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## Appeal Decision

Site visit made on 10 June 2020

**by I A Dyer BSc (Eng) MIHT**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 June 2020**

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**Appeal Ref: APP/B1550/W/20/3246467**

**41 Crown Hill, Rayleigh SS6 7HQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Mr Lewis Wilkinson and Mr Mark Beckford against the decision of Rochford District Council.
  - The application Ref 19/00862/REM, dated 13 September 2019, sought approval of details pursuant to condition No. 1 of a planning permission Ref 18/01144/OUT, granted on 27 February 2019.
  - The application was refused by notice dated 9 January 2020.
  - The development proposed is the demolition of existing dwelling and construction of two storey building for 5 flats (revised proposal).
  - The details for which approval is sought are: access, landscaping, layout and scale.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Outline planning permission with all matters reserved for the demolition of existing dwelling and construction of two storey building for 5 Flats was originally granted in 2019 under application Ref. 18/01144/OUT (the outline permission).
3. Whilst the application form refers to the clearance of all of the reserved matters with the exception of appearance; the officer's report refers to the clearance of all reserved matters. I have determined this application on the basis that the appearance of the development is a matter for determination at a later date and that all details of the appearance of the proposal shown on the submitted drawings are indicative only.

### Main Issues

4. The main issues are the effect of the proposal on: -
  - The living conditions of occupiers of 45 Crown Hill with particular reference to outlook and overlooking
  - Whether, or not, the proposal makes adequate provision for car parking, and: -
  - The character and appearance of the site and its immediate vicinity.

## Reasons

5. The appeal site lies within a predominantly residential area containing single and two storey dwellings of varying design. The site fronts onto Crown Hill, a busy through route in an urban area, subject to a 30 MPH speed limit and contains a bungalow, set back behind the general frontage line of development on that side of Crown Hill. To the front of the bungalow lies a terraced garden and drive. To the south east lies a bungalow, 39 Crown Hill, which appears to have accommodation in the roof. The other neighbouring dwelling, 45 Crown Hill, is a two storey semi-detached house. The site falls steeply towards Crown Hill, whilst the road rises towards the south-east.

### *Living conditions*

#### *Outlook*

6. No. 45 has windows on its rear elevation. The proposal would project to the rear of No. 45 by a substantial distance. The second storey rear element of the proposal is, however, stepped back away from the boundary with No. 45, although a single storey element is retained. There would be a balcony on top of the single storey element close to the shared boundary with No. 45.
7. The boundary between No. 41 and No. 45 is formed by a fence, however the aspect above this fence from the garden area of No. 45 closest to the dwelling and its rear windows is relatively open.
8. The Rochford District Council's Supplementary Planning Document 2 Housing Design -2007- (the SPD) provides guidance on the design of first floor extensions and advises that, in order to prevent excessive overshadowing, extensions at first floor level should be sited to ensure that their projection does not form a horizontal angle greater than 45 degrees with the nearest habitable room window of any adjacent property.
9. Although the proposal does not relate specifically to purpose build new developments, this guidance is reflective of standard practice in assessing the effect of proposals on the amenity of neighbours.
10. The wording of the SPD infers that the measurement should be taken from the nearest edge of the window, rather than the centre line. However, both of the main parties refer to a recent appeal decision<sup>1</sup> which discusses the measurement of the line from the centre line. Given the width of the window in question the centre line would reflect the likely position of an observer at the window.
11. The way in which the proposal is stepped back at first floor level ensures that solid walls are outside of this line when the line is drawn from the centre line of the closest window on the rear face of No. 45.
12. However, to ensure privacy for the occupiers of No. 45 a privacy screen is proposed for the side of this amenity area facing the boundary. This privacy screen would encroach within the 45 degree line.
13. Whilst the perception of the screen could be reduced by the use of translucent materials, it would nevertheless add to the bulk and scale of that elevation of the proposal and its position and height, close to the boundary. Its bulk and

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<sup>1</sup> Appeal Ref: APP/B1550/D/19/3220909

scale would result in an unacceptable sense of enclosure for anyone looking out of the first floor window of No. 45 or standing in the rear garden close to the house.

14. The appellant has expressed a willingness to amend the scheme by removing the proposed use of the roof as a balcony area to make the scheme acceptable. This would remove the need for the privacy screen. However, that area provides an external amenity area for future residents and its removal would be a significant change to the proposal before me. Further, no revised plans were submitted for my consideration as part of the appeal and therefore I have necessarily considered the proposal before me on its merits.
15. Whilst the ground floor of the proposal projects substantially beyond the rear of No. 45, this would be largely screened by the existing fence and so would be unlikely to result in any significant increase in sense of enclosure by anyone in the rear garden of No. 45, close to the house.

*Visual effect*

16. The side elevations of the proposal would contain windows at ground and first floor level. However, where these serve habitable rooms they are not the principal windows for the room. Where the window serves a bathroom a suitable planning condition could be imposed upon any planning permission I am minded to grant requiring the window to be obscure glazed and not capable of being opened below a height of 1.7m above finished floor level. These windows would not, therefore, significantly increase overlooking or the sense of overlooking for occupiers of the neighbouring properties.
17. The proposal would incorporate windows, and a French door and a Juliet balcony in the rear elevation that would serve living area, together with the balcony area that I have identified above and one at second storey level. The Juliet balcony would not be materially different to a window. The balconies include screening to limit views to the side and their principal view would be towards the garden.
18. Whilst there would be some oblique views of rear gardens of the neighbouring properties, these would be towards the ends of those gardens away from the dwellings, rather than those areas closest to the dwellings which provide the most private amenity areas. These areas already experience a degree of overlooking and the additional windows and balconies would not increase this to a degree that would constitute an unacceptable additional loss of privacy.
19. Drawing these matters together I find that, although the proposal would not unreasonably increase overlooking, it would result in significant harm to the living conditions of the occupiers of No. 45 in terms of a loss of outlook, contrary to Policies DM1 and DM3 of the Rochford District Council Local Development Framework Development Management Plan -2014- (the DMP) which require, amongst other things, that development should consider and positively address the proposal's impact upon residential amenity and develop a positive relationship with existing buildings that promotes visual amenity.

### *Car parking*

20. A planning condition attached to the outline permission requires the provision of five car parking spaces within the site and an associated turning area. The car parking spaces are required to have dimensions in accordance with the Council's adopted car parking standards. Notwithstanding this, the method of use of the parking spaces must be acceptable in order to provide adequate provision.
21. The application plan 3551-05-3 Revision D shows five parking spaces measuring 2.5m by 5m together with a sizeable space between them and the road.
22. The quantum of parking to be provided was determined at the time of the outline planning permission and that amount of parking is shown on the drawing. The issue before me, therefore, is whether the layout of the parking is practicable.
23. The Rochford District Council Parking Standards Design and Good Practice Supplementary Planning Document – 2010- (the Parking SPD) stipulates a minimum parking bay size for a car of 2.5m by 5m, and the proposed spaces would satisfy this. None of the parking spaces indicate an increased width and so there is no indication of their suitability for use by those with a disability. However, the SPD has no minimum requirement for such provision where parking is provided in the curtilage of the dwelling.
24. The Parking Standards pre-date the National Planning Policy Framework -2019- (the Framework). The Framework advises that when setting local parking standards for residential development, policies should take into account, amongst other things, the accessibility, the type, mix and use of development, the availability of and opportunities for public transport. The Parking SPD does make allowance for such factors and so, in broad terms the Parking SPD is in accordance with those aims of the Framework which seek to promote sustainable transport, and the document can, in this respect, be afforded moderate weight. The Framework is silent on the matter of the dimensions of car parking spaces.
25. My attention has been drawn to the dimensions of the minimum size of car parking space contained within Manual for Streets -2007- (MfS). Whilst the proposed parking spaces are larger than the minimum size mentioned in MfS I note that this document pre-dates the Parking SPD, and I see no justification to allocate greater weight to this advice than the policies of the development plan.
26. Whilst the Parking SPD encourages the provision of larger spaces, this is a preferred size. The Parking SPD allows the use of the minimum size only in exceptional circumstances "as determined by the LPA". In the current situation it falls to me to determine whether there are such circumstances as to justify the exception.
27. The accommodation proposed would be suitable for small households and so it is likely that parking for vehicles of a variety of sizes would be needed including larger family vehicles. The Parking SPD would make allowance for this with the more generous parking space size.
28. I have little substantive evidence before me to suggest that all households would keep vehicles at the smaller end of the scale. It is likely that there would

be some requirement for spaces of the preferred size and so, whilst a mix of provision in terms of parking space sizes may be justified, the provision of parking solely in line with the minimum dimensions would be restrictive.

29. The appellant argues that the space allocated for parking is relatively large, with spaces to the sides and a deep turning area. However the areas to the side of the proposed parking spaces provide access to the sides of the building including, on the layout proposed, the access to the flats. Any obstruction of that side access would, therefore, be likely to affect access to the living accommodation.
30. Whilst it is likely that longer vehicles could use the spaces, albeit with some overhang, no manoeuvring diagrams have been provided to indicate that large family vehicles would then be able to turn to enter and leave the site in forward gear. At the time of my site visit I observed significant traffic flows on Crown Hill, and I that vehicles were travelling at speed. Given the nature of Crown Hill in the vicinity of the site, vehicles reversing out onto the road are likely to result in an unacceptable increase in risk of harmful collision to users of the public highway.
31. Notwithstanding the lack of objection on the part of the Local Highway Authority to the proposed parking arrangements I do not consider that the proposal has demonstrated that it makes adequate provision for the parking of vehicles within the site.
32. There is no specific provision made for visitor parking within the site, and any unmet demand from the proposal would be likely to appear on-street. Crown Hill and nearby streets are subject to on-street parking controls. Whilst some visitors may seek to park on the side streets, I have little substantive evidence before me to demonstrate that this would have a significant impact upon the safety of highway users.
33. I find that the proposal would not make adequate provision for car parking. The proposal would therefore be contrary to Policies DM1, DM3 and DM30 of the DMP which require, amongst other things, that development should provide car parking in accordance with the Parking Standards SPD.

#### *Character and appearance*

34. The proposal would introduce a building onto the site with accommodation on three floors. The frontage of the building would be forward of the existing bungalow and more in keeping with the general building line of Crown Hill. Levels within the site would be reduced.
35. Whilst the height of the building would be greater than that of No. 45 and the difference is even greater in relation to that of No. 39, there is significant variation in the scale and massing of buildings in the vicinity. Similar variations in the roof heights of adjacent buildings occur nearby. Nor is the overall scale and proportion of the building so dissimilar to others nearby as to be incongruous in the street scene and so result in material harm. Whilst the proposal would significantly increase the density of dwellings within the site, I note that flatted development exists in the nearby area.
36. I therefore conclude that the proposal would not result in material harm to the character and appearance of the site and its immediate vicinity. It would

therefore comply with policies DM1 and DM3 of the DMP in as much as these require development to be of a scale and form appropriate to the locality.

### **Other Matters**

37. My attention has been drawn to the drawings submitted in association with the outline permission. Those drawings were, however, indicative and carry limited weight in regard to the determination of the reserved matters applications.
38. Similarly, my attention has been drawn to a previous application for a similar proposal on the appeal site<sup>2</sup>. This application was withdrawn. I have limited details of that proposal. In any case I have determined this appeal on the merits of the proposal before me.
39. Local residents have expressed frustration that the outline permission was granted. However that is an extant permission and it is outside the scope of this appeal to review its merits.

### **Conclusion**

40. For the reasons given above the appeal is dismissed.

*I Dyer*

INSPECTOR

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<sup>2</sup> Council Ref: 19/00501/REM