

Appeal Decision

Site visit made on 29 September 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2020

Appeal Ref: APP/X1545/W/20/3255270

Whitethorn, Filey Road, Southminster CM0 7BS

- 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 Scott Ward against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00122, dated 4 February 2020, was refused by notice dated 16 April 2020.
 - The development proposed is replacement dwelling with existing bungalow retained as annexe for the accommodation for elderly relatives.
-

Decision

1. The appeal is allowed and planning permission is granted for replacement dwelling with existing bungalow retained as annexe for the accommodation for elderly relatives at Whitethorn, Filey Road, Southminster CM0 7BS in accordance with the terms of the application, Ref FUL/MAL/20/00122, dated 4 February 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matter

2. During the consideration of the appeal, the Council has granted planning permission for a replacement dwelling¹, which is of very similar scale and design to that subject to this appeal, expect that the existing dwelling would be demolished, and the resultant link has been removed. Further changes include the reduction of the rear dormers, alterations to the rear fenestration and an increase in the height of the front projection.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The appeal site comprises a very modest detached single storey dwelling and a range of outbuildings arranged in a linear form across the frontage of the site. The property is located on Filey Road which is characterised by detached dwellings which vary in their appearance and design. The area is of mixed character and includes both modern and older properties, however there is no

¹ FUL/MAL/20/00520 Demolition of existing bungalow and erection of replacement dwelling. Granted 24 July 2020.

clear pattern of development and in particular the differing size and scale of properties creates a varied street scene.

5. The development includes the construction of a replacement dwelling and the retention of the existing dwelling to provide linked annexe accommodation. The existing outbuilding and mobile home on the site would be removed. Although the proposed dwelling would be significantly larger in terms of footprint, the retained dwelling would become subservient to the new dwelling.
6. Having regard to the overall width of the dwelling, this does not result in an overdevelopment having regard to the overall size of the plot and there remains a good level of spacing between the properties on either side of the plot. The retention of the existing dwelling would not increase the level of built form on the site unacceptably, having regard to the existing outbuildings and mobile home which currently extend along the frontage of the site.
7. The Council have indicated that the design of the approved replacement dwelling application was almost identical to that before me and they considered the dwelling to be acceptable given the removal of the existing bungalow (annexe). Taking into consideration the general character of the area with its range of dwelling styles and heights, I consider that the dwelling would contribute positively to the overall variety of the street scene.
8. As I have set out above the proposed development is compatible with its surroundings and I do not consider there will be any material harm caused to the wider landscape. I conclude that the proposed dwelling would not result in harm to the character and appearance of the area and the development would comply with policies S8, D1 and H4 of the Maldon District Approved Local Development Plan 2014-2029 (2017) which together require development to maintain the character of the area and be of an appropriate scale and design and not result in harm to the intrinsic character and beauty of the countryside. The development would also accord with paragraph 124 of the National Planning Policy Framework which highlights the importance of good design.

Other matters

9. I have also taken into account the matters raised in the representations received with regard to inadequate foul and surface water arrangements and the lack of access to services. There is no evidence local infrastructure would be unable to meet the needs of the development and the site is already in use for residential purposes and therefore there is no material difference with regard to access to services.
10. Concerns have also been raised with regard to the future use of the annex and the risk that two dwellings could be created on the site. However, that is not the proposal before me and I am satisfied that there are sufficient controls in place which means that such a change of use would require a separate application for planning permission. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Conditions

11. The Council has suggested 10 conditions and I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. I have also sought confirmation from the appellant in order to impose pre-commencement conditions.

12. I have imposed conditions to ensure that the proposal is built in accordance with the approved plans to provide certainty and that seek to safeguard the character and appearance of the area. I consider that a condition to agree a scheme of landscaping, including details of the protection of existing trees would also be necessary in this case given the lack of detail on the submitted plans.
13. As it is necessary to manage the water environment of the development and mitigate the impact on flood risk and water quality, I have imposed a condition requiring appropriate foul and surface water mitigation to be in place prior to the occupation of the dwelling.
14. I have found it necessary to impose a condition to ensure that the use of the annexe remains incidental to the occupation of the replacement dwelling.
15. I have not imposed the suggested condition in relation to refuse and cycle storage as I could not see that this had been provided on the plans, and in any event it would be possible for these to be stored within the private garden.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

G. Pannell

INSPECTOR

Condition Schedule

- 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 plans: 595/11 B; 595/12 A; 595/13 A; 595/14 C; 595/15 C; 595/16 B; 595/17 B; 595/18; 595/19; 595/20; 595/21.
- 3) No development within the part of the building shown hatched on approved drawing no. 595/12 A shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 5) Before any part of the development is first occupied details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include boundary treatments and hard surfacing materials.

The hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme.

- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.
- 7) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 9) The annexe hereby permitted shall not be used other than for purposes incidental to the use of the dwelling known as Whitethorn, Filey Road, Southminster.

-END-