
Appeal Decision

Site visit made on 4 May 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/D1590/D/17/3170937
19 Mount Avenue, Westcliff-on-Sea SS0 8PS

- 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 without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Seaby against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/02239/AMDT, dated 15 December 2016, was refused by notice dated 9 February 2017.
 - The application sought planning permission to 'erect hip to gable roof extensions, roof extension to rear to form habitable accommodation in roof with Juliette balcony to rear, roof light to front and alter elevations (amended proposals)' without complying with a condition attached to planning permission Ref 16/0191/FULH, dated 6 December 2016.
 - The condition in dispute is No 2 which states that: 'with the exception of the proposed grey slate roof finish throughout, the development hereby permitted shall be carried out in accordance with the approved plans: TP-03'.
 - The reason given for the condition is: 'To ensure that the development is carried out in accordance with provisions of the development plan'.
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Decision

1. The appeal is allowed and planning permission is granted to 'erect hip to gable roof extensions, roof extension to rear to form habitable accommodation in roof with Juliette balcony to rear, roof light to front and alter elevations (amended proposals)' at 19 Mount Avenue, Westcliff-on-Sea SS0 8PS in accordance with the application Ref 16/02239/AMDT, dated 15 December 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: TP-03.
 - 2) Prior to the construction of the roof, details of any proposed replacement roof finish shall be submitted to and agreed in writing by the local planning authority. The proposed development shall be carried out and permanently retained in accordance with the approved details.

Background and Main Issue

2. Planning permission has been granted for alterations and extensions to this two storey detached property. The Council are concerned that as part of those proposals it was proposed to recover the altered and extended roof, including the remaining parts of the original roof, with Grey Slates. In the Council's view this would conflict with a significant component of the character of the locality
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which in its view was provided by the red plain clay tile roof covering. In this regard a condition was imposed approving the submitted plans with the exception of the Grey slates.

3. The appellant has sought to vary this condition so that it removes the exclusion of the Grey slates and thereby indicates that the proposal should be carried out in accordance with the approved plans, which refer to a grey slate roof covering.
4. The development has already commenced and works were on-going at the time of my visit. The main works to the roof had not yet however commenced.
5. The main issue is whether the condition is necessary and reasonable having regard to the character and appearance of the surrounding area.

Reasons

6. The appeal property is a two storey detached dwelling located in an area of similar properties but with variations in design detail and form. The character of the area is created by the scale, bulk, mass and disposition of the properties. The set back from the road, front gardens and boundary treatments further add to the general sense of a mature and pleasant residential road. There is a reasonably consistent approach to materials with rendered walls and tiled roofs predominating.
7. There are however variations in the detail and design of the properties and in the use of materials. This contributes variation and interest to the character of the area and street scene. There are some older properties that include slate roofs, and given the aging and weathering the roofs of other properties are not a consistent apparent colour. The main red clay tiles that predominate have weathered to a significantly darker appearance on many of the surrounding properties and there appeared to be some examples of darker coloured tiles such as at 33, 39 and 41 Mount Avenue, whose base colour did not appear to be the red clay tiles of other surrounding properties.
8. The alterations and extensions, and associated material scheme, for the proposed development proposes the introduction of render with dark grey windows in a modern contemporary sleek appearance. The chosen roofing material would appear totally consistent with this material scheme and would ensure the extended property had a coherent material philosophy that resonated with the design and alterations of the scheme as a whole.
9. Whilst the proposals as a whole would result in the property having a more modern and contemporary appearance that would not be on all fours with the more traditional properties surrounding the Council has not objected to this, and rightly so. The variations in style and design in the area add interest to the street and do not detract from the overall character of the area or the street scene. The proposal would add to those variations in a contemporary and successful manner such that would not warrant refusal. The location is not a conservation area and there are no restrictions to prevent the exercising of permitted development rights that would enable occupiers of surrounding properties from changing the materials of their properties, including roof coverings.
10. On the whole I therefore conclude that the proposed use of grey slates would not materially harm the character and appearance of the area and would

therefore not conflict with policies KP2 and CP4 of the Southend Core Strategy 2007 or policies DM1 and DM3 of the Southend Development Management Document 2015, or the advice contained in the Southend Design and Townscape Guide 2009. Collectively these seek high quality development that is compatible with the character and appearance of the locality and integrates with the area. This is compatible with the National Planning Policy Framework which advises that unnecessary prescription of detail should be avoided and that decisions should not seek to impose architectural styles or tastes.

11. On this basis I conclude that the restriction in the condition to preclude the use of grey slates is unnecessary and unreasonable and therefore the condition should fall. There is a place for an appropriate plans condition, as advised in the planning practice guidance, and therefore I will vary the condition to require the development to be carried out in accordance with the approved plan.

Overall conclusions and conditions

12. The original planning permission contained 3 conditions. A time limit condition, which given that the development has started and is that which I am granting now is not necessary. The condition that is in dispute and the subject of this appeal, which I have varied for the reasons given above and a third condition requiring the submission of details of the roof covering. This condition remains a reasonable condition to ensure that the finally chosen covering is agreed by the local planning authority. I have amended it slightly to remove the reference to approval prior to commencement of development, given my comments above, and to make the permission internal coherent.
13. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting another and restating those undisputed conditions that are still subsisting and capable of taking effect.

Kenneth Stone

INSPECTOR