



Appeal Decision

Site visit made on 25 October 2022

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/X1545/W/22/3294588

Claremont, 47 Mill Road, Burnham-On-Crouch, CM0 8PZ

- 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 Ms Lisa Filtness against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/00860, dated 20 August 2021, was refused by notice dated 14 December 2021.
 - The development proposed is replacement of existing bungalow with new dwelling house, part 2 storeys, part single storey.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide satisfactory living conditions for the future occupiers with particular regard to daylight and outlook; and
 - the effect of the proposed development on the living conditions of the occupants of The Willows with particular regard to privacy.

Reasons

Character and appearance

3. The appeal site lies within a residential area characterised by a mix of housing types and is framed by open countryside to the east and a row of modestly proportioned semi-detached properties to the west. Although the scale and appearance of the existing timber clad bungalow is somewhat of an anomaly compared to its immediate neighbours, it is not unattractive or discordant given the varied character and appearance of the surrounding area.
4. The proposal is to replace the poorly insulated bungalow with a more energy efficient 2 storey dwelling. Notwithstanding the plot size, mature landscaped boundaries and subservient ridge heights of the proposed single storey elements, the sprawling footprint and horizontal emphasis would be disproportionate to neighbouring dwellings. Therefore, within the context of its surroundings and given the prominent corner location, I find that the proposal would be a bulky and dominant addition to the street scene, particularly when viewed from Mill Road.
5. Moreover, the convoluted roof structure formed of multiple hips and disjointed heights together with the expanse of solid, unfenestrated walls would further increase

the bulkiness of the proposed dwelling. Consequently, whilst acknowledging that the design, hipped roof form and external finish would be generally in keeping with neighbouring properties, the overall scale and appearance would be discordant. Accordingly, the proposed development would read as an incongruous and obtrusive form of development.

6. Policies D1 and H4 of the Maldon District Local Development Plan 2014-2029 (LP) seek to ensure, amongst other things, that development proposals respect and enhance the local character and context. More specifically, Policy H4 indicates that replacement dwellings will only be permitted where the proposal is of an appropriate scale and design to the plot and its setting in the landscape. Whilst addressing aspects of the previous refusal (21/00551/FUL), the footprint and overall scale of the appeal proposal remains largely unchanged whilst the redesign of the rear elevation in addressing living conditions is now at odds with its surroundings owing to the convoluted roof structure and lack of fenestration. As such, the proposal does not adequately address the harm identified previously or comply with the design objectives of the said policies.
7. In concluding this matter, I find that the proposed development would adversely affect the character and appearance of the area contrary to Policies D1 and H4 of the LP. It would also fail to comply with the objective of the National Planning Policy Framework (the Framework) to secure good design.

Living conditions of future occupiers

8. The proposed plans indicate the installation of a rooflight on the rear roof slope providing natural light to Bedroom 2. Given the size and height of the proposed opening, daylight would be somewhat limited whilst outlook would be substandard. Accordingly, I find that the proposed development would provide unsatisfactory living conditions for future occupiers.
9. Thus, I find the proposal to be inconsistent with the objectives of the Framework which seek to ensure a high standard of amenity for future occupiers. The decision notice cites LP Policy D1 but this policy relates to the impact on the amenity of the surrounding area; consequently, it is not relevant to this issue.

Living conditions of the occupiers of The Willows

10. The Willows comprises a 2 storey property which would be orientated at 90 degrees to the rear elevation of the proposal. A patio area lies to the rear of The Willows, immediately behind the shared boundary and directly in line with the proposed rooflight.
11. The Council's concern relates to the effect of the proposal on the living conditions of the occupiers of The Willows with particular regard to overlooking from the rear rooflight. The sectional drawing submitted by the appellant demonstrates that the sill would be of a sufficient height to prevent views into the neighbours' garden such that there would be no material loss of privacy.
12. For this reason, I find that the proposed development does not conflict with Policy D1 of the LP which seeks to protect the amenity of the surrounding area.

Other Matters

13. Despite several attempts to contact the Council, I am told by the appellant that there was no communication during the processing of the planning application, the determination of which was delayed considerably. Although the appellant's

disappointment is understandable, this has no bearing on my considerations of the planning merits of the proposal.

14. I am told that a fourth bedroom is required in order to provide accommodation for a vulnerable parent. The appellant suggests that as a fallback position, an extension could be erected in accordance with permitted development rights which would result in a similar scaled development of poor design. However, I have not been provided with any details of an alternative scheme and therefore cannot be sure that it would be a realistic or probable alternative. Therefore, whilst sympathetic to the appellant's circumstances, I attribute little weight to a fallback position.

Planning Balance

15. The appellant states that the Council is unable to demonstrate a five-year housing supply and this is not contested. Paragraph 11 d) of the Framework, indicates that in such circumstances, for applications involving the provision of housing, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole. On the basis that the proposal concerns a replacement dwelling, I do not consider that the approach set out in paragraph 11 d) should apply.
16. The appellant contends that the proposed development would provide a more sustainable form of housing, would contribute to the housing mix in the area, and occupiers of it would have access to local services and amenities. Be that as it may, given the scale and nature of the scheme, the benefits would be limited. Therefore, the conflict with LP Policies D1 and H4 bring the proposed development into conflict with the development plan as a whole and there are no material considerations which would justify a decision otherwise than in accordance with the development plan.
17. Amongst other aspects, Paragraph 130 of the Framework seeks to ensure that development proposals are visually attractive and add to the overall quality of the area whilst providing a high standard of amenity for future occupiers. Therefore, even if paragraph 11 d) were to apply in this case, when assessed against the policies in the Framework taken as a whole, the harm I have identified in respect of the impact on the character and appearance of the area and standard of living accommodation would significantly and demonstrably outweigh the limited benefits, particularly given the proposal, for the replacement of the existing dwelling, would provide no net increase in the supply of homes in the district. Therefore, the presumption in favour of sustainable development would not apply in any event.

Conclusion

18. For the reasons given above and having regard to all other matters raised, including the absence of objections from consultees and support from local residents, the appeal is dismissed.

H Wilkinson

INSPECTOR