
Appeal Decision

Site visit made on 25 June 2019

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

Appeal Ref: APP/P1560/W/19/3225929

Land adjacent to 28 Ashlyns Road, Frinton-on-Sea

- 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 and Mrs Smith against the decision of Tendring District Council.
 - The application Ref: 18/01489/FUL, dated 6 September 2018, was refused by notice dated 15 November 2018.
 - The development proposed is described as "proposed dwelling – to incorporate changes to approval 18/00428 FUL."
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Decision

1. The appeal is allowed, and planning permission is granted for a dwelling at land adjacent to 28 Ashlyns Road, Frinton-on-Sea, in accordance with the terms of the application, Ref: 18/01489/FUL, dated 6 September 2018, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Smith against Tendring District Council. This application will be the subject of a separate Decision.

Procedural Matter

3. The reason for the refusal of planning permission references policies from the Tendring District Local Plan 2013-2033 and Beyond Public Draft (2017). Whilst I have had regard to these policies, their weight in my decision is limited by the fact that the findings of the examination are awaited.

Main Issue

4. The main issue is whether the proposed dwelling would preserve or enhance the character and appearance of the Frinton-on-Sea Conservation Area.

Reasons

5. The appeal site is in a residential area referred to as 'The Avenues', which is part of the Frinton-on-Sea Conservation Area (CA). The significance of the CA is, in part, derived from the presence of dwellings of differing sizes constructed in an Arts and Crafts style, but with varying detailing. There is also variety in building plots, which are arranged in tree lined avenues. There is also no unifying building line. The special character of The Avenues also includes the presence of spacious houses, set within mature gardens. This gives corner plots a verdant character. The appeal site is located at the junction of Ashlyns Road

- and Upper Second Avenue, with the proposed dwelling fronting onto the latter street.
6. The proposed dwelling would be of a design comparable to the prevailing vernacular. I appreciate that it would be set back from the highway edge by a greater distance than some other dwellings in Upper Second Avenue, but the fact that there is already some variation in this characteristic means that the siting of the development would respect the prevailing character within the CA.
 7. In addition, I note that the proposed dwelling's set back from the highway would be comparable to the adjoining dwelling at 1 Upper Second Avenue. The separation between No. 1 and the proposed dwelling would also be comparable to other dwellings within the surrounding area.
 8. The proposed dwelling would result in the reduction of the plot size to the east of the existing dwelling. However, the new dwelling would be set back from Ashlyns Road and there would be a perceptible gap between the dwelling and the junction between Upper Second Avenue and Ashlyns Road, which would remain as gardens. Therefore, whilst there would be less space around the existing dwelling, it would not erode the area's character to an unacceptable degree. For these reasons, I consider that the verdant and spacious character of the CA would be retained.
 9. Although the proposed dwelling would front onto Upper Second Avenue, views of the development would be possible from the nearby junction of Ashlyns Road and Second Avenue. However, such views would be somewhat diffused by the garden that would be retained for the existing dwelling. I also note that the submitted plans indicate that the existing hedge would be retained, which would provide some screening.
 10. I appreciate that the depth of the proposed dwelling may be larger than that previously approved by the Council. Whilst this means that the side elevations of the proposed dwelling would be visible, this is already possible at some other properties in the surrounding area. I also note that the variety in the design of dwellings means that the development would not appear particularly unusual. These factors, when combined with the retained verdant character, are sufficient to prevent the scale of the development causing harm to the character and appearance of the CA.
 11. My attention has been drawn to a recent appeal (for 85 dwellings), where the Inspector concluded that, using alternative methods of calculating housing supply, housing need within Tendring District may have been overstated owing to the effect of Unattributable Population Change. However, as the National Planning Policy Framework (the Framework) states that the standard method of calculating housing supply must be used in planning decisions, weight was given to the fact that all parties agreed that a five year housing land supply could not be demonstrated, albeit there was some doubt regarding the degree of the shortfall. Consequently, this proposal would be of some benefit in providing an additional dwelling, which would add to the local housing land supply.
 12. I therefore conclude that the proposed development would maintain the character and appearance of the Frinton-on-Sea Conservation Area and, accordingly, the development would comply with Policy EN17 of the Tendring District Local Plan (2007) (the Local Plan), which seeks to ensure that the siting

and form of developments preserve or enhance the character of Conservation Areas, and Policy FW5 of the Local Plan, which seeks to ensure that development within The Avenues is of an appropriate scale and would not erode its spacious character.

Conditions

13. I have had regard to the conditions suggested, without prejudice, by the Council. The standard implementation condition is required as is, in the interests of precision, a condition to define the approved plans. In order to ensure that future alterations respect the distinctive character and appearance of the area, I am satisfied that it is necessary and reasonable to impose a condition that would restrict future permitted development rights, although I have amended the wording of the suggested condition to better reflect the requirements of paragraph 56 of the Framework.
14. I am also satisfied that, in order to maintain highway safety, conditions preventing the discharge of surface water onto the highway; to require the agreement of surface treatments; and to secure the implementation of parking are required.
15. I have considered the suggested pre-commencement conditions. I am satisfied that the agreement of a Construction Management Statement prior to works commencing is necessary to ensure that construction does not significantly impact on the highway system, or the living conditions of the occupiers of neighbouring properties. Whilst I am of the view the conditions regarding building materials and landscaping are necessary in order to ensure that the development harmonises with its surroundings, I am not persuaded that these need to be agreed prior to works commencing. Accordingly, I have amended these conditions.

Conclusion

16. For the foregoing reasons, and taking into account all matters raised, I conclude that the appeal should be allowed, and planning permission granted subject to conditions.

Benjamin Clarke

INSPECTOR

Schedule of 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 plan: SAR/2017/01 C.
- 3) Notwithstanding the provisions of Article 3, Schedule 2 Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additions to the property, nor shall any buildings, swimming or other pool enclosures be erected.
- 4) Prior to the commencement of development, a Construction Method Statement (CMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction process. The Statement shall include:
 - i) details of the parking of vehicles of site operatives and visitors;
 - ii) arrangements for the loading and unloading of plant and materials;
 - iii) arrangements for the storage of plant and materials used in constructing the development; and
 - iv) details of wheel and under body washing facilities.
- 5) No unbound material shall be used in the surface treatment of the vehicular access within six metres of the highway boundary.
- 6) Prior to the occupation of the approved dwelling the parking spaces shown on the approved drawing (SAR/2017/01 C) shall be constructed and made available for parking purposes. The parking spaces shall be retained as approved thereafter and not used for any other purpose.
- 7) There shall be no discharge of surface water onto the highway.
- 8) Prior to the commencement of any above ground works, full details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Prior to the commencement of any above ground works, the following shall be submitted to and approved in writing by the Local Planning Authority:
 - i) a scheme of landscaping, which shall include all proposed soft planting areas, and treatment of all hard surfaces;
 - ii) a schedule of proposed plant species, size and density and planting locations; and
 - iii) an implementation programme.All planting, seeding or turving in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of

the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species