
Appeal Decision

Site visit made on 3 January 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Appeal Ref: APP/P1560/W/24/3345277

21 Second Avenue, Frinton On Sea, Essex CO13 9ER

- 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 W Robinson against the decision of Tendring District Council.
 - The application Ref is 23/01627/FUL.
 - The development proposed is Proposed change of use of existing annexe to self contained two bedroom dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for proposed change of use of existing annexe to self contained two bedroom dwelling at 21 Second Avenue, Frinton On Sea, Essex CO13 9ER in accordance with the terms of the application, Ref 23/01627/FUL, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views and the revised version has been referenced in this decision.
3. The Council changed the description of the proposed development to that shown in the banner heading above. This is a generally accurate description of the development proposed, and is included within the appellant's appeal application form. I have therefore used it in this Decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with due regard to the location of the site in the Frinton and Walton Conservation Area (CA).

Reasons

5. 21 Second Avenue (No. 21) which is located within the Frinton and Walton CA and The Avenues Area of Special Character, is a grand, well-preserved two storey Edwardian dwelling set within a spacious garden. The surrounding area is residential, with straight, wide and spacious streets comprising other larger detached dwellings set back from and facing the road. The asymmetric front elevation displays characteristic features including an ornate porch, prominent

chimneys and hanging tiles. The character of this part of the Frinton and Walton CA and its significance stems from, amongst other aspects, the arrangement of generously sized and spaced detached houses, positioned within large plots, often with prominent chimneys and rich architectural detailing.

6. The Tendring District Council Conservation Area Review: Frinton and Walton Conservation Area (2006) also identifies the asymmetrical plans and elevations, chimneys, uninterrupted roof slopes, combinations of facing materials and the use of inventive detail as being of particular importance in this part of the CA and as a whole. With its variety of facing materials, characterful chimneys, architectural detailing and spacious garden, No. 21 and the appeal site positively contributes to the character of the area.
7. As the proposal is in a conservation area (CA), I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This is reflected in paragraph 212 of the Framework which requires great weight to be given to the asset's conservation when considering the impact of a development on its significance.
8. The main parties agree that the appeal building was built following planning permission¹ granted in 2009. Due to its position well away from the appeal site's frontage it is not prominent in views from Second Avenue, although it can be glimpsed in views from the pavement immediately outside the appeal site.
9. As the proposal would utilise an existing driveway which leads to the appeal building this would have no visual effect on the character and appearance of the area. Nor would the proposal result in the creation of any additional car parking area. Additional features such as domestic paraphernalia or even an outbuilding could be installed within the appeal site by future occupiers. However, it seems to me, that these items could be installed by the current occupiers of No. 21 as part of the normal use of their domestic garden, regardless of whether the proposal were to be implemented. I therefore find no harm in this regard.
10. No. 21 is unusual in that its rear garden extends beyond the rear of 17 Second Avenue. The siting of the new boundary between the appeal site and No. 21, would create long, linear gardens for both No. 21 and the appeal site, which would have similar proportions to gardens at neighbouring properties.
11. I acknowledge that the appeal building would not have a principal elevation addressing Second Avenue. However, the external alterations associated with the proposal are minimal, and would not change the scale and character of the existing building. The proposed alterations would be barely perceptible from the public domain and would have very limited prominence from the private domain, including views from the rear of nearby properties on Second Avenue.
12. I conclude that the proposal would preserve the character and appearance of the Frinton and Walton CA, thus satisfying the requirements of the Act, paragraph 212 of the Framework and development plan policies insofar as relevant. This includes Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond, Section 1 - North Essex Authorities' Shared Strategic Section 1 Plan (2021), and Policies SPL3, LP4, LP8, PPL8 and PPL11 of the Tendring District Local Plan 2013-2033

¹ Council Ref: 09/00656/FUL

and Beyond, Section 2 (2022). Collectively, these policies seek high standards of urban and architectural design, which relate well to the site and surroundings, and outline that new development within conservation areas will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

Other Matters

Habitat Sites

13. The appeal site falls within the Zone of Influence (Zoi) of the Hamford Water Special Protection Area (SPA) and Ramsar as defined within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). These European Sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations) and is recognised for its qualifying features as a coastal habitat which supports internationally important populations of birds, internationally important numbers of migratory species and significant waterfowl assemblage.
14. Based on information set out in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020 (the RAMS), the purpose of these designations is to protect breeding and nonbreeding birds and coastal habitats. Recreational disturbance has been identified as an issue for all of the designated habitat coastal sites and research has shown that residents are likely to travel to the coast for recreational use. As such, there is a pathway for the proposal to have effects on the designated sites and a likely significant effect cannot be ruled out. In combination with other plans or projects, the proposal could lead to an adverse effect on the integrity of those sites.
15. The RAMS identifies a strategic approach to mitigation capable of resulting in no adverse effect on the integrity of the sites, which is endorsed by Natural England. It details measures that would be secured, including education and communication, as well as habitat based measures. I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the habitat sites.
16. The appellant has provided a Unilateral Undertaking (UU) dated 11 December 2023, which undertakes to make a required Index Linked RAMS payment prior to commencement of development on site. The UU has been signed and the Council has confirmed receipt of the UU during the planning application process. On that basis, I am satisfied that the UU would be effective in securing the payment of the required contribution. Therefore, I am satisfied that mitigation measures have been secured and would be used for their intended purpose, and the financial contribution is necessary to make the development acceptable in planning terms.

Interested Parties

17. In relation to interested parties' concerns about the current use of the appeal building, the Council have confirmed its current use as an annexe providing family accommodation does not require additional planning permission. As I have found that the proposed development would cause no harm to the character and appearance of the area it would not create a precedent for other developments that would cause harmful effects in this regard.

18. Interested parties have raised concerns relating to noise and disturbance to neighbouring occupiers and additional traffic. The addition of a single two bedroom dwelling within a residential area is unlikely to cause harmful noise and disturbance, or a harmful increase in traffic as a result of the additional comings and goings, or recreational use of the property by future occupiers and visitors. With regard to the potential loss of privacy and night pollution, a single first floor window is proposed. This would face towards 21 Second Avenue, away from the gardens of 7-17 Second Avenue, and therefore I do not consider there would be harmful overlooking or light pollution effects to neighbouring occupiers.
19. Interested parties indicate that Tendring District Council have a sufficient supply of housing. However, this is not a reason to reject what I have found to be an acceptable proposal for the site.
20. A number of other matters have been raised by interested parties and I have taken them all into account. This includes flooding from the property impacting neighbouring gardens. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects. Consequently, they do not lead me to a different overall conclusion other than that the appeal should be allowed.

Conditions

21. I have had regard to the planning conditions that have been suggested by the Council. 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.
22. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty. To preserve and enhance local character, I have included conditions requiring detailed drawings of windows and doors, and a scheme of boundary treatments and hard and soft landscaping. However, as the building is already constructed I have varied the timeframe for the submission of the scheme of boundary treatments and landscaping details, to ensure that the condition is effective. In the interest of brevity I have also combined the two landscaping conditions into a single condition.
23. To enhance sustainability in the District I have imposed a condition requiring a scheme for the provision and implementation of water, energy and resource efficiency measures. As the building is already constructed, I have varied the condition to remove requirements related to grey water recycling, as I have not been provided with evidence to demonstrate that such a requirement would be reasonable or necessary.
24. I have not imposed the suggested condition related to on-site vehicular turning. This is because the appeal site is already configured to enable vehicles to turn on-site, and this would not be altered by the proposal. However, in the interests of highways safety, I have imposed the suggested condition related to the surfacing of the site access.
25. Given the modest scale of development, and the site's location within an urban area with good access to shops and services, I have not imposed the suggested condition related to a residential travel plan.

26. Given the modest scale of development, and the available space within the relatively large appeal site, I have not imposed a condition relating to the loading, unloading and storage of construction materials.
27. I have not imposed the suggested conditions to remove permitted development rights. Paragraph 55 of the Framework indicates planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Such a condition would not be necessary to make the appeal proposal acceptable in planning terms and would not comply with the Framework.

Conclusion

28. 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: A-1-001 Revision B; A-1-003 Revision B, A-1-004 Revision A, A-2-002 Revision A; A-2-005 Revision B.
- 3) The development shall not be occupied until a bound material surface has been laid out for a minimum distance of 5 metres from the edge of the carriageway. The bound material as implemented shall then be retained thereafter.
- 4) The development shall not be occupied until a scheme of hard and soft landscaping and boundary treatment works for the site, which shall include any proposed changes in ground levels, has been submitted to and approved by the Local Planning Authority. The approved hard landscaping, boundary treatments and any changes in ground levels shall be implemented prior to the occupation of the development and maintained thereafter. The soft landscaping comprised in the approved details shall be implemented in the first planting season following the occupation of the dwelling. If, within a period of 5 years from the completion of development, any of the trees or plants that form part of the approved details of soft landscaping, die, are removed or become seriously damaged or diseased they shall be replaced in the next planting season with others of a similar size and species.
- 5) Prior to any work to the windows or doors, detailed elevation and section drawings of windows and doors (including sections through head, jamb – including construction details of surrounding fabric – stile, mullion, transom, meeting rail, glazing bar, bottom rail, sill or leaded glazing), at 1:20 or 1:1 as appropriate, are to be submitted to and approved by the Local Planning Authority. The details shall be carried out in full and as approved.
- 6) The development shall not be occupied until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development has been submitted to and approved by the Local Planning Authority. The scheme shall include as a minimum:-
 - An electric car charging point;
 - Agreement of a scheme for water conservation including rainwater capture/re-use for the new dwelling;
 - Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day;
 - Agreement of heating of each dwelling;
 - Agreement of scheme for waste reduction; and
 - Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

All water, energy and resource efficiency measures shall be installed in accordance with the approved details prior to occupation of the development and shall be maintained as such thereafter.

END OF SCHEDULE