
Appeal Decision

Site visit made on 14 March 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 31st March 2017

Appeal Ref: APP/P1560/W/16/3163990

2 Thornberry Avenue, Weeley, Clacton-on-Sea, Essex CO16 9HN

- 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 Lewis Adams against the decision of Tendring District Council.
 - The application Ref 16/01367/FUL, registered on 23 August 2016, was refused by notice dated 18 October 2016.
 - The development proposed is a 2 bedroom bungalow to land adjacent to No 2 Thornberry Avenue, 2 spaces to be made for No 2 and new bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has provided revised plans with the appeal which were not before the Council during their consideration of the application. The Planning Inspectorate's *Procedural Guide Planning Appeals – England* is clear that the appeal process should not be used to evolve a scheme and that what is considered by the Inspector should essentially be what was considered by the Council and on which interested people's views were sought.
3. The plans show material changes to the original proposal and in my view, the development is so changed that to consider it would deprive those who should have been consulted on the changes the opportunity of such consultation. Therefore, in the interests of fairness and natural justice, I have considered the appeal on the basis of the original proposal as determined by the Council.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site is within an area predominately characterised by detached and semi-detached single storey residential properties which are set back from the road behind low boundary walls and fences. Plot sizes in the area are large, with generous spaces between. As a result, the area has an open and spacious character.
 6. The site was previously part of the garden of 2 Thornberry Avenue which is located on a corner plot. The site has since been cleared of significant vegetation and is separated from No 2 by a close boarded fence. It is free of
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permanent means of enclosure and is largely open. The site therefore positively contributes to the spacious character of the street scene. There is a mature oak tree within the site which is covered by a Tree Preservation Order. The tree is of a considerable height. It is visible from several vantage points and as such, positively contributes to the wider character of the area.

7. It is proposed to erect a detached, single storey property on the site. The dwelling would have a depth of around 12.5m with a width of around 7m. In addition, a detached garage would be erected with a depth of around 7m. The proposed built form would therefore cover a significant proportion of the overall plot. Indeed, the Council indicate that the level of private amenity space proposed due to the extent of the built form would likely be below the minimum 75m² required under Saved Policy HG9 of the '*Tendring District Local Plan 2007*' (LP). I have no reason to disagree.
8. Moreover, the property would be sited close to the footpath of Second Avenue. In the absence of any details of proposed boundary treatments, I consider that there would likely be pressure from future residents for a fence or wall close to the boundary with Second Avenue. Indeed means of enclosure would be a reasonable expectation for future residents. Such means of enclosure would likely be unduly obtrusive given its potential scale and proximity to the highway. Consequently, I find that the proposal would appear as an unduly cramped and prominent addition to the street scene that would result in a harmful erosion of the open and spacious character of the area.
9. Whilst the plans show the oak tree would be retained, it would be located within a hard surfaced driveway and close to the proposed garage. No details have been provided to assess the impact of the proposal on the health and long term survival of the tree. Given the size of the tree and its proximity to the proposal, it is likely that there would be the potential for the roots of the tree to be affected. In the absence of any evidence to the contrary, I consider it likely that the proposal would likely threaten the health and longevity of the tree and its contribution to the character and appearance of the area.
10. I conclude, therefore, that the proposal would have a harmful effect on the character and appearance of the area. As such, it would conflict with Saved LP Policy HG9, as well as Saved Policies QL9, QL10 and QL11 of the LP which state that all new development should protect or enhance local character, that new development should meet functional requirements and that the scale of development should be appropriate. It would also conflict with the aim to protect distinctive local character set out in Saved LP Policy EN1.

Other Matters

11. I have considered concerns in respect of highway safety, loss of privacy and contamination. However, given my findings in respect of the main issue, they do not lead me to any different overall conclusion.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR