



Appeal Decision

Site visit made on 25 November 2019

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/P1560/W/19/3236089

15 Fernwood Avenue, Holland On Sea, CO15 5QA

- 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 Hughes against the decision of Tendring District Council.
 - The application Ref 18/01513/FUL, dated 11 September 2018, was refused by notice dated 12 July 2019.
 - The development proposed is described as "new three bedroom bungalow on land to the rear of 15 Fernwood Avenue".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are
 - The effect of the development proposed on the character and appearance of the site and surrounding area; and,
 - The effect of the development proposed on the living conditions of neighbouring occupiers, with particular regard to Nos 67 and 69 The Chase and Nos 76 and 78 Hereford Road.

Reasons

Character and Appearance

3. The appeal site forms part of the rear garden of 15 Fernwood Avenue. Based on the evidence before me and what I saw during my site visit, the appeal site is not typical of plots in the local area, having an unusually deep rear garden. 15 Fernwood Garden is set at right angles to properties on The Chase and Hereford Road, with its rear garden lying to the rear of several houses on both those roads.
4. The development proposed would be backland development. Policy HG13 of the Tendring District Local Plan December 2007 (the LP) sets out the Council's specific criteria for such proposals. Among other criteria, it requires that proposals not be out of character with the area.
5. The appellants argue that the development proposed is not out of character with the surrounding area as it would be a dwellinghouse within a residential area. However, the development would be an incongruous feature in its setting, out of keeping with the established pattern of lineal development along

Fernwood Avenue, The Chase and Hereford Road. During the course of my visit I could see no evidence of similar backland development either from the highway, or from within the appeal site. As the site lies between two facing rows of houses the development proposed would be a prominent feature in the area. I consider that this would highlight its uncharacteristic siting. While there is a variety of outbuildings in the rear gardens of neighbouring properties, these are subordinate structures and typical of a residential area. I do not consider that they are comparable in character or visual impact to the proposal before me.

6. The Council has raised concerns about the driveway used to access the site. This access would come from the existing driveway that runs along the side of the house. Within the wider Fernwood Avenue street scene there are several examples of houses with driveways that run to the rear of the house. Given this context, I do not consider that this element of the development proposed would be harmful to the character and appearance of the area.
7. Having considered the above matters, I therefore conclude that the development proposed would be harmful to the character and appearance of the site and surrounding area, contrary to policy HG13 of the LP. This policy accords with the criteria of the National Planning Policy Framework (the Framework), insofar as it relates to the main issue of this appeal.

Living Conditions

8. The proposed dwelling would be sited at the foot of the gardens to Nos 67 and 69 The Chase and Nos 76 and 78 Hereford Road, the closest houses to the development proposed. It would be single-storey in height with a pitched roof. It would be sited close to both boundary fences and would be a large and prominent feature in the immediate area. It would introduce a substantial new building in a location where there is currently none. From within the gardens of the closest houses I consider that the proposed dwelling, by virtue of its height and proximity to the shared boundaries, would be a dominant feature that would be harmful to the outlook of neighbouring occupiers.
9. I therefore conclude that the appeal proposal would have a harmful effect on the living conditions of neighbouring occupiers. It would therefore conflict with Policy HG13 of the LP which states that backland residential development should not cause unreasonable loss of amenity to existing dwellings.

Other Matters

10. The appellants have drawn my attention to a recent approval of backland development by the Council. Based on the evidence before me there are differences between the appeal site and its surroundings, and the site on which approval was granted and its surroundings. In particular, the clear pattern of lineal development present in this case does not appear to have been present at the other site. There are therefore material differences in the two cases, and in the absence of further evidence I do not consider that it represents a direct parallel or justification for the proposal before me. In any case, this appeal must be determined on its own merits.
11. The appellants have referred to existing outbuildings at the site. However, these had been removed before my site visit and I cannot therefore give any weight to their prior existence in determining this appeal.

12. The appellants have referred to the potential for construction of an outbuilding closer to the site boundaries in line with the property's rights under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, I have no evidence before me that this is likely to be pursued if this appeal is dismissed or that such a scheme would be similar to, or worse than, what is currently proposed. In any event, a separate and independent dwelling with an access would not be comparable with an outbuilding constructed as permitted development within the curtilage of the existing house. I therefore give this consideration very little weight.
13. The appellants state that the Council has raised no objections to the development on parking grounds, and that the private garden area for both the proposed and existing houses would accord with the Council's standards. In addition, there is no harm identified in terms of flood risk, land contamination, biodiversity or effect on the street scene. Be that as it may, the absence of identified harm on these issues is only a neutral consideration in determining this appeal and cannot weigh in favour of the scheme.
14. A unilateral undertaking has been provided by the appellants in relation to financial contributions sought by the Council. As I am dismissing this appeal, I do not propose to consider this in detail, other than to note that the provision of the undertaking does not overcome the harm identified above.

Planning Balance

15. The Council acknowledges that it cannot demonstrate a five year supply of housing. In these circumstances the Framework states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. I have found harm from the appeal proposal both to the character and appearance of the area, and to the living conditions of neighbouring occupiers. I give these matters substantial weight in determining this appeal.
17. There would be benefits from the appeal proposal. It would make a very minor contribution towards the District's housing need. There would be a short-term financial benefit from the construction of the dwelling. There would be limited ongoing social and economic benefits from the occupation of the dwelling and the support for local businesses and services. As the development is for a single dwelling, I accord these cumulative benefits moderate weight in determining this appeal.
18. I therefore conclude that the adverse impacts of the development proposed would significantly and demonstrably outweigh the benefits.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

M Chalk

INSPECTOR