



Appeal Decision

Site visit made on 17 October 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Ref: APP/P1560/W/22/3298707

6 Ladysmith Avenue, Brightlingsea, CO7 0JD

- 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 Evonne Taylor against the decision of Tendring District Council.
 - The application Ref. 22/00176/FUL dated 24 January 2022, was refused by notice dated 25 April 2022.
 - The development proposed is the erection of 1 dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposal on the character and pattern of development in the locality; and ii) the effect on the living conditions of neighbouring occupiers in terms of their outlook and enjoyment of rear gardens.

Reasons

The effect of the proposal on the character and pattern of development in the locality

3. The most relevant detailed policy of Section 2 of the Tendring Local Plan (TLP) is LP8 -Backland Residential Development, which has the opening statement "*Proposals for the residential development of "backland" sites must comply with the following criteria:*". There then follows 6 criteria; 4 dealing with matters that are not in contention: sufficient private amenity space, safe vehicular/pedestrian access, not prejudicing more comprehensive development, and not on the edge of the settlement. The 2 criteria that are contentious are c. – must avoid tandem development and f. must not be out of character with the area, or set a harmful precedent.
4. The site comprises part of the residential curtilage associated with the donor dwelling, No.6 Ladysmith Avenue, which is a detached property. The site currently contains a double garage, which would be demolished, with an extensive landscaped garden beyond. The next dwelling on Ladysmith Avenue to the south is No.4a, a 2-storey detached house with its main axis running parallel to the road. A semi-detached pair of houses are then at Nos.2 and 4.

Ladysmith Avenue. To the east, behind Nos.2 and 4, and gaining access from Queen Street, is a garage court with a series of 12 lock-up garages largely prefabricated in nature.

5. Planning permission was refused in April 2019 for the proposed erection of a two-bedroom single storey dwelling (LPA Ref. 19/00194/FUL) elsewhere on the site as it was deemed that the development would have an effect on the character and appearance of the area. An appeal was submitted in response to this refusal, which was dismissed in December 2019. That scheme proposed an unusual long reverse 'L' shaped construction, sited in the confines of the rear extremities of the plot itself. It was dismissed on the basis of the effect on the character and appearance of the area.
6. Ladysmith Avenue has development on both sides set to a regular building line, consisting of detached and semi-detached houses and bungalows. No.6 has a wide frontage due to being on the inside of a bend in the road with the side boundary of No.4a angling back to provide a wedge shape open frontage area between Nos.4a and 6. It is this open wedge, and the extensive garden area of No.6 which runs behind No.4a and part of No.4, that provides the area on which the proposed bungalow would be built, its access, and the parking arrangements for it and the donor dwelling.
7. The proposed bungalow would be clearly seen across this access area and the fence of No.4a, as well as through the gap between 4 and 4a. Less importantly, it would also be seen from Queen Street at the back of the garage court. The proposed bungalow would run in parallel with No.4a and in tandem with it. It would clearly be seen as backland development and an anomaly with the existing pattern of development on Ladysmith Avenue. It would be in conflict with criterion c of policy LP8 – must avoid tandem development, and f – must not be out of character with the area, or set a harmful precedent. This proposal is certainly an improvement on that which was before my colleague in 2019, but it is unacceptable in the face of the policy and the effect that it would have on the character and pattern of development in the locality.

The effect on the living conditions of neighbouring occupiers in terms of their outlook and enjoyment of rear gardens

8. This refusal reason refers to the siting of the proposed bungalow as 1.6m from neighbouring boundaries of properties fronting Ladysmith Avenue and 6.2m from the rear elevation of No.4a. However, it has been confirmed by the appellant that the siting from the neighbouring boundaries is in fact 3m and 7.4m from the closest part of the rear of No.4A, and the block plan has been amended with the addition of these dimensions shown. Whilst there are no first-floor windows, dormers or rooflights along the elevation facing these neighbours, it is the elevation with the front door. Thus there would be no overlooking which could affect the enjoyment of the neighbouring garden, but there would be the clear presence of the dwelling just beyond the fence, and the comings and goings to its main entrance which would have a somewhat deleterious effect on the enjoyment of the adjoining rear gardens, particularly that of No.4a which is relatively small and shallow. I regard this as an additional shortcoming of the proposal.

Conclusions

9. I have found that the appeal proposal is contrary to policy LP8 of the recently adopted TLP and would have a harmful effect on the character and pattern of development in the locality. In addition it would not be a satisfactory neighbouring development to the 2 houses that it would lay behind for the reasons mentioned in paragraph 8 above. I will therefore dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR