



Appeal Decision

Site visit made on 21 May 2024

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 07.06.2024

Appeal Ref: APP/D1590/D/24/3337370

46 The Fairway, Leigh-on-Sea, SS9 4QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Whiting against the decision of Southend-on-Sea City Council.
 - The application Ref 23/01690/ADMT, dated 27 September 2023, was refused by notice dated 21 December 2023.
 - The application sought planning permission to demolish existing conservatory and single storey side extension and erect replacement single storey side extension, part single/part two-storey rear extension, erect hip to gable end roof extension to rear with dormers to side elevations, rooflights to front and sides and form habitable accommodation in roof, balcony to rear, and alterations to elevations without complying with a condition attached to planning permission Ref 23/01185/FULH, dated 18 September 2023.
 - The condition in dispute is No.3 which states that: "Before the development hereby approved is occupied the materials used on the external surfaces of the development must match those used on the external surfaces of the existing property. This applies unless differences are shown on the drawings hereby approved or are required by other conditions on this permission".
 - The reason given for the condition is: "To ensure the development is carried out in accordance with the consent sought, has an acceptable design and complies with Policy DM1 of the Development Management Document (2015) and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009)".
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing conservatory and single storey side extension and erect replacement single storey side extension, part single/part two-storey rear extension, erect hip to gable end roof extension to rear with dormers to side elevations, rooflights to front and sides and form habitable accommodation in roof, balcony to rear, and alterations to elevations at 46 The Fairway, Leigh-on-Sea, SS9 4QL, in accordance with the application Ref 23/01690/ADMT dated 27 September 2023, without compliance with condition number 3 previously imposed on planning permission Ref 23/01185/FULH dated 18 September 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out only in accordance with the following approved plans: R01, R02, R07 Revision B, save in respect of the matters dealt with in condition 2.

- 2) Notwithstanding details shown on the approved plans, the roofs shall be covered with grey slate tiles and the underside of the roof canopy to the rear shall be timber clad. Prior to the use of these materials on the development, details of the tiles and timber cladding shall be submitted to the Local Planning Authority for approval in writing. The approved materials shall be used on the development and retained thereafter.
- 3) The proposed windows contained within the two side dormers hereby approved, shown on drawing number R07 Revision B, shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) and fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above internal finished floor level of the room or internal area served before the development is first used or occupied and retained as such thereafter. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4 on the Pilkington scale.
- 4) The roof of the extension hereby approved shall not be used as a balcony, roof garden or similar amenity area or for any other purpose unless express planning permission has previously been obtained. The roof can however be used for the purposes of maintenance or to escape in an emergency.
- 5) The development hereby permitted shall be constructed to comply with building regulation M4(2) 'accessible and adaptable dwellings' standard prior to its first occupation.

Main Issue

2. The main issue is the effect of the proposed roof tiles on the character and appearance of the existing dwelling, the streetscene and the immediately surrounding area.

Reasons

3. The appeal site is a detached hipped roof single storey dwelling with a gabled wing to the front. Two bay windows are located on the front elevation. The property has a lower red brick plinth, with off-white render above. To the side of the property is a flat roof garage/lean to, with wooden timber doors. A glazed conservatory sat at the rear of the property, until works following the recent grant of planning permission were commenced. The property is somewhat of an anomaly, being the only single storey dwelling on the southern side of The Fairway, between Eastwood Road North and Woodside. The remainder of the dwellings are large two storey dwellings, either detached or semi-detached, with no specific architectural design or style.
4. Materials also vary, with property roof colours varying from a bright red clay tile to a weathered indistinct colour, with half a dozen or so having grey tiles. Four of those with grey tiles are in the immediate vicinity of the appeal site, at Nos.20, 28, 59 and 64 The Fairway. These examples are on semi-detached houses, and in 2 cases also involved changing the hipped roof on one of the pair to a gabled roof. In these cases, a large element of the symmetry between pairs is removed, which is harmful to the appearance of each pair and the immediate streetscene.

5. The appeal development has already commenced and works were on-going at the time of my visit. However the main works to the roof had not yet commenced.
6. In the case of the appeal bungalow, it being detached and already divergent from the run of dwellings on this side of the street, the change in colour and texture of the roof covering would not produce the same discordant effect as two of those referred to in paragraph 4 above. Furthermore, the remodelled bungalow as permitted, with its first floor contained in the roof spaces and with 2 dormers in the flank roof slopes, diverges markedly from the general run of bungalows in The Fairway. In consequence I conclude that the change in roof covering would not detract from the character and appearance of the remodelled dwelling, the streetscene or the immediately surrounding area. Therefore, it will not conflict with the policies KP2 and CP4 of the Core Strategy (2007), and Policies DM1 and DM3 of the Development Management Document (2015) that have been drawn to my attention.
7. For these reasons I will allow the appeal.

Conditions

8. The original planning permission contained 6 conditions. A time limit condition which, given that the development has started, is not now necessary. Condition 2 required the development to be in accordance with the approved plans, which is for certainty and avoidance of doubt as to the development permitted; I deal with the disputed condition 3 below; condition 4 concerns the nature of the dormer window and its glazing and condition 5 is to prevent the flat roof from being used as a balcony, both for the protection of the privacy of neighbours; and condition 6 requires compliance with the building regulation M4(2) 'accessible and adaptable dwellings' to provide high quality and flexible internal layouts to meet the changing needs of residents. I will reimpose the undisputed conditions that are still subsisting and capable of taking effect.
9. Condition 3, which is the disputed condition, which will become condition 2, will be amended in the light of my decision to allow for the use of grey slate tiles and timber cladding. The condition will be worded to require the council's approval to the precise details of these elements, since the generic description is insufficient to ensure a satisfactory appearance.
10. There is no dispute about the use of the timber cladding, but for the avoidance of any doubt I will include the use of this material in the condition.

Terrence Kemmann-Lane

INSPECTOR