
Appeal Decision

Site visit made on 18 December 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2018

Appeal Ref: APP/X1545/W/17/3180915

land rear of 80-82 Orchard Road (adjacent to 7 Granger Avenue), Maldon, Essex CM9 6EP

- 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 B Marshall against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/01335, dated 4 November 2016, was refused by notice dated 27 January 2017.
 - The development proposed is a three bed dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have described the site address as land adjacent to 7 Granger Avenue, which has not been agreed by the Appellant. From my site visit, it is clear that either description of the site address would identify the appeal site so for clarity and continuity I have referred to both in my description of the site address.
3. Since the determination of the application by the Council, it has now adopted the Maldon District Local Development Plan 2014-2029 (2017) (LP). The adoption of this Plan has superseded Policy BE1 of the Maldon District Replacement Local Plan (2005).

Main Issues

4. The main issues are the
 - (i) the effect of the development on the character and appearance of the area;
 - (ii) whether the development provides suitable living conditions for the future occupiers of the development; and
 - (iii) the effect of the development on the living conditions of the occupiers of existing dwellings on Orchard Road with particular regard to privacy and outlook.

Reasons

Character and appearance

5. The appeal site originally formed part of the rear gardens to 80 and 82 Orchard Road but has been separated from these properties and at the time of my site

visit was overgrown. To the west of the site is 7 Granger Avenue which also has an area of garden to its side. The site is broadly rectangular in shape, has a street frontage of around 13.2 metres in width, and is around 18.2 metres from the front of the site to its rear boundary.

6. My attention has been drawn to a previous appeal decision¹ at the site which was for a detached dwelling and garage. Whilst I am conscious that planning policies have changed since that decision, together with the differences in the proposed developments, this decision is a material consideration in the determination of this appeal.
7. From the evidence before me, and what I observed on site, the appeal site is the same as that considered in the previous appeal decision. This decision noted that the plot size and shape would not conform to the existing pattern of development in the area. Whilst I saw that there was some variety in the size and shape of plots in the area, the site has a limited depth when compared to the vast majority of the surrounding development. Given my observations on site, I have no reason to disagree with the assessment of the previous Inspector.
8. Notwithstanding that, my attention has been drawn to the plot sizes of 18, 20 and 22 Granger Avenue. From the limited information before me, the plot sizes of these properties are also comparatively compact compared to the other more spacious plots in the surrounding area. However, they all appear to have a greater street to rear boundary distance than the appeal site. Additionally, it would also appear that the relative size of the original dwellings on these plots would have been smaller than the than the current appeal proposal.
9. It is also noted that none of these properties are recent developments and would have been in existence at the time of the previous appeal decision. Taking all of these factors into account, I consider that the size of these plots is not a significant factor which would justify the current proposal.
10. The proposed development would result in a two storey dwelling on the site. The siting of the dwelling would be broadly in line with the flank elevation of No 82, which is a one and a half storey element of the extended two storey building. This, together with the curve in Granger Road, would make the dwelling more prominent in the streetscene, despite the wider than normal grass verge within the highway to the fore of the site.
11. When considering the overall spatial pattern of development in the area, given the overall size of the proposed dwelling, the proposal would be odds with the character and appearance of the existing development in the area. In coming to that view, I acknowledge that the current appeal proposal represents an improvement over the previous scheme both in terms of its set back from Granger Road and its overall design.
12. The Council consider that the development would be cramped and a contrived development. It is noted that the site would provide an adequate size of amenity area and parking area for its future occupiers. However, it is overall depth of the site and the relative size of the proposed dwelling which give the impression of a cramped development when considered in the context of the surrounding environs.

¹ APP/X1545/A/03/1111878 dated 24 October 2003

13. For the above reasons the development would harm the character and appearance of the area contrary to Policy D1 of the adopted Maldon District Local Development Plan (2017) (LP) which amongst other matters seeks to ensure that development respects and enhances the local context and makes a positive contribution to the area.

Living conditions – future occupiers

14. The Appellant has indicated that the dwelling would be around 10.2 metres from the rear of 80/82 Orchard Road. As I have already noted above, the appeal site (and boundary) is the same as that in the 2003 appeal decision. That decision outlined that the rear garden of the proposed dwelling would be unacceptably overlooked from the occupiers of Nos 80/82. It is also noted that the Essex Design Guide standards are the same standards which were considered in the 2003 decision.
15. Whilst the current appeal development differs from the previous scheme, the issue over overlooking is the same and as such I also find that the occupiers of the proposed dwelling would be unacceptably overlooked by the existing properties.
16. In coming to that view I accept that some elements of overlooking to the future occupants of the dwelling could be addressed through appropriate boundary treatment, this would not overcome the proximity of the garden to the existing properties and the level of overlooking which would occur particularly from the first floor rear windows of Nos 80/82.
17. For the above reasons the development would not provide suitable living conditions for the future occupiers of the dwelling contrary to Policy D1 of the LP which amongst other matters seeks to ensure that development provides sufficient and useable private amenity spaces.

Living conditions – existing dwellings

18. The proposed dwelling would be sited significantly less than 15 metres from the rear elevation of Nos 80/82 with a ridge line in the region of 7.8 metres high. Given the juxtaposition between the existing and proposed properties, the proposal would result in a building which would be overbearing to the occupiers of No 80/82. Whilst some of this harm is countered by the width of the garden at No 80/82, which I understand has been converted into a single dwellinghouse, this does not outweigh the harm I have found as a result of the close nature of the appeal proposal.
19. Turning to the potential overlooking of the garden areas of the properties in Orchard Road, the main impact would be on the occupants of 78 Orchard Road. From the evidence before me, the rear of the proposed dwelling would be in the region of 7.2 metres from the side boundary to No 78.
20. The rear aspect of the first floor layout of the proposed dwelling provides for a bathroom, a landing and a bedroom window, of which the bedroom window is located at the western end of the proposed dwelling which would be the furthest window from the main private garden area of No 78. The bathroom and landing windows could be fixed and obscured glazed to prevent any overlooking potential.

21. From the Appellants statement it is acknowledged that the distance between the proposed bedroom window and the rear of No 78 would be less than the recommended standard of 22 metres. However, given the acute angle between the properties and the location of the private sitting out area, I consider that there would not be such a significant loss of privacy to the occupants of No 78 that would warrant the withholding of planning permission.
22. For the above reasons the development would harm the living conditions of the occupiers of 80/82 Orchard Road contrary to Policy D1 of the LP which amongst other matters seeks to ensure that new development protects the amenity of surrounding areas.

Conclusion

23. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR