



Appeal Decision

Site visit made on 23 March 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2020

Appeal Ref: APP/P1560/W/19/3242762

108a Pier Avenue, Clacton-on-Sea, Essex CO15 1NJ

- 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 A Davis against the decision of Tendring District Council.
 - The application Ref 19/01044/FUL, dated 11 July 2019, was refused by notice dated 27 September 2019.
 - The development proposed is described as 'proposed store'.
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Decision

1. The appeal is allowed, and planning permission is granted for a proposed store at 108a Pier Avenue, Clacton-on-Sea, Essex CO15 1NJ, in accordance with the terms of the application, Ref: 19/01044/FUL, dated 11 July 2019, subject to the following conditions.
 1. The development hereby permitted shall be carried out in accordance with the following approved plan; Drawing No. 1A.
 2. The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 108a Pier Avenue, Clacton on Sea, CO15 1NJ.

Application for Costs

2. An application for an award of costs was made by Mr A Davis against Tendring District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. Work on the construction of the proposed development has already commenced and is well advanced. The building appears to be watertight although the external render finish has not been applied. The internal fit out has also started as per the drawings.
4. The appeal form is dated the 9 December 2019. The appeal was therefore submitted in time. Written confirmation that the appeal is valid was dispatched on the 18 December 2019.

Main Issue

5. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site encompasses the rear garden of 108a Pier Avenue, which is a residential flat. The properties along Pier Avenue are architecturally varied although there is a predominance of period properties in the vicinity of the appeal site. There is some variation in the scale of buildings along the street due to the presence of some large structures near to the appeal site. Nevertheless, most buildings are two storeys in height, and some have single storey garages and outbuildings to the side and rear. The buildings in Pier Avenue tend to face the street and are arranged in a discernible building line, with some set behind front gardens. The layout of the street allows a clear distinction between public and private space.
7. To the rear of the appeal site is a public car park accessed from Wellesley Road. This is a functional space that links through to a supermarket, which is itself a large utilitarian structure with a flat roof and white rendered finish. There are views from the car park of the backs of properties, some with flat roofed extensions and outbuildings that are clearly evident. The perimeter of the car park is generally marked by boundary treatment, including fences, walls and soft landscaping. Unlike Pier Avenue, the car park does not have a coherent street scene.
8. Being a domestic outbuilding located in a residential garden, the appeal scheme would be compatible with the nature of nearby residential land uses, many of which border the Wellesley Road car park. The appeal building is not visible from Pier Avenue and therefore its siting has no adverse effect on the street scene of this road.
9. That said, the structure is visible from the adjoining car park. However, it is screened to a notable extent by the existing boundary treatment. This softens its appearance in the variable town scape of the car park and its environs. Where seen from the car park the outbuilding does not appear strident or out of place because there are other domestic outbuildings in gardens nearby. It is the type of structure a passer-by would expect to see in a garden because the size, scale and massing does not dominate the space. In this respect, the proposal respects its context.
10. The size, scale and massing of the outbuilding also responds to its context, as it is seen alongside the rear extensions located to the north-west, which are comparatively much larger than the appeal scheme. This gives it a subservient, recessive appearance and ensures it does not stand out. The extensions to the north also have a flat roofed form and design which is reflected in the proposal. The rendered finish is not out of place given the use on other buildings nearby. Thus, the appeal building does not appear out of place.
11. I therefore conclude that the appeal scheme preserves and thus protects the character and appearance of the area. Accordingly, there is no conflict with Policies QL9 and QL11 of the Tendring District Local Plan 2007, which seek to secure development that protects or enhances local character, relates well to its surroundings and is of a scale appropriate to the locality.

Other Matters

12. Given my findings above, that the proposal would preserve the character and appearance of the area, the appeal scheme is not be at odds with draft Policy SPL3 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). Similarly, there is no conflict with Paragraphs 127 and 130 of the National Planning Policy Framework, as the proposal is sympathetic to local character and accords with the clear design expectations of local plan policies. These are material considerations that weigh in favour of permitting the proposal.
13. The outbuilding is positioned close to the rear garden of 108 Pier Avenue (No 108). However, its scale is sufficiently modest to ensure it does not harm the outlook or level of light entering this adjoining garden. There are no windows in the outbuilding that overlook the garden of No 108 and access to it is already through the garden of this property. Therefore, the privacy of the occupants of No 108 would be maintained.
14. There is a mature hedge between the appeal site and 106 Pier Avenue so there would be no adverse impacts on the living conditions of the occupants of this neighbouring property. This would be the case even if the hedge was removed given the modest scale of the outbuilding and intervening distance to the site boundary.
15. I have considered the appeal scheme on its own merits and therefore a generalised precedent has not been set. Even if it had, any precedent could not be harmful because the proposal preserves the character and appearance of the area.

Conditions

16. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. As works have already started it is unnecessary to impose a commencement condition. However, it is necessary in the interests of certainty, to ensure that the development is undertaken in accordance with the approved drawings.
17. The outbuilding has been finished to a high specification with internal plastered walls, double glazed windows and flooring. Electricity and water also appear to have been connected. This would facilitate occupation of the building as an independent dwelling, a point that would be aided by the size and internal layout. Use of the appeal building as a dwelling would be undesirable given the position behind the existing flats. Moreover, the evidence before me does not demonstrate it would result in adequate living conditions or that there is sufficient parking. For these reasons it is necessary to impose a condition that the outbuilding is used ancillary to the occupation of 108a Pier Avenue.

Conclusion

18. The appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.

Graham Chamberlain
INSPECTOR