



Appeal Decision

Site visit made on 4 July 2024

by B J Sims BSc (Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2024

Appeal Ref: APP/P1560/D/24/3343470

70, 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 Dr J Nicholson against the decision of Tendring District Council.
 - The application Ref is 24/00285/FULHH.
 - The development proposed is demolition of existing garage and erection of combined garage and residential annex at ground floor, offices and WC at first floor and new access door and wall to main house.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of combined garage and residential annex at ground floor, offices and WC at first floor and new access door and wall to main house at 70, Ladysmith Avenue, Brightlingsea, Essex, CO7 0JD, in accordance with the terms of the application, Ref 24/00285/FULHH, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match or complement those used in the existing building.
 - 3) The development hereby permitted shall be carried out only in accordance with the following approved plans:
 - 0/A000/BP/001 A
 - 0/A100/PR/001 D
 - 0/A200/PR/001 A
 - 0/A200/PR/005 A
 - 0/A600/PR/001
 - 0/A600/PR/003 A
 - 0/A600/PR/004 A
 - 0/A600/PR/005
 - 4) The building hereby permitted shall be occupied and used only ancillary to the use of the main house at No 70 Ladysmith Avenue.

Application for Costs

2. An application for costs was made by Dr J Nicholson against Tendring District Council and this is the subject of a separate Decision.

Procedural Matters

3. Repeated reference is made in the written representations to a previous unsuccessful application in 2023 for a comparable development on the same site, wherein the Appellant and his agent were dissatisfied with the conduct of the Council. However, whilst that may remain an issue of concern between the Appellant, his agent and the Council, it is not a matter for the Planning Inspectorate or for this appeal. This appeal is determined on an entirely fresh appraisal of the present proposal, strictly on its own individual planning merits.

Main Issues

4. The main issues in this appeal relate to: the design of the proposed built development and its effect upon the character, appearance and local distinctiveness of the site and surrounding area of Ladysmith Avenue and Spring Road; its effect on local amenity, in particular the privacy of No 68A Ladysmith Road; and whether it would provide safe and adequate access and car parking facilities.

Reasons

Policy

5. Planning policy relevant to this appeal is contained within the adopted Tendring District Local Plan (TDLP).
6. TDLP Policy SP7, on place shaping, requires all development to respond positively to local character and individual architectural quality, to protect residential amenity and to include well-integrated parking facilities.
7. TDLP Policy SPL3, on sustainable design, seeks a positive contribution to the local environment and protection or enhancement of local character and distinctiveness, with development well-related to its surroundings in siting, height, scale and massing. It should respect the local street pattern, with boundary treatments reflecting the function and character of the surroundings. Development should also provide practicable and safe vehicle access, adequate daylight, outlook and privacy for neighbouring residents, and adequate amenity space and parking for occupiers.
8. All these provisions are essentially consistent with the National Planning Policy Framework (NPPF).
9. The proposed development must meet all these policy requirements in order to achieve the requisite compliance with the development plan as a whole.

Design

10. The development would replace an existing substantial but single-storey, utilitarian garage building with a modern, two-storey garage and residential annex, adjacent to the south eastern boundary, shared with No 69 Spring Road. The building would thus appear more prominent than its predecessor, due mainly to its additional height. However, the upper storey would be set back from both its street frontages to Ladysmith Avenue and Spring Road. In my view, this would avoid any impression of undue bulkiness.
11. The annex would have little visual impact on the main property frontage to Ladysmith Avenue itself. From Spring Road, the building would have greater

presence in the street scene and would appear similar to a domestic dwelling. It would also reduce, to some extent, the degree of openness that results from the generous rear garden that separates No 70 from the present garage. In that regard I accept that, in visual terms, the building would not be closely associated with or subservient to the main house, as would be more typical of a residential annex.

12. However, I dwell more upon the practical planning impacts of the development. In its design, the annex would reflect the form and detailing of other buildings in the varied local street scene.
13. Overall, I consider that the new building would enhance the design quality of the property, in harmony with the street scene and, despite the degree of reduced openness, would contribute positively to the character of the locality, respecting its distinctiveness.

Amenity

14. The second reason for refusal cites potential overlooking from a proposed Juliet balcony at first floor level in the south west elevation of the proposed building facing No 68A Ladysmith Avenue. Noting that the Juliet balcony would be set back behind a flat roof, I do not consider that the degree of overlooking or any consequent reduction in privacy at No 68A would be unacceptable. That is due also to the intervening distance and the generally urban nature the surrounding area, where a degree of overlooking is to be expected.
15. In other respects, I accept that the increased height and massing of the proposed building, over that of the present garage, would to some extent reduce natural lighting to neighbouring properties and affect their outlook, including No 69 Spring Road adjacent. However, I agree with the Council that, due to a lack of main facing windows and the intervening distances, these effects would not be such as to warrant substantive planning objection.

Access and Parking

16. The chief concern on access and parking relates to the size of the garage, which strictly fails to comply with accepted standards. However, it does not appear to me that the proposed ancillary building would alter the present parking demand from the appeal property, compared with the present situation, where on-street parking appears to be available on Spring Road in any event.
17. Otherwise, vehicle access to the proposed garage would be much as it is at present, with turning space and visibility available within the comparatively generous width of Spring Road, without material impact on road safety.

Other Matters

18. Although not expressly sought by the Council, a condition confirming that the use of the proposed building would be ancillary to the main dwelling for a single household is appropriate in this case, in addition to those requiring complementary finishing materials and compliance with the approved drawings.
19. The Council takes no issue with the proposed front entrance door and boundary wall and I agree that there is no planning objection to those elements of the scheme. Indeed, the enclosure of the front forecourt and addition of a street-

facing entrance door would be consistent with the character of the existing street frontage of Ladysmith Avenue, resulting in a degree of additional design enhancement.

20. I have considered every matter raised in the written representations, including the views of neighbouring residents, but find no other matter sufficient to affect my decision.

Conclusion

21. For all the reasons explained, and subject to the conditions I have outlined, I conclude that the proposed development would comply in all respects with requirements of the relevant policies summarised above and with the development plan as a whole.
22. The appeal is accordingly allowed and the planning permission sought is granted.

B J Sims

INSPECTOR

List of Plans Accompanying Application DRAWINGS: • BLOCK PLAN - REC'D 23.02.24 • SITE PLAN - REC'D 23.02.24 • EXISTING GARAGE FLOOR PLAN - REC'D 23.02.24 • PROPOSED FLOOR PLANS - REC'D 23.02.24 • PROPOSED ROOF PLAN - REC'D 23.02.24 • EXISTING GARAGE ELEVATIONS - REC'D 23.02.24 • PROPOSED ELEVATIONS - REC'D 23.02.24 • PROPOSED FRONT ELEVATION - REC'D 23.02.24 • PROPOSED PERSPECTIVES - REC'D 23.02.24 • PROPOSED STREET CONTEXT 1 - REC'D 23.02.24 • PROPOSED STREET CONTEXT 2 - REC'D 23.02.24 • EXISTING AND PROPOSED NORTH WEST ELEVATIONS - REC'D 23.02.24 • BLOCK PLAN WITH BOUNDARY MEASUREMENTS- RECD 01.03.24