



Appeal Decision

Site visit made on 19 December 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/P1560/C/22/3304289

Land at 2 Singer Avenue, Jaywick, Clacton-On-Sea, Essex

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Julius William against an enforcement notice issued by Tendring District Council.
- The notice was issued on 28 June 2022.
- The breach of planning control as alleged in the notice is without planning permission, the construction of single storey rear and front extensions.
- The requirements of the notice are:
 - (i) Demolish the front and rear extensions shown coloured in black on the attached plan.
 - (ii) Break up and remove the concrete base supporting the extensions shown in block hatching on attached plan.
 - (iii) Remove from the site edged in red on the attached plan all debris and waste materials generated by the carrying out of the works required by steps (i) and (ii) above.
- The period for compliance with the requirements is: 2 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of decision: Subject to variations the notice is upheld, the appeal is allowed in part, and the deemed planning application is allowed in part, in the terms set out in my formal decision.

Preliminary Matters

1. In December 2023 the National Planning Policy Framework (the Framework) was updated. No material changes were made to the matters raised by the appellant and the Council, and it has therefore not been necessary to seek the views of the parties.

The Notice

2. I am required to ensure the Notice is in order, considering Section 173 of the Town & Country Planning Act 1990, which relates to the content and effect of an enforcement notice.
3. The second requirement in Section 5 of the Notice requires removal of the 'concrete base' below the front and rear extensions. It does so with reference to 'block hatching on attached plan', but there is no hatching on the plan. Nevertheless, the requirement clearly relates to the concrete bases supporting the extensions, which are shown coloured in black on the plan as stated in the first requirement. Requirement 5.(ii) of the notice could therefore be varied to

refer to 'bases', and shown 'coloured in black on the attached plan', without injustice to the appellant or the Council.

Reasons

4. Appeals on ground (a) are made on the basis that planning permission should be granted for the development alleged in the notice.

Main Issues

5. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - Living conditions, with particular regard to external amenity space for occupiers of the dwelling, and outlook from adjoining properties as a result of the rear extension; and
 - Flood risk.

Character and appearance

6. The area in the vicinity of the appeal site consists of single-storey detached dwellings on small plots and at a high density. Many have been extended, but an Article 4 Direction¹ removes permitted development rights for the enlargement, improvement or other alterations of dwellings and additions to their roofs.
7. Dwellings on Singer Avenue generally have pitched roofs with gables facing the avenue, and front extensions with flat or gently sloping roofs. Most are set back from the road edge behind low fencing and small yards.
8. At the Singer Avenue/Midway junction the side elevations and close boarded fencing of dwellings fronting Midway bring built development closer to the road than other developments on Singer Avenue.
9. 2 Singer Avenue's (no 2's) front extension has been extended forwards, bringing it closer to the road than any other dwelling. Although the close-boarded fence of the neighbouring dwelling on Midway reduces its effects to a degree from the south, it is out of character with the area as seen from other parts of Singer Avenue. The front extension's very close proximity to the road stands in contrast to No 4, adjacent to the north, and is an uncharacteristic and harmful addition to the street scene.
10. The rear extension is not readily visible from the street. It extends substantially at the rear, but is not the only dwelling to do so. At my site visit I noted the significant extension to the rear of No 4, an extension of 28 Midway along part of the boundary, and the guttering of an extension of 1 Crossley Avenue along the boundary at the rear. In this context, and notwithstanding its size and extent, the rear extension has little effect on the character and appearance of the area.
11. In conclusion, although I have not found harm arising from the rear extension, the single storey front extension is harmful to the character and appearance of the area. It therefore conflicts with Tendring District Local Plan 2013-2033 and

¹ A Direction made under Article 4(1) of the Town & Country Planning (General Permitted Development) Order 1995 dated 29th October 2010. It removed Schedule 2, Part 1 Classes A and B rights over a wide area.

Beyond (TDLP) Section 1 (2021) Policy SP7 and Section 2 (2022) Policy SPL3. Together these policies set out place-shaping principles and seek sustainable design.

Living conditions

12. The rear extension extends almost to the back of the plot, resulting in the loss of private outdoor space from the rear of the property.
13. The evidence before me suggests that, although the rear extension is longer than that it replaced, a former outbuilding on the rear boundary has also been removed, and the area of outdoor space prior to the development was of limited depth.
14. Either side of the building, areas of around 2m in width run the full length of the plot on both sides. Each currently contains sizeable disused raised planters and I am aware of no requirement for them to remain. Removal of the planters would facilitate external seating of an area equivalent or greater than that lost to the development. With provision of private outdoor space on the land, to the extent that is possible, occupiers would be sufficiently served alongside the multiple public open space opportunities available within easy walking distance in the locality.
15. Although the rear extension extends close to the rear boundary, it is flat-roofed and only marginally higher than the boundary fencing at the rear and on one side, where sheds and extensions of neighbouring properties are located in any event. On the other side, the neighbouring property has a similar extension, and the space between the properties is sufficient to accommodate the development without undue effects in terms of outlook.
16. In conclusion, the development would provide adequate living conditions for occupiers, and would not harm the living conditions of neighbouring occupiers. It would accord with the relevant requirements of TDLP Policy SPL3, which requires adequate private amenity space and outlook for future and existing residents, and Chapter 12 of the Framework which seeks to achieve well-designed and beautiful places.

Flood risk

17. The appeal site and all surrounding land is located within Flood Zone 3 on account of coastal flood risk.
18. In Chapter 14, the Framework seeks to avoid inappropriate development in areas at risk of flooding, and where development is necessary, it should be made safe for its lifetime without increasing flood risk elsewhere. Householder development is not subject to the sequential or exception tests, but a site-specific flood risk assessment (FRA) should be provided for all development in Flood Zones 2 and 3. No such assessment has been provided.
19. I have not seen details of the extension replaced by the current development, but the main entrance remains at the front of the dwelling, providing direct access to the street. Neither did I see evidence of flood defence features on dwellings locally, other than raised floor levels which are retained on the extensions and their external doors.

20. The rear extension replaces an earlier one and an outbuilding along the rear boundary, but nevertheless increases the overall footprint of the dwelling. Measures could be taken to compensate for that increase to some degree, such as removing the concrete surfacing of the paths and the raised planters, and their replacement with permeable surfaces at ground level. Although such measures may not entirely reduce volumes to those prior to the development, they would do so to an acceptable degree, and could be required by planning condition.
21. In conclusion, the development would not remove the flood risk for occupiers of the dwelling, but neither would it increase it. Subject to a suitable planning condition, neither should the development materially increase flood risk elsewhere. The development therefore conflicts with the requirement of the Framework regarding the need for a FRA, but would accord with its overall aims in relation to managing flood risk.

Conditions

22. As set out above, a scheme for the laying out of private outdoor space, and for managing and reducing flood risk are necessary to secure adequate living conditions for occupiers, to reduce the volume of built development on, and increase permeability of, the land.

Conclusion

23. For the reasons given above I conclude that the appeal should succeed in part only. I will grant planning permission for the single storey rear extension, but otherwise I will uphold the notice with variations and refuse to grant planning permission in respect of the other part of the matters. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of Section 180 of the Act.

Decision

24. It is directed that the enforcement notice is varied by deletion of requirement (ii) in Section 5 of the notice, and its replacement with:
- (ii) Break up and remove the concrete bases supporting the extensions shown coloured in black on the attached plan.
25. Subject to the variation, the appeal is allowed insofar as it relates to the single storey rear extension and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the single storey rear extension at land at 2 Singer Avenue, Jaywick, Clacton-On-Sea, Essex and subject to the following condition:
- 1) The extension, and the concrete base supporting it, shall be removed within 2 months of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for managing and reducing flood risk, with a timetable for its implementation, shall have been submitted for the written approval of the local planning authority.
 - ii) If within 9 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision

within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

- iii) If an appeal is made in pursuance of ii) above, that appeal has been finally determined and the submitted scheme has been approved by the Secretary of State.
- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

On implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained in accordance with its provisions.

26. The appeal is dismissed and the enforcement notice is upheld as varied insofar as it relates to the single storey front extension and planning permission is refused in respect of the single storey front extension at land at 2 Singer Avenue, Jaywick, Clacton-On-Sea, Essex on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Peter White

INSPECTOR