



Appeal Decision

Site visit made on 30 October 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2024

Appeal Ref: APP/D1590/W/24/3342061

82A Fairfax Drive, Westcliff-on-Sea, Southend-on-Sea SS0 9AF

- 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 and Mrs M and L Smith against the decision of Southend-on-Sea Borough Council.
 - The application reference is 23/01982/FUL.
 - The development proposed is conversion and extension of existing garage to new dwelling with associated amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A new version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. Consequently, this update does not fundamentally alter the main parties' cases, and it is not necessary to seek further comments.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the proposal would provide an acceptable standard of accommodation, and:
 - The effect on the living conditions of neighbouring occupants.

Reasons

Character and Appearance

4. The appeal relates to an end-of-terrace property on Fairfax Drive. A detached garage stands to the rear of the site and addresses Shakespeare Drive. The side elevation of 91 Shakespeare Drive stands immediately to the south, separated by a narrow rear passage behind the gardens of dwellings on Fairfax Drive. The garage extends partly to the rear of the dwelling at No 84. The proposal seeks to add a side extension to the garage in connection with its conversion to a detached dwelling. Parts of the existing garden to No 82/82A would be given over to the new property to form a garden area.
5. The surrounding area is characterised by linear streets of similar terraced or semi-detached housing set back from the street behind short front gardens.

The dwellings are two storeys in height with pitched roofs and brick or painted render facades. A number of design elements repeat across the terraces, including single and two storey bay windows, front gables and low front boundary treatments. Whilst there is also variety, such as the materiality of front walls and facades, this does not undermine what is a consistent scale and ordered layout to the street that contributes positively to the character and appearance of the area.

6. The existing garage is an anomaly in this respect, being much smaller in scale than surrounding development. From the junction to the north, the garage appears as an isolated building in the gap between the linear street patterns, but it has an ancillary scale and form which means it does not compete with the surrounding development for prominence and does not undermine the overall consistency of the street scene.
7. Policy DM3 of the Development Management Document (July 2015) (the DMD) addresses infill development, which is indicated to apply to the appeal site, but resists proposals which conflict with the character and grain of the local area. In this case, the proposal would not increase the overall height of the building, and it would retain its distinctive mock-Tudor front gable. However, whilst the Council considered the side extension would integrate with the garage itself, it would still form a somewhat rudimentary addition that would add little in terms of design quality and would not elevate the appearance of the building within the streetscene.
8. The extension and creation of a side garden area mean the site would no longer contain an unassuming ancillary building, but a dwelling that would be wholly out of scale and form with its surroundings. In particular, its site area would be very modest, with the building standing tight to two boundaries. The existing garden to No 82/82A would also be reduced, with the proposed boundary set against the rear of an existing garden structure. Consequently, both properties would have significantly smaller plots than neighbouring dwellings, and both buildings would appear squeezed on their sites in a cramped manner.
9. For these reasons, I find that the proposal would harm the character and appearance of the area, contrary to Policies KP2 and CP4 of the Core Strategy (December 2007) (the CS) and Policies DM1 and DM3 of the DMD which together require proposals to contribute to a high quality sustainable urban environment by being well-designed and respecting the character and scale of the existing neighbourhood.

Standard of Accommodation

10. The proposed unit would have a gross internal area of 37sqm, which accords with the national space standard for a one-person unit. The bedroom would also exceed the minimum standard of 7.5sqm. No storage space is shown on plans, but the layout is sufficiently open to accommodate this.
11. However, the proposed bedroom would be served by a rear facing window that would stand on the boundary of the site, directly next to the rear part of the garden of No 84. Consequently, neighbouring occupants would be able to look directly into the bedroom from their garden, resulting in a harmful loss of privacy for prospective occupants. Even where no-one is present in the neighbouring garden, the knowledge that someone could come right up to the

window would create a perception of overlooking and a constant sense of unease for an occupant, particularly given the private nature of a bedroom.

12. It has been suggested that the window could be obscurely glazed to protect the occupant's privacy, and conversely to prevent overlooking of the neighbouring garden. Indeed, the existing garage window was obscurely glazed at my visit. However, obscurely glazing the window would have the converse effect of reducing outlook from the proposed bedroom. The window would also either have to be fixed shut or subject to limited opening above a certain height to prevent the obscure glazing being rendered ineffective when the window is opened. Alternatively, occupants would have to regularly close blinds or curtains to ensure privacy, which would in turn limit sunlight and daylight to the room. Therefore, I am not satisfied that a condition requiring obscured glazing would be appropriate in this case.
13. I accept that there would be outlook to the front from the kitchen/living area, and that the space could be reorganised internally to form a single, studio layout. However, in either configuration, the front window would be orientated roughly eastward and would receive direct sunlight only in the early morning. As such, there would be a deep floorplan with gloomy light for much of the day. Thus, the living space would not be of sufficient quality to mitigate for the lack of outlook or privacy to the rear.
14. The proposal would be provided with external garden space, though this would be to the front of the property. No details of boundary treatments are proposed, but if low in height the garden would offer no privacy, and if tall enough to screen views, it would create a confined space, but one that that would still be partially exposed to views from the street as it would contain the route to the front door. As such, the garden area would offer little privacy and limited utility for prospective occupants.
15. For these reasons, I find that the proposal would fail to provide an acceptable standard of accommodation for a prospective occupant, contrary to Policies KP2 and CP4 of the CS and Policies DM1, DM3 and DM8 of the DMD in terms of their requirements for development to be high quality and to provide internal and external layouts that take account of all potential users.

Neighbours' Living Conditions

16. The existing window in the rear elevation stands on the boundary with the garden of No 84 and directly overlooks a garden shed and rear garden access. The use of the garage as a dwelling would significantly increase the degree to which overlooking could occur, compared to use as an ancillary storage space. There would also be some views towards the garden of No 86, though these would be less intrusive given the intervening presence of the shed to No 84.
17. Whilst overlooking would be restricted to a small section at the rear of the garden, it would nevertheless be close range and invasive in an area where residents would expect to be relatively private, particularly where used for storing personal possessions and as a means of access.
18. The use of obscured glazing, along with limited opening or fixing the window shut would address overlooking for neighbours, but for reasons already set out, this would result in adverse effects for the occupant of the dwelling in terms of outlook. As such, I do not consider this would be a suitable solution.

19. Therefore, I find that the proposal would harm living conditions of occupants of No 84, contrary to Policies KP2 and CP4 of the CS and Policies DM1 and DM3 of the DMD in so far as they seek to maintain and enhance the amenities of residential areas and not adversely impact upon the living conditions of neighbouring residents, including with respect to privacy and overlooking.

Other Matters

20. The Council did not refuse the application in respect of highway safety, energy sustainability, ecology, biodiversity or protected sites. I have no substantive evidence to reach different conclusions in these matters.
21. The proposal would facilitate cleanup of the site's slightly unkempt frontage, but this is a very minor concern and could be addressed independently of any redevelopment proposal. Moreover, any modest benefit would be countered by the harm arising in respect of character and appearance generally. As such, this is not a matter weighing in the proposal's favour.

Conclusion

22. I have found that the proposal would harm the character and appearance of the area. It would also fail to provide a suitable standard of accommodation and would adversely affect the living conditions of neighbours. This results in conflict with development plan policies that are consistent with the Framework in seeking a high standard of design and high standards of amenity for existing and future users. Thus, I afford significant weight to these conflicts.
23. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites, and that its most recent Housing Delivery Test result shows delivery underperforming, although no precise figures have been put to me. Nonetheless, in these circumstances, the presumption in favour of sustainable development at Paragraph 11 of the Framework is engaged.
24. The proposal would make use of a brownfield site to add a dwelling to the housing stock at a time when the Council is falling short of delivering sufficient housing within the borough. This would align with the key aim of the Framework of boosting the supply of housing nationally. However, even without knowing the precise extent of this shortfall, the provision of a single dwelling would be a benefit of limited weight in the planning balance.
25. There would be minor economic benefits arising for local contractors in implementing the development and in a future occupant using local services. However, these would also attract limited weight in the proposal's favour.
26. In the context of paragraph 11(d)(ii), I find that the adverse impacts would significantly and demonstrably outweigh the benefits in this case. Overall, therefore, the proposal would not represent a sustainable form of development and in the final balance, the material considerations in this case, including the Framework, do not indicate that permission should be forthcoming in spite of the identified conflicts with the development plan. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR