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## Appeal Decision

Site visit made on 3 July 2017

**by Graham Chamberlain BA (Hons) MSc MRTPI**

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

**Decision date: 7<sup>th</sup> July 2017**

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**Appeal Ref: APP/X1545/W/17/3169727**

**18 Prince of Wales Road, Great Totham, Essex CM9 8PX**

- 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 Jamie Hunter against the decision of Maldon District Council.
  - The application Ref FUL/MAL/16/01267, dated 6 November 2016, was refused by notice dated 17 January 2017.
  - The development proposed is the demolition of existing rear single garage. Construction of a 2 bedroom bungalow with a flat green roof over.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs was made by Maldon District Council against Mr Jamie Hunter. This application will be the subject of a separate Decision.

### Main Issues

3. In its first reason for refusal the Council has suggested the proposal would adversely affect the amenities of local residents. However, the Planning Officer's report suggests the residential amenity of the occupiers of neighbouring properties would not be adversely affected and this is not a point expanded upon in the Council's statement. I have therefore taken the view that this is a reference to the Council's concerns that local residents would be affected by the alleged increase in vehicles using the public footpath adjacent to the appeal site.
4. As such, the main issues in this appeal are the effect of the proposed development on: 1) The character and appearance of the area; 2) Highway and pedestrian safety; and 3) Whether the proposal would provide adequate living conditions for future occupants with particular reference to privacy, outlook and internal and external living space.

### Reasons

*The effect on the character and appearance of the area*

5. The appeal site broadly encompasses the rear half of the plot currently comprising 18 Prince of Wales Road (No 18). Prince of Wales Road has a varied architectural character with the properties exhibiting different styles, forms and scales, including bungalows. Nevertheless, properties tend to be set

back from, and front onto, the road. Nearby dwellings are frequently positioned close to the respective side boundaries but they often benefit from rear gardens, some of which are deep and generously landscaped. This gives the area a suburban and verdant character.

6. The appeal site has a frontage onto a footpath which links Prince Of Wales Road and Brook Close. Brook Close is part of a housing estate characterised by detached houses of a similar style and scale arranged in cul-de-sacs. The entrance to Brook Close from the footpath is flanked by two large detached double garages.
7. The appeal scheme is for the erection of a single storey 2 bedroom dwelling. It would be sited in close proximity to the boundary with the footpath and behind a small belt of low level landscaping. It would also be located close to the boundary with 16 Prince of Wales Road. The frontage would be dominated by a hard surface constructed to provide two car parking spaces sited upon a turn table. The close proximity of the property to the site boundaries would severely hamper any opportunities for soft landscaping that could otherwise soften the appearance of the proposal and integrate it with the verdant character of the area. This would not be mitigated by the green roof, which would not be prominent at street level in views of the proposal from the public footpath.
8. The proliferation of hard surfacing around the property and the proximity of the building to the northern and southern boundaries would result in it having a discordantly cramped appearance that would harm the character and appearance of the area.
9. The development in the vicinity of the appeal site is generally frontage in nature with the principal elevations of dwellings facing onto public spaces. The appeal site would be arranged with the front elevation overlooking the public footpath and this siting would therefore provide an active frontage onto this space. Consequently, the proposal would not amount to 'backland' development in the conventional sense and would not disrupt the frontage grain of development found locally.
10. The proposal has been described as being of 'contemporary' architecture due to the flat roof form and use of materials, including timber cladding. The building would have a different appearance to those around it but it would not be viewed in any street scene as part of a run of properties. This lessens the need to reflect the style of the nearby bungalows and houses, especially so as the style of properties in the area is varied.
11. Moreover, the proposed dwelling would be generally screened in views from Brook Close by double garages, existing landscaping and the low profile that would be provided by the flat roof. The modest scale and massing of the proposal, as well as the position of the existing bungalow at No 18, would generally ensure the proposal would have little presence in views from the west. Consequently, the proposed dwelling would not appear as prominent or strident addition in wider vantage points even though it would be notably different in form and style.
12. Nevertheless, my overall conclusion on this main issue is that the proposal would appear discordantly cramped in views from the public footpath. The proposal would therefore harm the character and appearance of the area. This

would place it at odds with saved Policy BE1 and H6 of the Maldon District Replacement Local Plan 2005, which seek to secure developments that are compatible with their surroundings. There is nothing before me to suggest these policies are not broadly consistent with the National Planning Policy Framework<sup>1</sup> (the 'Framework'), which they pre date. Consequently, they can be afforded significant weight.

*The effect on highway and pedestrian safety*

13. The footpath along the northern boundary of the appeal site also serves as a vehicular access track to parking areas serving 16 and 20 Prince Of Wales Road as well as a single garage within the appeal site. There is nothing before me to suggest these are anything but lawful and established uses. Consequently, a single vehicle connected to the appeal site could currently drive along the footpath and park within the garage in the appeal site, although this may not be a frequent occurrence due to the parking area in the front garden of No 18.
14. The proposal incorporates two parking spaces and consequently there would be the potential for a more intensive use of the footpath by vehicles as a result of the appeal scheme. The proposal would not maintain the status quo. Due to the narrow width of the access track/public footpath, and the lack of adequate visibility at both the entrance off Prince of Wales Road and into the appeal site, the proposed intensification would prejudice highway safety for both motorists and pedestrians as it would be difficult to pass or see one another. This is especially so as motorists would likely need to reverse their vehicles out of the appeal site on occasions as they could not be compelled to use the proposed turn table. Such a manoeuvre would present the real possibility of conflict and collisions between motorists and motorists and pedestrians.
15. In coming to the view above I have given significant weight to the independent and expert view of the Local Highway Authority, which objected to the scheme. A view that has not been challenged with any force or technical evidence by the appellant. I therefore conclude that the proposal would not have a suitable access and this would be to the detriment of highway and pedestrian safety contrary to policy T2 of the LP, which is consistent with Paragraph 35 of the Framework and can therefore be afforded significant weight.

*Whether the proposal would provide adequate living conditions for future occupants*

16. The window serving the master bedroom of the proposal would be located approximately 0.8 metres from the edge of the public footpath. Below and to the side of the window would be low level landscaping. The result of this is that it would be possible for users of the footpath to directly look into the bedroom. This would severely restrict the sense of privacy when in this room. Bedroom 2 would be served by a single window that would have an outlook harmfully dominated by two parked cars, which would be located at close range. As a consequence, neither bedroom would provide adequate living conditions for future occupants of the proposal.
17. It has been put to me that the proposal does not meet the government's Nationally Described Space Standards. However, the relevant Written Ministerial Statement of 25 March 2015 makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case,

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<sup>1</sup> Paragraphs 17, 56, 58 and 64 in particular

I have not been directed to a relevant current policy and consequently, this is not a matter which carries any significant weight against the proposal.

18. Notwithstanding this, it appears that the proposal would have sufficient internal space with two double bedrooms a separate bathroom, internal corridor and a reasonably sized living area. These rooms would be naturally lit and of a useable size and conventional shape. The outside space would be commensurate with the size of the property and would provide space to sit out and dry washing. There would be very limited internal storage but there would be opportunities to remedy this with a reconfiguration of the internal layout<sup>2</sup> and through the provision of an outside store, both of which could be required through a planning condition were the scheme otherwise acceptable.
19. Whilst the overall size of the accommodation would be acceptable, the bedrooms would not provide adequate living accommodation for future occupants. As such, the proposal would be contrary to saved Policy BE1 of the LP, which seeks to protect the amenity of future occupiers. This policy is broadly consistent with Paragraph 17 of the Framework and can therefore be afforded significant weight.

### **Other Matters**

20. The proposal would increase housing supply and choice and could support the local economy. There may also be a benefit from resurfacing the footpath as suggested in the appellant's submissions. Nonetheless, these are modest benefits given the scale of the proposal. Significantly, the appeal scheme would harm the character and appearance of the area, highway safety and would provide inadequate living conditions. These impacts would be contrary to both local and national policy. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. As a material consideration, the benefits of the proposal would not outweigh its harmful impacts.

### **Conclusion**

21. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, the proposal is not sustainable development and for this reason and the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

*Graham Chamberlain*  
INSPECTOR

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<sup>2</sup> For example, the ensuite could be substituted for a store room.