
Appeal Decision

Site visit made on 10 January 2024

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19.01.2024

Appeal Ref: APP/D1590/D/23/3330275

4 Avenue Road, Leigh-on-Sea, Essex, SS9 1AX

- 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 Sugden and Miss Carter against the decision of Southend-on-Sea City Council.
 - The application Ref. 23/00689/FULH, dated 25 April 2023, was refused by notice dated 18 July 2023.
 - The development proposed is rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form a different wording has been entered, but as the parties have not provided written confirmation that a revised description of development has been agreed I have used the one given on the original application.
3. Since the appeal was lodged a revised version of the National Planning Policy Framework (the Framework) has been published. However, the policies of most relevance to this proposal have not changed fundamentally so it has not been necessary to seek further comments from the parties.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of occupants of 2 The Avenue, with particular reference to outlook and enclosure.

Reasons

5. The appeal property is a semi-detached house, with a two-storey rear wing attached to that of the neighbouring property, 2 Avenue Road (No.2). Both properties have a single-storey rear projection beyond, with that of the appeal property being flat roofed, and a lean-to at No.2. There is also a detached glass house at the appeal site, with a solid wall that forms part of the shared boundary.
6. In view of the position and solid wall of the glass house to be demolished, the proposed depth of the extension would not have a materially greater impact on

the living conditions of occupants of No.2 than the existing arrangement, and could be more attractive than the existing boundary treatment. However, the proposed design incorporates a parapet wall close to the shared boundary, with a height of 3560mm, according to the submitted plans. This would be materially higher than the structures that would be replaced, and would cause an unacceptable sense of enclosure for occupants of No.2, to the detriment of the outlook from that property. This would be at odds with the requirement in Policy DM1 of the Southend on Sea Development Management Document 2015 (DMD), as supported by the Design and Townscape Guide 2009 (DTG), which together require all development to protect the amenity of immediate neighbours in matters including outlook and visual enclosure.

7. Whilst I accept that some form of enclosure is beneficial to provide private outdoor space, I do not share the appellants' view on the benefits of its shading, which would also affect the outlook from the rear of the dwelling. Being to the north of the proposed parapet wall would add to its oppressive impact.
8. I acknowledge that existing residents of No.2 did not object to the proposal, but paragraph 135 of the Framework seeks to ensure that developments create places which promote health and well-being, with a high standard of amenity for existing **and future** users. As occupants and their opinions change over time, it is appropriate to secure by design reasonable living conditions for all users. Whilst the proposal would enhance amenities for the appellants, this would be at the expense of those enjoyed by residents of No.2.
9. The appellants advise that, were it not for the location within a conservation area, the proposed extension would fall within the limitations allowed for a larger home extension under the 'Prior Approval' procedure¹; and as such, with no neighbour objection, approval would have been granted. It is not for this appeal to formally determine whether or not an extension would be Permitted Development (PD), but I consider there to be some uncertainty that the proposal would satisfy the eaves height limitation relative to the shared boundary, as set out in the legislation.
10. In any event, the Prior Approval process would not apply for an extension of this depth within a conservation area. Whilst I acknowledge that this exclusion is based on design and heritage impact rather than amenity factors, the 'fallback' position of a PD scheme would have materially less impact on the outlook and sense of enclosure for the neighbouring occupants. As such, this hypothetical factor has limited weight in the appeal.
11. I therefore conclude that, as a result of its height and proximity to the boundary, the proposal would result in an undue sense of enclosure and diminish the outlook from 2 Avenue Road, to a degree that the living conditions of occupants would be harmed. This would be contrary to the Framework, DMD Policy DM1, and Southend's Core Strategy 2007 (CS) Policy CP4, which expects proposals to maintain and enhance the amenities and appeal of residential areas, securing good relationships with existing development. It would not have regard to the advice in the DTG with regard to the effects of rear extensions built on boundaries on neighbouring properties.

¹ Pursuant to Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

12. I find no conflict with the requirements of DMD Policies DM3 and DM5 or the more strategic aims of CS Policy KP2, but that does not alter my conclusion.

Other Matters

13. The appeal site is located within the Leigh Cliff Conservation Area. I share the Council's assessment that the proposal would be acceptable in its impact on the character and appearance of the dwelling, and that it would preserve the significance of the conservation area. In so doing, it would satisfy the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising planning functions. However, any visual enhancement of the building and site would not outweigh the effect on the living conditions for residents of the neighbouring property.

Conclusion

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

H Lock

INSPECTOR