



Appeal Decision

Site visit made on 17 May 2012

by Nicholas Taylor BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 June 2012

Appeal Ref: APP/D1590/A/12/2169973
12 Marine Close, Leigh-on-Sea, Essex SS9 2RD

- 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 N Collins against the decision of Southend-on-Sea Borough Council.
 - The application Ref 11/01435/FUL, dated 2 November 2011, was refused by notice dated 4 January 2012.
 - The development proposed is "demolish existing property and erect detached dwelling with basement (amended proposal)".
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing property and erect a detached dwelling with basement at 12 Marine Close, Leigh-on-Sea in accordance with the terms of the application, Ref 11/01435/FUL, dated 2 November 2011, subject to the four conditions set out in the Schedule to this decision.

Preliminary Matter

2. Since the appeal was lodged, the *National Planning Policy Framework* has been lodged. Both main parties were asked if they wished to make further comments regarding the implications of the Framework for their respective cases but neither has done so. I have had regard to the Framework in coming to my decision on this appeal.

Main Issues

3. The main issues in this case are the effect of the proposal on the character and appearance of the area and its effect on the living conditions of neighbouring residents, with regard to overlooking and their privacy.

Reasons

4. The appeal site is a triangular plot at the head of one of the cul-de-sac arms of Marine Close. It is currently occupied by a bungalow. There is another bungalow, 14 Marine Close, to the east of the appeal site and a 2 storey house, 11 Marine Close, to the west. The street comprises a mixture of 2 storey houses and bungalows, both detached and semi-detached, although the
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majority of the properties clustered around the end of the cul-de-sac are detached houses. To its rear, the appeal site borders onto the back gardens of houses in Western Road and Tattersall Gardens.

Character and appearance

5. The proposed development would involve construction of a new, detached dwelling with 2 storeys above a basement level. The design of the proposed dwelling would be contemporary and distinctive in appearance. Although there is, to a degree, a common architectural vocabulary among the dwellings within Marine Close and the locality, there is also a degree of variation in the way that this is applied, resulting in a variety of individual designs. This variety within an overall framework is, to my mind, an important part of the character of the area.
6. The footprint of the proposed dwelling would be similar to that of the existing bungalow, but orientated at an angle that follows the tight curve around the end of the cul-de-sac. Its design and eaves heights would achieve a transition between the house and bungalow on either side. Although the front elevation is wider than some of the nearby dwellings, so too is that of the existing bungalow. Moreover, the angle of the proposed dwelling within the plot and the sloping roofline would help to mitigate the appearance of width and enable it to integrate with the street scene.
7. Hipped roofs are a common feature of the locality and this is replicated in the proposed scheme. Whilst the top floor fenestration of front elevation would have a horizontal emphasis, this would be off-set by vertical design elements, such as the chimney stack. Casement windows are common locally but wide bay and flat windows with a horizontal emphasis are also to be seen. The proposal would combine various design elements from the locality in a distinctive way. This would accord with the Council's *Supplementary Planning Document 1: Design and Townscape Guide 2009* (SPD1), which states that new development should build on the positive aspects of local character, not usually copy it.
8. Whilst white painted, rendered walls are predominant within the area, roofs are typically varying shades of grey or red and various feature materials, such as tiles and timbering, are evident. I am satisfied that, subject to the precise finish and shading, which can be controlled by imposition of a suitable condition, the combination of materials proposed and their use, in some cases, as features, would enliven the appearance of the development. In principle, therefore, they would not be incompatible with the local context and there would be no harm to the character and appearance of the area.
9. Therefore, on the first issue, I conclude that the proposal would integrate with the street scene and would not appear incongruous and would, thereby, not harm the character or appearance of the area. Consequently, there would be no conflict with the design objectives of policy ENV7 of the *East of England Plan* (EEP), policies KP2 and CP4 of the *Southend-on-Sea Core Strategy* (CS), saved Policies H5, H6 or C11 of the *Southend-on-Sea Borough Local Plan* (LP), SPD1 or the new Framework.

Living conditions

10. The distance from the rear elevation of the proposed dwelling to the northern rear boundary of the site would be similar to that of the existing bungalow and within the broad range of comparable distances in the locality. Its orientation at an angle to the northern boundary would help to increase the 90 degree facing distances to properties at the rear. Whilst the proposal incorporates rear-facing first floor windows, this, as the Council's officer report points out, would potentially be achievable in the existing bungalow under permitted development rights. Moreover, a 2 storey dwelling is not, in principle, out of place in this locality. The large windows would not, in my view, materially increase the potential risk of overlooking compared to more conventional windows and the "Juliet balcony" would not increase views to the side, so that there would be no significant overlooking of the garden of No. 14.
11. Given the distances involved, and the presence of planting on the boundary and within gardens to screen views, I consider that any overlooking of neighbouring properties from the first floor rear windows would be limited and would not cause unacceptable harm.
12. The adjacent bungalow to the east, at No. 14, stands very close to the boundary of the appeal site. The property has a bedroom and bathroom windows and a door to the kitchen facing the boundary. Ground floor dining room and bedroom windows of the existing bungalow on the appeal site also face the common boundary in close proximity to those of No. 14.
13. In the proposed dwelling, the only first floor glazing which would directly face the side of No. 14 would be the glazed roof slope, which would enclose a void above the ground floor and, hence, offer no risk of overlooking. With the exception of the corner glazed element (linked to the sloping glazing referred to) to the living area, the proposed ground floor side windows are small or set back from the boundary. The main face of this corner glazing looks out at an acute angle towards the boundary. Given this arrangement, and that there is an existing fence of around 2m high along the boundary and the floor level of the proposed dwelling would be lower than that of the existing bungalow, I consider that the potential for overlooking would be limited. Moreover, the existing situation, in terms of directly facing windows, would be improved by the greater distance and the facing angles of the new dwelling.
14. Therefore, I conclude that the proposal would not cause unacceptable harm to the living conditions of neighbouring residents with respect to overlooking and privacy. Consequently, it would not conflict with the general design objectives of EEP Policy ENV7 or CS Policies KP2 and CP4 or with LP Policies H5, H6 or C11, SPD1 or the Framework, with respect to residential amenity.

Other Matters

15. I note the concerns of third parties about the loss of a bungalow. As such, given the acceptability in principle of this form of development and the character of the area, this is not a matter that would cause harm or conflict with national or local policy.
16. I note also the concerns, particularly of the owner of No. 14, that the development would have an overbearing impact on neighbouring properties and cause loss of sunlight and outlook. I consider these concerns to be unfounded, as the design of the proposal would not result in an unacceptably large

structure close to the boundary, particularly in comparison with the existing pattern of development in the area. The proposed house would be set further back than the existing bungalow on the eastern boundary and so would not harm the outlook from the front windows or front or rear garden of No. 14 and could, potentially, result in more light reaching its side windows than at present.

17. Concern has also been expressed, by the owner, that the parking of cars in the proposed driveway would cause disturbance to the occupiers of No. 14. However, parking of cars in driveways close to property boundaries is common in suburban areas such as this and practically unavoidable where the properties have relatively narrow frontages, due to their location at the end of a cul-de-sac, as in this case. I am mindful, also, that the existing front garden could, at present, be converted to a hard-standing under permitted development rights. Under these circumstances, therefore, I consider that the parking of cars on the frontage would not give rise to unacceptable harm from noise and disturbance. Given its very small size and the availability of other, larger outdoor garden areas, the small "courtyard" area that would be created at the side of the proposed dwelling would, in my view, be unlikely to be used to the extent that it would cause unacceptable disturbance to the occupiers of No. 14.
18. Although not of concern to the Council, some local residents express reservations about the proposed basement, in particular the potential for structural damage to other properties and the increased risk of flooding. Structural stability is not, in this case, a material planning consideration, since it is controlled under building regulations. In the absence of any substantiated evidence to the contrary, I have no reason to suppose that the development itself would be at risk of flooding or would be likely to increase the risk of flooding to other properties.

Conditions

19. The Council has suggested conditions in the event that the appeal is to be allowed. I have considered these in the light of the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I have imposed the usual time limit on commencement of development. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans and the submitted Sustainability Statement, for the avoidance of doubt and in the interests of proper planning. Therefore, I have also imposed such a condition.
20. I have also imposed a condition requiring samples of the materials to be used in construction of the proposed development, in the interests of the character and appearance of the area. In order to ensure that adequate off-street parking is provided, I have imposed a condition requiring provision of parking spaces before the first occupation of the dwelling. In the interests of clarity and simplicity, I have amended the Council's suggested wording to include the means of connection to the highway and permeable construction of the driveway. The latter is necessary in order to ensure that sustainable drainage is achieved.
21. Given the restricted size of the site, particularly the front space, I consider that a condition requiring submission of landscaping details or the retention of planting is not necessary or justified for this domestic development. I have not

imposed the suggested condition requiring details of energy efficiency and other sustainability measures to be submitted, as the Council has already acknowledged that the Sustainability Statement, submitted with the application, fulfils the requirements of CS Policy KP2 in this respect. Nor have I imposed suggested conditions preventing the formation of further windows or removing permitted development rights, as I consider that these are not necessary or justified given the detailed design of the proposed development and its relationship to adjacent properties.

Conclusions

22. For the reasons set out, the appeal is allowed.

Nicholas Taylor

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings numbered: 020B, 021B, 022A and 023A and in also in accordance with the Sustainability Statement.
- 3) No development shall take place until written details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including those of the parking and manoeuvring space to the front of the dwelling, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until written details of the means of constructing the parking and manoeuvring space to the front of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include the provision of permeable or porous surfacing. Development shall be carried out in accordance with the approved details and the dwelling hereby permitted shall not be occupied until the parking spaces have been provided. The parking spaces shall be retained for that purpose thereafter.
