



Appeal Decision

Site visit made on 12 March 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/P1560/W/23/3327526

7 Ladysmith Avenue, Brightlingsea, Essex CO7 0JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Childs against the decision of Tendring District Council.
 - The application Ref is 22/02133/FUL.
 - The development proposed is change of use of workshop and adjacent annex to single one bedroom house, including alterations and first floor extension.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed. Nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application.
3. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given the opportunity to comment on the revised Framework. I have had regard to the revised Framework in my decision.
4. Following the Council's decision, a unilateral undertaking (UU) has been submitted. The purpose of the UU is to secure a financial contribution towards mitigation measures in relation to the potential for the development to result in recreational activity that would adversely affect nearby Habitats sites. I comment on these matters later in my decision.

Main Issues

5. The main issues are:

- The effects of the development upon the character and appearance of the host property and the area;
- Whether appropriate living conditions would be provided for the future occupiers of the proposed one-bedroomed house with specific regard to private outdoor space; and
- The effects of the development upon the living conditions of the occupiers of 7 Ladysmith Avenue (No 7) and 1A Eastern Road (No 1A).

Reasons

Character and appearance

6. The appeal site is located within an area of mixed character. Most of the properties in the surroundings of the appeal site are residential, but a short distance away is Brightlingsea's town centre within which there are many commercial properties. Residential properties closest to the appeal site vary in scale and appearance. Although there are exceptions, many of them exhibit some distinctive architectural detailing reflective of their era.
7. In keeping with this, the main two storey parts of the host property are distinctively designed. The building line of its elevations and of the roofscape above project and recess in a rhythmical and balanced manner in their address of Ladysmith Avenue and Eastern Road. The main two storey parts of the property also have ornate brick detailing at eaves level whilst the elevations which face the roads have a consistent approach to the windows and their headers and cills. These design facets provide the property with a distinguished appearance.
8. Unlike the rest of the property, the existing single storey outrigger has a partly flat and partly shallow pitched roof. This outrigger does not share the same architectural features or design quality of the main house.
9. The hipped roof proposed would not be adjoined to the existing hipped roof slopes of the property. Instead, it would be oddly set apart from them, and it would be connected to them by a narrow, flat roofed infill section. The proposed extension would also incorporate a narrow, steeply-pitched cat-slide roof above the staircase, and its flat-roofed elements would have varied eaves levels. Altogether, this would result in the proposal exhibiting a complex and disjointed roofscape which would harmfully contrast with the rhythm and balance of the host property's main roofscape.
10. The window design of the south facing elevation would not reflect that which it would adjoin. The windows would be more horizontally apportioned and the distinctive detailing of the headers above the existing windows would not be reflected in the extension. These elements would further set the proposal apart from the main house and contribute further to the proposal's failure to exude a design befitting the main house.
11. For the reasons given, despite the appeal site not being the subject of any particular designation or protection, I find that the proposal would not be well-designed and harmful effects upon the character and appearance of the host property and the area would result.
12. Consequently, the proposal would conflict with policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (the Section 1 Plan) and policies SPL3 and LP4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 Plan (the Section 2 Plan). Amongst other matters these policies set out that development should deliver a high standard of architecture, should preserve and enhance the quality of existing places and should relate well to the site and surroundings including in relation to form and design. The proposal would also conflict with the advice of the Framework which states that development should be visually attractive and sympathetic to local character.

The living conditions of the future occupiers

13. Being just one-bedroomed, the proposed house would not have many occupants. It would benefit from two private outdoor spaces. The space at ground level would be narrow and quite enclosed, but nevertheless I expect it would serve a valuable functional purpose for the likes of the storage of bins and bikes as shown on the plans.
14. I envisage that the proposed terrace would be the outside space used more for enjoyment and relaxation. I note that it would be accessed via the first floor living room. In combination, the terrace and living room would provide internal and external spaces where much time could be spent, and they would be easily accessed from one another.
15. The proposed extension would screen the terrace from first floor windows within the main No 7 house. No 1A next door is a bungalow, and it has no high-level windows which would permit overlooking of the terrace. Other neighbouring properties would be farther away from the terrace. As a result, the terrace would be sufficiently private.
16. Together, the two private outdoor spaces proposed would adequately serve the needs of the occupiers of the one-bedroomed house. Appropriate living conditions would be provided for the future occupiers in this regard. In coming to this view, I acknowledge that some properties in the area have large gardens. However, I have no compelling evidence before me which indicates to me that those properties have a comparable number of bedrooms or occupancy to the house proposed in the appeal scheme.
17. Therefore, in specific regard to this main issue, the proposal would accord with content within policy LP4 of the Section 2 Plan. This policy states that private amenity space should meet the needs and expectations of residents and be commensurate with the size of the dwelling and the character of the area. It would also comply with the advice of the Framework which seeks to ensure a high standard of amenity for existing and future users.

The living conditions of the occupiers of 7 Ladysmith Avenue and 1A Eastern Road

18. The windows that would serve the kitchen/dining room of the proposed house would be next to the garden of No 7. However, they would be very narrow and set at a high level. This design would significantly limit outlook from them. In turn, for many prospective occupiers, these windows would not provide for views across the garden of No 7 or result in a harmful loss of privacy.
19. Potentially, tall occupiers of the proposed house may still have outlook from these windows. Even so, had I concluded that the appeal should be allowed, I am satisfied that a condition could ensure that the windows were obscurely glazed and the subject of a restriction on their means of opening. This would prevent overlooking of No 7's garden from the proposed kitchen/dining room.
20. The proposed terrace would be partly enclosed by sections of the extension itself. This would provide an effective screen between the terrace and the windows and garden areas of No 7. This would ensure the rooms within and outdoor spaces serving No 7 would not be unacceptably overlooked.
21. No 1A is a bungalow. The elevation flanking the appeal site contains only a single window. This window includes obscured glazing, and close by to it there

is an outbuilding and a tree which provides some screening between it and the appeal site. This combination of factors would ensure that clear views from the proposed terrace into the room within No 1A with the flanking window would not be available.

22. Together, the proposed cat-slide roof and No 1A's existing roofscape would largely block views from the proposed terrace across the back garden of No 1A. No 1A's front garden is less private being only partly enclosed, positioned closely beside a highway and by reason of windows in neighbouring properties being oriented towards it. Therefore, although the proposed terrace may permit some views across No 1A's front garden, I find that this would be commensurate with the subsisting conditions and not harmful.
23. The taller parts of the proposed extension would be set away from the common boundary with No 1A. Those parts of the development closest to the boundary would be lower, being mainly single storey and partly flat-roofed. Moreover, the single flanking window within No 1A has, for the reasons I have already outlined, limited outlook. Therefore, the proposal would not result in harmful overbearing effects upon No 1A's occupants.
24. Served by only a single bedroom, the proposed house would not have many site occupiers. For this reason, although some noise would emanate from the use of the private outdoor spaces proposed and from the comings and goings associated with the proposed house including the vehicular movements; I expect that it would be quite modest. I have no substantive evidence before me which demonstrates to me that the proposal would give rise to any noise which would be especially disruptive for the occupiers of No 1A or No 7. Neither do I have substantive evidence that any noise would be generated that would be divergent from that which prevails within the area - an area of mixed character where the use of private outdoor spaces and comings and goings are already commonplace.
25. Consequently, I find that the development would result in no unacceptable effects upon the living conditions of the occupiers of No 7 or No 1A. In this respect, the development would comply with policy SP7 of the Section 1 Plan which seeks to protect the amenity of existing and future residents. It would also comply with the advice of the Framework which seeks to ensure a high standard of amenity for existing and future users.

Other Matters

26. The Council in part refused the planning application on the basis that the development would be likely to result in additional recreational pressure which, in combination with other development, would adversely affect the integrity of nearby Habitats sites. In doing so, amongst other matters, the Council referenced policy PPL4 of the Section 2 Plan.
27. To avoid such adverse effects the appellant proposes that a financial contribution would be made towards the forms of mitigation set out within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy. This contribution is proposed via the submitted UU.
28. If I were minded to allow the appeal I would need to be satisfied that the proposal would have no adverse effects on the integrity of the Habitats sites. Given I am dismissing the appeal there is no requirement for me to undertake

this assessment. Even if I were to conclude that no such adverse effects would be caused by the development it would, at most, be a neutral factor in this appeal.

29. The proposal would assist in the supply of housing. Albeit, in providing for only a single dwelling, the boost to supply would be very modest. Situated beside other houses and close to the town centre's services the appeal site is appropriately located for a housing development. The proposal would also reuse land. Access and parking provision may be acceptable, whilst the proposed house may also meet internal space standards and its accommodation may benefit from plenty of natural light and ventilation. However, these factors would not outweigh the harm I have identified in my first main issue.

Conclusion

30. In my second and third main issues I have identified that the development would result in no unacceptable effects upon the living conditions of the future occupiers of the proposed house or upon neighbouring occupiers. However, in my first main issue I have concluded that harmful effects upon the character and appearance of the host property and the area would result. This matter is determinative, and I conclude that the proposal conflicts with the development plan taken as a whole. Material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR