
Appeal Decision

Site visit made on 26 June 2017

by J L Cheesley BA(Hons) DIPTP MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/D1590/D/17/3172874

19 Kings Road, Westcliff-on-Sea, Essex SS0 8LL

- 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 Mrs Emily Lusty against the decision of Southend-on-Sea Borough Council.
 - The application Ref 16/01773/FUL was refused by notice dated 24 January 2017.
 - The development proposed is a treehouse (temporary construction for use only whilst our children are young) using stump of tree partially felled due to disease. Platform supported by 'A' frame and trunk, covered by removal canvas roof which is supported by chestnut cross beam.
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Decision

1. The appeal is allowed and planning permission granted for a treehouse using stump of tree partially felled due to disease. Platform supported by 'A' frame and trunk, covered by removal canvas roof which is supported by chestnut cross beam at 19 Kings Road, Westcliff-on-Sea, Essex SS0 8LL in accordance with the terms of the application Ref16/01773/FUL dated 25 September 2016 and the plans submitted with it.

Procedural Matter

2. Whilst the planning application refers to the treehouse being a temporary construction for use only whilst the children are young, full planning permission, rather than temporary permission, has been applied for. Thus, I have determined the appeal on this basis.

Main Issues

3. I consider the main issue to be:

the effect of the development on the character and appearance of the property and surrounding area; and

the effect of the development on the living conditions of occupiers of Kingholme, Drake Road and 2 Drake Road, with particular reference to overlooking and privacy.

Reasons

4. The appeal site lies within a predominately residential area of properties of traditional design with the main private areas of gardens being to the rear of properties. In the grid pattern of development, it is not unusual for the rear of gardens in side roads to back onto the side gardens of those in the adjacent roads as is the case with the appeal site and the property Kingholme in Drake Road. Similarly the appeal site rear garden backs onto the side of the rear garden to 2 Drake Road.
5. The treehouse is in situ. It comprises a homemade wooden structure with a removable canvas roof. It is visible from Drake Road and from the rear of surrounding properties. It is quite clear from the design that this is a children's play structure. Whilst it has a makeshift appearance, the rustic temporary nature of the design of the structure can be considered as innovative to some extent. As such, I consider it to be in keeping with the rear garden environment where one could reasonably expect to see children's play equipment. I do not consider it to have a materially greater visual impact than the climbing frames and trampolines characteristically found in the rear gardens in family properties.
6. In this rear garden environment, due to the design, nature and scale of the treehouse in the rear garden of a family property, I consider that it is in keeping with the character and appearance of the property and surrounding area.
7. The treehouse is close to the boundary with the adjacent property Kingholme. I have been in the treehouse and seen for myself the extent of overlooking into the rear garden of Kingholme. Due to the existing screening and canvas roof, it is necessary to lean out of the treehouse to get views into that garden. As such, I do not consider that the treehouse causes an unacceptable level of overlooking and unacceptable loss of privacy for the occupiers of Kingholme.
8. From my observations, due to the design of the treehouse with the canvas roof and the position of existing vegetation, I consider that the treehouse does not cause unacceptable levels of overlooking into the rear garden or rear habitable rooms at 2 Drake Road or an unacceptable loss of privacy for residents of that property.
9. Although the canvas roof can be removed, it is clear from within the treehouse that the den created is more attractive to children with the canvas roof on and I see little reason for the need to remove the roof. Thus, even though the canvas roof is removable and could cause some overlooking to neighbours, I do not see the removable nature of the canvas roof a reason to dismiss the appeal on the basis of unacceptable overlooking.
10. Whilst I appreciate that the use of the treehouse may cause some noise disturbance to neighbours, I see this as not being significantly greater than one would expect from children playing in the rear garden of a family property.
11. In reaching my conclusion, I have had regard to all matters raised. For the reasons stated above, I conclude that the treehouse is in keeping with the character and appearance of the property and surrounding area and does not have an unacceptably adverse impact on the living conditions of neighbours. Thus, the development is in accordance with guidance in the Council's Supplementary Planning Document: Design and Townscape Guide (2009);

Policies KP2 and CP4 in the Southend-on-Sea Core Strategy (2007); and Policies DM1 and DM3 in the Southend-on-Sea Development Management Document (2015), where they seek high quality design that respects existing character and where they seek to protect residential amenity.

12. As the Core Strategy policies precede the National Planning Policy Framework, it is necessary for me to determine whether these policies are in accordance with the Framework. I consider that these policies referred to above are broadly in accordance with the Framework as far as they meet the Framework's core principles; particularly that planning should be taking account of the different roles and character of an area.
13. The Council has suggested a standard time condition. As the treehouse is already erected, I do not consider such a condition to be necessary.

J L Cheesley

INSPECTOR