



Appeal Decision

Site visit made on 13 June 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2024

Appeal Ref: APP/X1545/W/23/3331044

Pebbles, 59 Mountview Crescent, St Lawrence, Essex CM0 7NS

- 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 and Mrs P. James against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/23/00081.
 - The development proposed is demolition of existing dwelling and replacement with 2 storey dwelling with 3 bedrooms, associated external works (including an air source heat pump) and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and replacement with 2 storey dwelling with 3 bedrooms, associated external works (including an air source heat pump) and landscaping at Pebbles, 59 Mountview Crescent, St Lawrence, Essex CM0 7NS in accordance with the terms of the application, Ref FUL/MAL/23/00081, and the plans submitted with it subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023, replacing the previous version dating from September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.
3. I have used the Council's description of development which is more precise than the planning application form; I note the Appellant also uses this description on the appeal form.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to privacy for the occupiers of 57 and 61 Mountview Crescent.

Reasons

Character and appearance

5. The appeal property is a small bungalow located within a residential area and accessed via an unmade road. Properties on this part of Mountview Crescent are set within relatively narrow, long plots. Dwellings are set back from the highway with parking areas to the front and long gardens to the rear. Whilst properties are generally detached there is a range of bungalows, chalet bungalows and two storey dwellings. There is significant variation in the height, bulk and forms of dwellings, which are eclectic in their design in a range of traditional, modern and contemporary styles. Properties are constructed with a range of external facing materials such as brickwork, render, timber boarding, and a variety of different fenestration types and roof tiles.
6. The proposed house would be taller than the adjoining bungalow, 57 Mountview Crescent (No. 57), however this would not be an unusual relationship within the area, and the combination of single storey and two storey building heights would conform to the character of the street.
7. The 'gambrel' style roof and the proposed gaps between either side of the new dwelling and the two neighbouring properties would also provide some visual relief and distinction between the buildings. Whilst there are not other examples of this roof form within the streetscene, the proposal would be a characterful, positive addition within the varied range of roof forms found locally. The front building line, eaves height and ridge height of the proposed house would also respect its other neighbouring property, 61 Mountview Crescent (No. 61).
8. Given No. 57's diminutive form, the proposal would be clearly visible above the neighbouring property in longer views from the south on Mountview Crescent. A number of properties on this side of Mountview Crescent have rear projections which project into their gardens thereby creating deeper plan buildings. The proposed replacement of the bungalow with a house with a deeper plan and taller roof height would fit reasonably well within this context as the appeal site is large enough to accommodate the building without appearing cramped or overdeveloped. As such, the proposal would sit comfortably within its context and would respect those attributes which contribute to the local character.
9. The proposed external materials and fenestration would add to the varied palette of materials, and would not detract from the character and appearance of this particular street scene. Given that they are used within the appeal property's existing roof, I do not find that the proposed cement roof tiles would be an unacceptable building material. In any event, a planning condition can be imposed to require further details and samples of the external materials, to ensure that they do not cause harm to the character and appearance of the area.
10. For the above reasons, I conclude that the proposal would not cause harm to the character and appearance of the area. I therefore find that it would comply with Policies D1 and H4 of the Maldon District Local Development Plan 2014-2029 (2017) (LDP). Amongst other aspects, these policies seek to secure development of a high standard of design which positively contributes to the existing character, appearance and context of the area.

11. Equally, the proposal would comply with paragraph 135 of the Framework which requires that development is visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Neighbouring occupiers

12. Given the relatively narrow plots, properties on Mountview Crescent already experience a degree of mutual overlooking between properties and gardens which is common within a residential area such as this. For instance, the rear dormer windows at 61 Mountview Crescent (No. 61) direct views to the rear of its garden, albeit they also allow angled views to the rear of neighbouring gardens including the appeal property.
13. The boundary between the appeal property and No. 61 is delineated by a 1.8 metre wood panel fence with mature planting above. This helps to limit the extent of views towards the neighbouring property's windows, including those within its rear projection. On the other side of the appeal site, the boundary with No. 57 is marked by a thick hedge which is approximately 1.8 metres in height.
14. The views from the rear terraces would be directed to the rear of the appeal property's garden. Given the angled nature of views, combined with the extensive mature boundary vegetation, I do not find that the terraces would result in a harmful loss of privacy for the neighbouring occupiers of No. 61. Equally, whilst the terraces would allow views over the boundary hedge with No. 57, as the neighbouring property does not have windows facing the appeal site I do not find that the terraces would result in a harmful loss of privacy.
15. For the above reasons, I conclude that the proposal would not cause harm to the living conditions of neighbouring occupiers. I therefore find that it would comply with Policy D1 of the LDP and the Framework. Collectively, these require development to protect the amenity of surrounding areas, taking into account privacy and overlooking.

Conditions

16. I have had regard to the various planning conditions that have been suggested. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
17. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.
18. Conditions requiring details of the external materials and tree protection measures are necessary in the interests of the character and appearance of the area.
19. I have imposed a condition requiring details of the finished floor levels of the dwelling and terrace in the interest of neighbouring amenity. In order to minimise disruption to surrounding highways and residents it is necessary to impose a condition requiring the submission of a Construction Management Plan.
20. As I have found that the proposed terraces would not have a harmful effect on the living conditions of neighbouring occupiers I have not imposed the Council's suggested condition related to the installation of privacy screens.

21. Bearing in mind the PPG's advice that the blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict several classes of permitted development rights. Therefore, I have not imposed the suggested condition to this effect.

Conclusion

22. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: JJA/2217; 2217/01 REV A; 2217/02 REV B; 2217/03 REV A; 2217/04 REV A; 2217/05 and 2217/06.
- 3) No development, including site clearance, preparatory works or construction, shall take place until details of the means of protecting all of the trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been submitted to and approved in writing by the Local Planning Authority. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development. No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.
No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges to be retained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs or hedges to be retained.
- 4) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include the following details:
 - The provision of parking for operatives and contractors within the site;
 - The storage of plant and materials used in constructing the development;
 - Wheel washing and underbody washing facilities;
 - Measures to control the emission of dust, dirt and mud during construction;
 - A scheme to control noise and vibration during the construction phase, including details of any piling operations; and
 - Details of how the approved plan will be implemented and adhered to, including contact details for individuals responsible for ensuring compliance.The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
- 5) The development shall not progress above the damp proof course of the new house until full details of both the finished levels, above ordnance datum, of the ground floor of the proposed dwelling and of the finished terrace and garden levels, and hard and soft surfaces in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.
- 6) The development shall not progress above the damp proof course of the new house until a schedule of the types and colour of the materials to be used in the external finishes of the dwelling hereby permitted has been submitted to

and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.