



Appeal Decision

Site visit made on 22 September 2022

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022.

Appeal Ref: APP/D1590/D/22/3301092

14 Leslie Close, Southend-on-Sea, Eastwood, SS9 5NP

- 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 Malaj against the decision of Southend-on-Sea Borough Council.
 - The application Ref 22/00587/FULH, dated 2 March 2022, was refused by notice dated 26 April 2022.
 - The development proposed is the erection of a ground floor rear and side extension and a loft conversion with front and rear dormers.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions at 12 Leslie Close with particular regard to visual impact and privacy.

Reasons

3. The appeal property is a semi-detached bungalow located within a short residential cul-de-sac comprising mostly similar style and aged properties, several of which I saw to have been extended by way of loft conversions with front and rear dormer windows. The proposal would include a pair of gabled dormers to the front elevation, a 'box-like' dormer to the rear, and a single-storey extension that would span approximately half the width of the property and which would wrap around part of the dwelling's side elevation.
4. The site location plan which accompanied the application shows that most properties in the area have conventional layouts where the rear gardens extend in a linear arrangement away from the respective dwelling's rear elevation. However, the semi-detached pair at Nos 12 and 14 stands out as an unusual exception to the norm. The rear garden to No 12 projects from the dwelling's rear elevation at an oblique angle and cuts across the rear elevation of the appeal property in an unconventional manner. As a consequence, the outlook from the rear of No 14 is directed immediately towards the rear garden of No 12.
5. Due to the single-storey form of No 14, the outlook from the rear ground floor window nearest to No 12 is directed towards a timber panel fence that runs along the shared common boundary between both properties. Overlooking

towards the neighbour's rear garden is therefore screened by what is a typical residential boundary enclosure. The introduction of a rear dormer extension with a bedroom window nearest to No 12 would introduce an outlook from first-floor level that would be immediately directed towards the neighbouring rear garden. Due to the unorthodox layout, this would have a significant impact upon the levels of privacy that are currently enjoyed within the neighbour's rear garden and which would reasonably be expected in a residential environment. This would be harmful to the neighbour's living conditions. A suggestion by the appellant that this could be remedied through the use of opaque glazing would not be reasonable given that the nearest window would serve a habitable bedroom. Neither is there any proposed means of screening to be considered as part of the proposal.

6. The nearest corner of the single-storey rear extension would encroach close to the common boundary with No 12 at a pinch-point. However, at a depth of 3m, it would not be seen to have any significant impact upon the outlook from the internal living space within No 12. Whilst it would inevitably be seen from the rear garden, and at close quarters from parts of it, I do not consider that it would have a visually over-dominant impact that would significantly affect the neighbour's enjoyment of their overall garden space. The outlook from this extension would be angled towards the rear garden to No 12, but it would be at ground floor level and towards the foot of the neighbour's garden. In terms of any potential for overlooking, I am not persuaded that the impact would be much different to the existing arrangement at ground floor level.
7. Overall, I find that by failing to maintain the residential amenities of the area generally, and by explicitly failing to protect the amenities of the adjoining neighbour through a development that would have a negative response to its immediate context, the rear dormer would conflict with Policy CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015). In this regard there would also be conflict with the National Planning Policy Framework's objectives for achieving well-designed places where it requires a high standard of amenity for existing and future users.
8. The appellant has argued that the roof extensions and the single-storey rear extension could be constructed as permitted development. However, within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development would require planning permission. If the appellant wishes to ascertain whether the development would be lawful, they may make an application under section 192 of the Act. Notwithstanding, I am mindful of the potential for the appellant to implement a 'fallback' position through permitted development rights. This is a material consideration in this case.

Conclusions

9. I have before me an appeal relating to a proposal for planning permission. For the reasons given, I have found that the proposal would cause serious harm to the living conditions of the neighbouring occupier at 12 Leslie Close. I attach significant weight to this harm and to the conflict with the development plan that I have identified. On the other hand, whilst the potential fallback position carries substantial weight, I have not been provided with clear details to specifically outline the development that might be implemented without the

express grant of planning permission if the appeal proposal does not go ahead. Therefore, and on balance, I find that the appeal should be determined in accordance with the development plan. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR