

# Appeal Decision

Site visit made on 10 May 2017

**by H Lock BA (Hons) DipTP MRTPI**

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

**Decision date: 26 May 2017**

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**Appeal Ref: APP/D1590/D/17/3171495**

**20 Chadwick Road, Westcliff-on-Sea, Essex, SS0 8LS**

- 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 & Mrs Cachia against the decision of Southend-on-Sea Borough Council.
  - The application Ref. 16/01772/FULH, dated 23 September 2016, was refused by notice dated 15 December 2016.
  - The development proposed is part single storey, part two-storey rear extension with minor front alterations.
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## Decision

1. The appeal is allowed and planning permission is granted for part single storey, part two-storey rear extension with minor front alterations at 20 Chadwick Road, Westcliff-on-Sea, Essex, SS0 8LS, in accordance with the terms of the application, Ref. 16/01772/FULH, dated 23 September 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2630/09/37 Sheet 1 of 2 and 2630/09/37 Sheet 2 of 2.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) The extensions hereby permitted shall not be occupied until the first floor north facing bathroom and en-suite windows and the first floor south facing en-suite windows have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

## Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
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## **Main Issue**

3. The main issue is the effect of the proposal on the living conditions of occupants of 18 Chadwick Road, with particular reference to outlook and access to natural light.

## **Background**

4. An appeal for an almost identical scheme was dismissed on 9 February 2016, under ref. APP/D1590/D/15/3137604 (hereafter referred to as the previous appeal), on the basis of the adverse impact of the proposal on the amenities of residents of 18 Chadwick Road.
5. A Lawful Development Certificate (LDC) for a proposed single storey rear extension was subsequently issued by the Council, on 14 June 2016, under application ref. 16/00559/CLP. The flat roofed extension the subject of that Certificate was to have a maximum width of 4.6 metres, depth of 3 metres and height of 3.1 metres. The submitted plans showed that it would extend behind the existing two-storey rear projection at the property. The Certificate confirmed that such an addition would constitute Permitted Development, and that express planning permission would not be required.

## **Reasons**

6. The appeal property is a two-storey detached house located within a residential area of buildings which vary in terms of design, form and scale. The appeal property is set slightly behind the front of the adjacent property, 18 Chadwick Road (No.18), but as a result of their differing design and size the appeal property projects deeply beyond its neighbour at the rear. As noted by the Inspector in the previous appeal, this relationship between buildings already appears dominant and somewhat overbearing when seen from No.18.
7. The appeal proposal incorporates a number of elements, all of which the Council considers to be acceptable save for the proposed single storey rear extension. I share the Council's assessment, and find that the only part that would materially impact upon the living conditions of the occupants of No.18 would be the single storey rear extension.
8. Amongst other criteria, Policy CP4 of the Council's Core Strategy<sup>1</sup> (CS) requires development proposals to maintain and enhance the amenities of residential areas and to secure good relationships with existing development, and CS Policy KP2 requires development to respect the character and scale of the existing neighbourhood, and to secure improvements to the urban environment through quality design. The need to protect the amenity of immediate neighbours in matters including outlook, visual enclosure, daylight and sunlight is set out in detail in DMD<sup>2</sup> Policy DM1. Although the Council's policies do not specify size limits for house extensions, due to the relative position of buildings the proposal would result in a significant projection beyond the rear of No.18.
9. As a result of this relationship between buildings, and the dominance of the existing side wall of No.20 on the outlook from the rear of No.18, I share the assessment of the previous appeal Inspector, and consider that the proposal

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<sup>1</sup> Southend on Sea Core Strategy Development Plan Document One, 2007

<sup>2</sup> Southend on Sea Development Management Document, 2015

would increase the sense of enclosure and loss of natural light to a significant degree.

10. However, the issue of the LDC is a material consideration that was not available in the assessment of the earlier scheme. Having regard to the depth and height of the LDC proposal, I consider that it represents a fallback position of considerable weight, with a realistic prospect of being constructed, as noted in the appellants' statement. Dismissal of this appeal would not prevent the exercise of Permitted Development rights, although the current proposal includes a slightly lower height than shown in the LDC, albeit with a roof lantern set away from the boundary. Whilst I acknowledge that the rear extension proposed in this case would extend across the width of the property, it is not the width of the development that would create the adverse impact on the outlook and light to No.18. I note the Council's view in its report that there has been no material change to the proposals as previously considered at appeal, but the officer report is silent in respect of the effect of the LDC.
11. I do not discount lightly the impact of the proposals on the occupants of No.18, nor the previous appeal decision. However, I find that the fallback of the exercise of Permitted Development rights is a material consideration of sufficient weight to outweigh the conflict with CS Policies CP4 and KP2 and DMD Policy DM1. Whilst I conclude that the development would adversely affect the outlook and access to natural light from No.18, dismissal of this appeal would not prevent the harmful element of this proposal from being constructed through the exercise of Permitted Development rights. As I find the part two-storey rear extension and front alterations to be acceptable in relation to the impact on occupants of No.18, I conclude that those elements of the proposal would not conflict with the above policies.

### **Conditions**

12. In addition to the standard time limit, I have imposed a condition specifying the approved drawings as this provides certainty. It is also appropriate to control materials to match the existing dwelling, in order to safeguard the appearance of the development. With some modification to reflect published model conditions I have also imposed the appellants' suggested condition requiring first-floor side-facing windows to be obscure glazed, in the interests of the privacy of neighbouring residents.

### **Conclusion**

13. The National Planning Policy Framework establishes a presumption in favour of sustainable development, and part of its social strand is to create a high quality built environment. A core planning principle of the Framework is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Whilst I have found some conflict with this principle, for the reasons given above, in the planning balance I find the development to be acceptable. As a consequence, I conclude that this appeal should be allowed.

*H Lock*

INSPECTOR