visible from residential properties to the rear. The height extends above the eaves of the host property and the flat roof is not in keeping with the traditional form and appearance of the host property, appearing as an unsympathetic and visually jarring addition to it. I note that the originally approved scheme was also to be externally finished with a type of cladding¹ and there are examples of the use of Black timber on other properties within the parade. However, the Council imposed a condition on the original

¹ Duraclad.

permission that the finished appearance must match existing original work. Furthermore, the use of such material is not as prevalent on those properties, confined to sections of timber framing as opposed to a large expanse of black cladding across the full width of the dwelling. In my view, the black cladding unacceptably draws the eye to the proposal, appearing in stark contrast to the attractive and more traditional architectural detailing and white render of the host property.

9. Although large box projecting dormer windows were evident on other dwellings within proximity of the appeal site they were much smaller than the appeal proposal and sited at a much higher position with the roof slope, appearing entirely more subservient. I do not share the appellant's view that it is a harmonious structure, on the contrary, it is an entirely uncharacteristic form of extension that is at odds with the character and appearance of the host property and area and in its context does not represent a high quality of design.
10. Turning to Appeal B, the proposed pitch roof with tile hung gable would, to a degree, replicate the mono pitched sloping roof of the original single storey rear element and that originally approved by the Council. However, because of the width and depth of the roof form, it would result in the protrusion of the roof beyond the side of the hipped roof of the host property. This would introduce an uncharacteristic and awkward juxtaposition of roof forms that would be clearly conspicuous in the gap between the host property and No. 90. It would also be an entirely uncharacteristic form of extension that would be at odds with the character and appearance of the host property and would also fail to result in a high quality of design.
11. Overall, the proposal in Appeal A causes harm to the character and appearance of the host property and the area and the proposal in Appeal B would cause harm to the character and appearance of the host property and the character and appearance of the area. The proposals under both appeals therefore conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007, Policy DM1 of the Development Management Document 2015 and the Design and Townscape Guide 2009. Amongst other things, these require high quality sustainable design that reinforces local distinctiveness, adds to the overall quality of an area, respects the character of the site in terms of its design and appearance and provide appropriate detailing that contributes to and enhances the distinctive sense of place.
12. I find these policies are consistent with the National Planning Policy Framework ('the Framework') and therefore the proposal would also conflict with the design objectives of the Framework.

Other Matters

13. I acknowledge that the appellant wishes to extend the property to provide additional living accommodation and may have encountered issues with Building Regulations which led to the proposal in Appeal A being constructed. Nonetheless, this does not justify or outweigh the harm that I have identified to the character and appearance of the host property and area.
14. I also acknowledge that other properties within the area have been extended and improved but as I have not been provided with the full details, I cannot be certain that the policy considerations and judgements are directly comparable

to the proposals before me. Accordingly, they do not alter my views in relation to the main issue.

Conclusion

15. For the reasons set out above, Appeal A conflicts with the development plan, when read as a whole and the Framework and Appeal B would conflict with the development plan, when read as a whole and the Framework. In both appeals material considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore concluded that both Appeal A and Appeal B should be dismissed.

Richard Aston

INSPECTOR