
Appeal Decision

Site visit made on 19 October 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22ND November 2022

Appeal Ref: APP/X1545/D/22/3300446

42 Station Road, Southminster, Essex, CM0 7EW

- 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 Nicholas Hull against the decision of Maldon District Council.
 - The application Ref. HOUSE/MAL/22/00107, dated 31 January 2022, was refused by notice dated 14 April 2022.
 - The development proposed is rear extension to existing bungalow. Demolition of existing garage with new replacement garage to rear of site.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the appeal site visit, it was evident that the proposed garage would be located south of the conservatory of 1 Cherry Orchard to the rear of the site, which was not shown on the submitted plans. Given the reasons for refusal, the effect of the garage was not addressed in the Grounds of Appeal. The parties were therefore invited to make additional representations on this matter and the comments made have been taken into account in this decision.

Main Issues

3. The main issues are (1) the effect of the proposed extension on the character and appearance of the appeal property and the Southminster Conservation Area; and (2) the effect of the proposed garage on the living conditions of occupants of 1 Cherry Orchard, with particular reference to overshadowing and outlook.

Reasons

Character and Appearance

4. The appeal property is a detached single-storey dwelling located towards the eastern end of the Southminster Conservation Area, the special character of which is derived from the collection of historic buildings in the town centre, with buildings built close to or on the back of the pavement creating a cohesive, somewhat enclosed streetscape. In contrast, the appeal property is a twentieth century dwelling set back from the road which makes a neutral contribution to the special character of the conservation area.

5. There is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising planning functions. This is reflected in Section 16 of the National Planning Policy Framework (the Framework), which also advises that where a development will lead to less than substantial harm to the significance of a designated heritage asset (in this case, the conservation area), this harm should be weighed against public benefits.
6. The Council's Conservation and Heritage Specialist considers that the extension and garage would not cause harm to the special character of the conservation area. I acknowledge that neither element would be prominently visible from any public part of the conservation area and would not affect important views, although the depth and design of the extension would be apparent in views across the rear of the neighbouring property from Cherry Orchard, the road to the east. Nevertheless, as an extension and outbuilding to a modern dwelling with limited visual impact beyond its site boundaries, I am satisfied that the proposal would preserve the character and appearance of the Southminster Conservation Area, in accordance with the Framework and the statutory duty.
7. Amongst other criteria, Policy H4 of the Maldon District Approved Local Development Plan 2014 – 2029 (2017) [LP] requires all development to be design-led, and for building extensions to maintain, and where possible enhance, the character of the original building; and to be of an appropriate scale and design that makes a positive contribution to the character of the original building. This is consistent with the design aims of the Framework to create high quality, beautiful and sustainable buildings, which are visually attractive as a result of good architecture.
8. The proposed extension would effectively double the size of the existing dwelling. It would appear disproportionate in scale, and with a flat roof that would not reflect the design and form of the original building. The appellant acknowledges that the design is intentionally arranged to meet the requirements for Prior Approval¹ (under Permitted Development - PD) and is therefore necessarily rudimentary. However, this approach would result in a development that would not make a positive contribution to the character of the original dwelling, and would be contrary to the design expectations set out in LP Policy H4.
9. I appreciate the appellant's view that, as the extension could have been the subject of the Prior Approval process were it not for its location in the conservation area, it is a logical expectation for any refusal to be based on reasoning specific to that conservation area. However, I have found that the proposal would be unacceptable due to its relationship with the existing property, rather than its effect on the conservation area. There is no fallback position in place for a development of the size, scale and design proposed, and as an application for express planning permission I have determined it in accordance with the development plan. I do not consider PD rights applicable to other areas to be a material consideration to outweigh the design aims of LP Policy H4.
10. The Council raises no concerns with the design of the proposed garage, and I agree with this assessment.

¹ By virtue of the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

11. I therefore conclude that the proposed rear extension would detract from the character and appearance of the appeal property, in conflict with the design aims of the Framework and LP Policy H4; and with LP Policy D1, which amongst other criteria seeks development which respects and enhances the character and local context and makes a positive contribution in matters including architectural style, detailed design features, size, scale, form, massing and proportion.

Living Conditions

12. The proposed garage would be sited within reasonably close proximity to the boundary shared with 1 Cherry Orchard and its conservatory, set slightly away from the fence. I am mindful of the Council's assessment that the garage would be highly visible due to its closeness to the shared boundaries, but that as a result of the lack of windows and single storey nature it would not result in an unneighbourly form of development.
13. The garage would have a steeply pitched roof with a rear gable end reaching to 4020mm, and given the orientation and modest separation distance between the proposal and the conservatory it would likely result in a sense of enclosure and cause some additional overshadowing. However, taking into account the pitched roofed design, I conclude that this impact would not be so significant as to constitute material harm to the living conditions of the occupants of 1 Cherry Orchard. The proposed garage would therefore accord with LP Policy D1, which seeks to protect the amenity of surrounding areas taking into account matters including outlook, visual impact, daylight and sunlight. However, this does not alter my conclusion on the first main issue.
14. The appellant advises that overgrown evergreen planting which overshadows the rear garden and conservatory of 1 Cherry Orchard would be reduced or removed as part of the wider renovation of the property, to the benefit of 1 Cherry Orchard. Whilst this may be the case, this did not form part of the application and depending on the nature of the works may require separate consent given the location in the conservation area.

Conclusion

15. For the above reasons, I conclude that this appeal should be dismissed.

H Lock

INSPECTOR