



Appeal Decision

Site visit made on 5 June 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/D1590/D/23/3335654

104 Woodfield Road, Leigh-on-Sea, Southend-on-sea SS9 1ET

- 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 Jeavons against the decision of Southend on Sea Borough Council.
- The application Ref is 23/01349/AMDT.
- The application sought planning permission for development described as install dormer to rear to form habitable accommodation in the loftspace, erect single storey rear/side extension, install angular feature window to rear and alter elevations without complying with conditions attached to planning permission Ref 23/00857/FULH, dated 17 July 2023.
- The first condition in dispute is No 3 which states that: *Notwithstanding the information on the submitted plans, 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 dwelling.*
- 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).*
- The second condition in dispute is No 4 which states that: *The window in the in the chamfered rear elevation of the single storey side/rear extension hereby approved 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 prior to the first use or occupation of the development hereby permitted 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.*
- The reason given for the condition is: *To ensure the development has an acceptable design and protects the amenities of neighbouring occupiers in accordance with policy DM1 of the Development Management Document (2015).*

Decision

1. The appeal is allowed and planning permission is granted for install dormer to rear to form habitable accommodation in the loftspace, erect single storey rear/side extension, install angular feature window to rear and alter elevations at 104 Woodfield Road, Leigh-on-Sea, Southend-on-sea, SS9 1ET in accordance with Ref 23/01349/AMDT, without compliance with condition numbers 3 and 4 previously imposed on planning permission Ref 23/00857/FULH dated 17 July 2023 and subject to the following conditions:
 - 1) The development hereby permitted shall begin within three years of 17 July 2023.

- 2) The development shall only be undertaken in accordance with the following approved plans: Location Plan, R01, R02 (Rev A), R03 (Rev E).

Preliminary Matters

2. The National Planning Policy Framework (2023) (Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.

Background and Main Issues

3. Planning permission was granted at the site in July 2023 for extensions and amendments to the dwelling. The submitted drawings identified the use of vertical zinc cladding to the sides and outer edge of the approved rear dormer, with the rear elevation of the dormer to be finished in vertical black timber cladding. The drawings also identified the use of a yellow stock brick and vertical black timber cladding to the single storey side/rear extension, and vertical zinc cladding to the window at first floor level on the rear elevation.
4. Condition 3 was imposed as the Council had concerns that the proposed materials would harm the character and appearance of the host dwelling and surrounding area. The appellant is seeking its removal to enable the materials depicted within the drawings submitted with the original application to be used in the construction of the extensions.
5. The appellant is also seeking the removal of condition 4. This would enable the use of clear rather than obscure glazing within the window on the chamfered elevation of the single storey side/rear extension. The condition was imposed to protect the privacy of neighbouring occupiers.
6. Consequently, the main issues are the effect that varying the conditions would have on:
- the character and appearance of the host property and the surrounding area; and
 - the living conditions of the occupiers of neighbouring properties, with particular regard to the privacy of the occupiers of 106 Woodfield Road.

Reasons

Character and appearance

7. The appeal property is an attractive, historic terraced property located within a residential street. Whilst the properties within the terrace are uniform in design, there are subtle differences across the properties as a result of incremental changes which have occurred as time passes. These include a variety of fenestration styles, a mix of different shades of painted front elevations and a variety of roof tiles.
8. To the rear of the appeal property, large dormers are visible at a number of properties, particularly to the rear of properties on Beach Avenue. These include the dormers at 99 and 107 Beach Avenue which are both finished in dark timber cladding. Whilst the Council indicate that these are unauthorised

- developments, the evidence before me suggests they have existed for a number of years, and consequently they form part of the character of the area.
9. The rear dormer would be faced with vertical zinc cladding and vertical black timber cladding. Its location to the rear of the property means it would not be visible from the main road, with views being confined to within the private properties to the rear. The materials would be more contemporary in character than those found at many neighbouring properties. However, when considered in the context of the surrounding area, the proposed materials would be high quality and would not appear unduly strident or disruptive.
 10. The single storey side/rear extension would be finished in yellow stock brick and vertical black timber cladding. The window at first floor level to the rear elevation is proposed to be surrounded by vertical zinc cladding. Overall, the proposed materials, whilst modern, would add to and complement the mixture of materials on display within the terrace. Furthermore, contemporary materials and historic dwellings are not inherently inimical. In this instance the former, whilst identifying the proposals as modern additions, would sit comfortably relative to the latter.
 11. In this regard the materials would successfully assimilate with the built context, and I note that Paragraph 135 of the Framework states that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
 12. Consequently, I conclude that condition 3 is not reasonable or necessary in this particular instance as it is not required to ensure that the development has an acceptable design. Its removal would not conflict with Policies KP2 and CP4 of the Core Strategy (2007) (CS), Policies DM1 and DM3 of the Development Management Document (2015) (DMD) or the advice contained within the Southend-on-Sea Design and Townscape Guide (2009) and National Design Guide (2021). Collectively, these require development to contribute to the creation of a high quality, sustainable urban environment whilst supporting good quality, innovative design that contributes positively to the creation of successful places.
 13. As set out above, nor do I find that the removal of the condition would conflict with the aims of the Framework.

Living conditions

14. The officer report for application ref 23/00857/FULH confirms that the Council's concerns relate to the potential loss of privacy to the occupiers of 106 Woodfield Road (No 106). Due to the street's incline No 106 is located at a lower level than the appeal property. No 106 has a large single storey rear projection, which is entirely glazed across the elevation facing the appeal property. As a result, extensive views from close range into No 106's rear projection are possible from the appeal property's raised rear patio, and also from the rear upper floor windows of the appeal property.
15. The side/rear extension would cover much of the patio area from which overlooking to the neighbouring property is currently possible. The elevation directly facing No. 106, would have only a high level window which would not allow overlooking towards the neighbouring property. In this sense, the

extension would reduce the potential for overlooking towards the neighbouring property.

16. I accept that some overlooking to 106's rear projection would be possible from the window in the chamfered rear elevation, and that the room which it serves would be occupied year round. However, this window would direct views only to the rear part of No 106's rear projection. On balance, the design of the extension would reduce the level of overlooking towards No. 106. In coming to this view, I have taken into account that the current overlooking is from a rear patio which is external and therefore its use is limited to certain times of day.
17. Consequently, I conclude that the removal of condition 4 would not conflict with Policies KP2 and CP4 of the CS, Policies DM1 and DM3 of the DMD and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009). Collectively these require development to contribute to the creation of a high quality, sustainable urban environment whilst resisting proposals which would create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.

Conditions

18. In allowing this appeal, a new planning permission is granted. The Planning Practice Guidance advises that such decisions should restate the conditions imposed on earlier permissions that continue to have effect. I have made minor amendments in the interests of clarity and precision. As I cannot be certain that the development has commenced in planning terms, I have imposed a time limit condition. It is not possible to extend the time limit for the planning permission to be implemented, therefore the imposed condition reflects the date of the original permission.
19. The approved plans condition is imposed to define the permission and to reflect the approved plans. A condition relating to building materials is unnecessary as these are indicated on the approved plans.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed and I shall vary the planning permission by deleting conditions 3 and 4.

B Pattison

INSPECTOR