
Appeal Decision

Site visit made on 26 May 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2020

Appeal Ref: APP/P1560/W/20/3244414

Land adjacent to 8 The Crescent, Frinton-on-Sea CO13 9AP

- 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 Mrs Peterson against the decision of Tendring District Council.
 - The application Ref 18/02012/FUL, dated 4 December 2018, was refused by notice dated 9 July 2019.
 - The development proposed is a dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for a dwelling at 8 The Crescent, Frinton-on-Sea CO13 9AP in accordance with the terms of the application Ref 18/02012/FUL, dated 4 December 2018, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The examination of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (emerging LP) is at a relatively early stage, particularly pending further work in relation to Garden Communities. The policies of the emerging LP therefore have limited weight at this time.
3. The appellant has completed two Unilateral Undertakings in relation to the appeal, one in relation to habitats and one in relation to open space. I deal with these as appropriate in my decision.

Main Issue

4. The main issue is whether the development would preserve or enhance the character or appearance of the site and the area, in particular the Frinton and Walton Conservation Area, and particularly in relation to the scale, form and footprint of the proposed house in relation to its own plot and the wider street scene.

Reasons

5. The site is part of the garden to the detached dwelling at 8 The Crescent. It is proposed to erect a 2 and a half-storey, 5-bedroom detached dwelling on the land fronting The Crescent road, with associated boundaries, gardens, access from the highway, and car parking.
6. The Crescent is a road characterised by 2 or 3-storey fairly substantial detached houses of a variety of architectural styles. The houses are located on a variety of plot sizes, with a range of frontage widths to The Crescent. In the

vicinity of the appeal site there are a number of existing properties that take up most of the width of their respective plots and are located very close to one another. A number of the existing houses have single storey garages to their side and the front elevations of the houses are also consistently set back from the street behind front gardens and driveways. These factors help to break up the massing along the street.

7. The significance of this part of the Frinton and Walton Conservation Area is derived from this pleasant setting of fairly substantial houses of varying architectural styles, layouts and plot sizes, but brought together by the unifying character of detached houses that have a comfortable relationship to their neighbours and are not unduly prominent, being set comfortably in their own plots, maintaining gaps to neighbouring houses, albeit of different sizes, and being set back from the road.
8. The proposed house would respect these essential characteristics. It would be of similar scale to the existing houses at 2 and a half-storeys. It would be set on a plot width that, although towards the narrower end of the existing plot widths, is fairly typical along the street. A single storey garage is proposed to one side of the house which would break up the massing. A reasonably sized rear garden is proposed in relation to the footprint of the house. The house would be appropriately set back from the road, staggered between the neighbouring properties to either side to reflect the curve of The Crescent in this location. The proposed gaps to the sides to the neighbouring properties would be fairly narrow, but they would be of similar size to the gaps between a number of existing properties along the street.
9. The proposed house would therefore sit comfortably within the footprint of its own plot. The combination of the gaps and the staggered set back would help to visually and physically separate the property from its neighbours. The proposed house would therefore respect the setting of neighbouring houses and would be in-keeping with the wider street scene. Consequently, the works would preserve the character and appearance of the site and the area, and in particular would preserve the character or appearance of the Frinton and Walton Conservation Area.
10. The proposal therefore complies with the relevant parts of Policies QL9, QL10, QL11 and EN17 of the Tendring District Local Plan 2007 which, amongst other things, seek high quality and functional design which respects the character of the area, and that proposals preserve or enhance the character or appearance of conservation areas. It would comply with Chapters 12 and 16 of the National Planning Policy Framework (the Framework) which, amongst other things, seek high quality design and the conservation and enhancement of the historic environment. The proposal would also comply with the relevant parts of Policies SPL3 and PPL8 of the emerging LP which, amongst other things, seek high quality design which respects local character, and which preserves or enhances the special character and appearance of conservation areas.

Other Matters

Habitats

11. The site falls within the Zone of Influence for the Hamford Water Ramsar and Special Protection Area (SPA), within the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This is a European Designated Site.

12. Natural England (NE) have stated that new residential development in this area is likely to have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The proposed dwelling is therefore, both on its own and in combination with other development projects, likely to have significant effects on the integrity of the Ramsar and SPA. As the Competent Authority, and in accordance with the Conservation of Habitats and Species Regulations 2017, I have therefore undertaken an Appropriate Assessment.
13. The Ramsar and SPA is a large shallow estuarine basin providing extensive habitat for a number of waterbirds, waders, moths, ducks, grebes, cormorants, little terns and wildfowl, as well as uncommon plants. The conservation objectives include to maintain and restore the habitats and therefore the population and distribution of a number of wild birds. The mitigation measures proposed in the RAMS are to increase the resilience of the Ramsar and SPA to recreational pressure, including through education and awareness raising, fencing, waymarking and screening, controlling access, and greater enforcement of the rules and regulations.
14. I have considered the proposed measures to mitigate the potential for significant impacts, and I am satisfied that these would be effective in ensuring that the proposal would cause no adverse effect on the European Sites. These mitigation measures would be implemented by way of a financial contribution to be secured by a Unilateral Undertaking dated 3 May 2019, which provides that the appellant will pay £122.30 (index-linked to the Index of Retail Prices) for the one dwelling proposed, prior to commencement. I am therefore satisfied that, subject to the mitigation payment, it has been demonstrated that there would be no adverse effect on the integrity of the European designated sites.
15. The appeal site is located approximately 1.3 km from the Holland Haven Marshes Site of Special Scientific Interest (SSSI) and approximately 2.5 km from the Hamford Water SSSI. NE have been consulted and have stated that the proposal would be unlikely to have an effect on either SSSI and I see no reason to disagree.

Open Space

16. A completed and signed Unilateral Undertaking, dated 15 April 2019, provides that the appellant will pay £3,380.00 (index-linked to the Index of Retail Prices), prior to commencement, for improvements to the pathways at Crescent Gardens. Neither the works nor the payment is in dispute between the parties and I am content that this is a necessary mitigation measure. It is directly related to the development because of the likely increased demand for open space that would be caused by the occupation of the proposed dwelling. It is linked to the number and size of dwellings proposed, ie one 5-bedroom house, and is therefore fairly and reasonably related in scale and kind to the development. I am therefore satisfied that the planning obligation meets the tests set out in Regulation 122(2) of the CIL Regs and Paragraph 56 of the Framework.

Other

17. Issues of the principle of development, detailed design, highway safety, living conditions, car parking, trees and landscaping, and private amenity space for

both the proposed house and the existing property at 8 The Crescent are not in dispute between the main parties. I see no reason to disagree with this.

18. A neighbour has questioned the dimensions quoted on the drawings, but the accuracy of the drawings is not in dispute between the main parties and I am satisfied that the drawings themselves are accurate.

Conditions

19. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
20. The Council have requested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions.
21. The materials and landscaping conditions are necessary in order to control the detailed design of the proposal, and therefore to ensure that the proposal would preserve and enhance the character and appearance of the area, and in particular the character or appearance of the Frinton and Walton Conservation Area. I have not included a condition specifically requesting a tree to be located in the front garden because the combination of the retained front hedge and Sycamore trees would provide sufficient amenity value from trees and landscaping on the site.
22. The condition requiring that the windows to the side elevation be obscure glazed is necessary in order to prevent harmful levels of overlooking from the upper floors of the proposed building to the neighbouring property, and vice versa. I have amended the Council's suggested wording for this condition to refer to the correct drawing and correct windows.
23. The condition removing permitted development rights is necessary in order to ensure that the building retains its architectural integrity and to protect the character and appearance of the area. It also ensures that there would be no extensions or buildings that might harm the living conditions of neighbouring occupiers.
24. The conditions preventing the use of unbound materials and surface water discharge onto the highway are necessary in order to protect highway safety.

Conclusion

25. For the reasons above, I conclude that the appeal be allowed, subject to the identified conditions.

O S Woodward

INSPECTOR

Schedule 1 – Conditions for Appeal Ref APP/P1560/W/20/3244414

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan Ref PTC-01 rev C.
- 3) No above ground works shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Details shall include the colour and materials of the window headers and tile hanging to rear bay. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 4) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following substantial completion of the dwellin or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. The elements of the existing hedge along the front boundary of the application site shown to be retained on drawing Ref PTC - 01 rev C shall be retained or replaced with similar species. Any trees or shrubs within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.
- 5) The dwelling shall not be occupied until the three windows proposed on the side elevation shown on drawing Ref PTC-01 rev C and labelled as 'obscure glazed' shall be non-opening and glazed in obscure glass and shall thereafter be permanently retained in this approved form.
- 6) Notwithstanding the provisions 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 dwelling or its roof, nor shall any buildings, enclosures, swimming or other pool be erected except in accordance with drawings showing the design and siting of such additions and/or building(s) which shall previously have been submitted to, and approved in writing by, the Local Planning Authority.
- 7) No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6 metres of the highway boundary.
- 8) There shall be no discharge of surface water onto the highway.