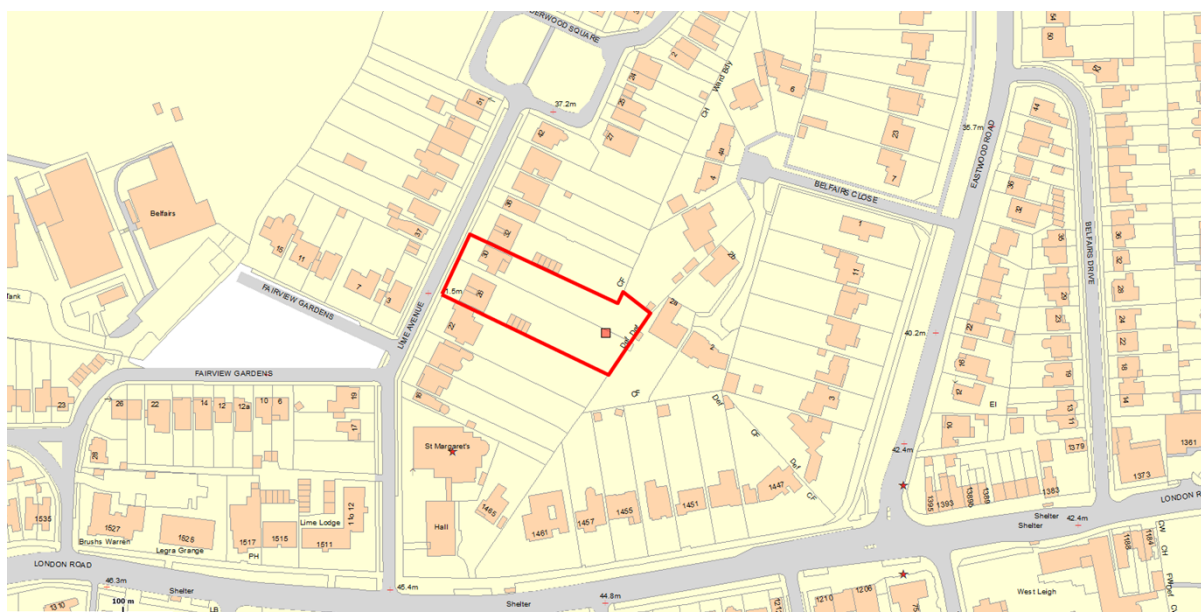


Reference:	20/00923/FUL	
Application Type:	Full Application	
Ward:	West Leigh	
Proposal:	Erect two dwellinghouses incorporating garages to side to rear of 26 and 30 Lime Avenue with amenity space to rear and install additional vehicular access to front of 30 Lime Avenue	
Address:	Land Rear Of, 26 - 30 Lime Avenue, Leigh-On-Sea	
Applicant:	Mr Bishop and Mr Avery	
Agent:	Mrs Lindsey Wislocki of Hedgehog Development	
Consultation Expiry:	24th July 2020	
Expiry Date:	11th September 2020	
Case Officer:	Spyros Mouratidis	
Plan Nos:	P001, P002, P003, P004, P005, P006, P007, P008, Tree Protection Plan	
Recommendation:	REFUSE PLANNING PERMISSION	



## **1 Site and Surroundings**

- 1.1 The application site incorporates the properties from 26 Lime Avenue to 30 Lime Avenue and the land to the rear of those properties. 26 Lime Avenue comprises a detached, two-storey block of four flats known as Stephen Court and a detached, single-storey block of garages. 30 Lime Avenue is a detached, chalet-style dwelling. The land to the rear was originally part of the properties fronting Lime Avenue, forming long rectangular rear gardens as is typical of development in this area. Currently there is no boundary separating the two properties to the rear. This part of the site was until recently overgrown. It has been cleared but remains verdant in nature with grass and trees still present. Two Oak trees (T2 and T3) located at the rear of the site are subject to a Tree Preservation Order (TPO) with reference 1/2010.
- 1.2 The surrounding area is residential in character. This part of Lime Avenue is characterised principally by dwellings, set back from the road behind front gardens and driveways and with substantial back gardens of similar depth to those at the application site. The back gardens of the properties on this part of Lime Avenue combine to form a leafy garden-scape, with many mature and semi-mature trees, which is a prominent and attractive characteristic of the local area. Other than the identified TPOs, no planning-related designations affect the application site or the area.

## **2 The Proposal**

- 2.1 Planning permission is sought for the erection of two (2no.) chalet-style dwellinghouses within the rear part of the gardens of 26 to 30 Lime Avenue, at least 37.2m away from the rear elevation of those properties. It is proposed to amalgamate the access to those properties to create a single larger access to the backland area. It is also proposed to create a new vehicular access to the front of 30 Lime Avenue.
- 2.2 The proposed dwellings would incorporate attached garages resulting in them being semi-detached. The dwellings would each have a maximum width of some 12.2m and a maximum depth of approximately 10.9m. The roof would have a main eaves height of some 2.5m and would be half-hipped measuring 7.2m to the ridge over the main dwelling. Over the proposed attached garages the front part of the roof would be pitched measuring up to 4.4m in height, with the rear part being flat measuring 2.5m in height. The proposed dwellings would feature a front projecting gable with eaves height of 3.4m and ridge height of 6m. One pitched dormer on the front roof slope and two to the rear would measure 2.3m wide by 2.8m high and would project by up to 3m from the roof slope. The proposed materials include render and cedar boarding for the walls, grey Marley Eternit tiles for the roof and aluminium windows.
- 2.3 The proposed dwellings would each accommodate three double bedrooms over two storeys. Both would be served by rear private gardens in excess of 220m<sup>2</sup>. To the front of the dwellings it is proposed to have a hardsurfaced area to accommodate at least two parking spaces for the pair of dwellings and turning space. Some landscaping is shown within the frontage of the proposed dwellings but no other details have been submitted. No details of waste storage or collection have been included with the application.
- 2.4 The new proposed crossover to serve 30 Lime Avenue would be 2.4m wide and would serve two proposed parking spaces. The application has been submitted with a Supporting Statement and an Arboricultural Report. Later in the application process, the Applicants submitted a supporting letter.

### 3 Relevant Planning History

3.1 The relevant planning history of the site is shown on Table 1 below:

**Table 1: Relevant Planning History**

Reference	Description	Outcome
14/01237/FUL (30 Lime Avenue)	Erect 3 storey detached dwelling and block of 2 garages on land rear	Refused [08.10.2014] Appeal Dismissed [19.06.2015]
19/02136/PREAPF (30 Lime Avenue)	Erect two new dwellinghouses to rear of 30 Lime Avenue, layout parking and access to front and amenity space to rear	Pre-application response provided

- 3.2 The application 14/01237/FUL (the “2014 Application”) relates to a comparable scheme which proposed a new dwelling to the rear of 30 Lime Avenue. That refused dwelling was located in a similar location as the northern proposed dwelling of the current scheme; 1.8m from the northern boundary then instead of 2.3m now and 14.6m from the eastern boundary then instead of 16m now. Furthermore, the dwelling refused permission with the 2014 Application was three-storey in nature. That scheme was refused for four reasons, which in summary include the unacceptable principle of a backland development, the obtrusiveness and overly dominant form harming the character and appearance of the area, the unacceptable overlooking and the uncertainty as to the impact on the protected trees.
- 3.3 The planning history of the site is a material planning consideration of significant weight for the determination of the current proposal. The officer’s report and the subsequent appeal decision are appended to this report as Appendix 1 and 2, respectively.

### 4 Representation Summary

- 4.1 The application has been called in for consideration by the Development Control Committee by Councillor F. Evans.

#### **Public Consultation**

- 4.2 Sixteen (16) neighbouring properties were consulted and a site notice was displayed. During the first week of the publication of the application it was noted that it contained an administrative error. The same publication was given for a second time with a corrected address. Thirty-six (36) representations from twenty-six contributors objecting to the application have been received and are summarised as follows:

#### *Unacceptable principle*

- Limited provision of housing which does not solve the housing crisis.
- The site is not previously developed land. Backland development.
- Overdevelopment of the area, in combination with other development on Lime Avenue and Underwood Square.
- Planning history, previous refusal and appeal dismissal, bind the authority.

#### *Concerns regarding design and impact on character and appearance of the area*

- Piecemeal form of development creating an undesirable precedent.

- Harm to the urban grain. Incongruous garden size.
- Development detracts considerably from the character and appearance of the local area.
- The small garden size in close proximity to TPO trees will lead to pressure for their removal.
- Loss of greenery and shrubs.

*Concerns regarding impact on residential amenity*

- Noise and disturbance from proposed access arrangements.
- Noise and disturbance during construction works.
- Overlooking, loss of privacy.
- Overbearing effect and loss of openness.
- Light pollution from proposed windows.
- A road adjacent the amenity space of the flats would compromise its usability.

*Concerns regarding access and parking*

- The access arrangements would turn the area behind the flats into a turning point.
- Insufficient parking in the area.
- Inadequate access for refuse collection and emergency services.
- Impact on pedestrian safety from proposed access.

*Concerns regarding ecology and biodiversity*

- Loss of ecology assets prior to submission of application.
- There are protected species within the site.

*Other matters*

- Questionable integrity of developers.
- No permission from leaseholders.

- 4.3 The comments have been taken into consideration and those relevant to planning matters are discussed in the relevant sections of the report. The absence of any notice by the Applicants to the leaseholders of the site has been highlighted to the Applicants and appropriate amendments to the submitted certificate of ownership have been requested. Other than the reasons stated in section 9 of this report the objecting points raised by the representations are not found to represent material reasons for recommending refusal of the planning application in the circumstances of this case.

**Highways**

- 4.4 No objections subject to conditions regarding the root protection for the existing street tree near the frontage of 30 Lime Avenue.

**Environmental Health**

- 4.5 No objections subject to conditions regarding construction hours and waste management.

**Parks**

- 4.6 No objections subject to conditions regarding ecology surveys and biodiversity enhancement measures.

### **Leigh Town Council**

- 4.7 Object – Backland development will create a detrimental impact upon the living conditions and amenity of future occupants, impact on neighbours in relation to visual enclosure and outlook.

### **Fire brigade**

- 4.8 No objections.

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM15 (Sustainable Transport Management).
- 5.5 Design & Townscape Guide (2009)
- 5.6 National Housing Standards (2015)
- 5.7 Technical Housing Standards Policy Transition Statement (2015)
- 5.8 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.9 Vehicle Crossing Policy & Application Guidance (2014)
- 5.10 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## **6 Planning Considerations**

- 6.1 The main considerations in relation to this application include the principle of the development, design and impact on the street scene and wider area, residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water sustainability, refuse and recycling storage and CIL. The planning history of the site is a material consideration which carries significant weight in the determination of this application due to the circumstances on site and the planning policy context not having changed in any material regard in relation to the issues identified since the refusal of the 2014 Application.

## 7 Appraisal

### Principle of Development

#### Vehicle crossover

- 7.1 The principle of providing additional facilities in association with an existing dwelling is acceptable in principle subject to detailed considerations regarding highway safety and impact on the character and appearance of the area.

#### Backland development

- 7.2 Paragraph 117 of the NPPF states: “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions.” Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes. It should be noted that residential gardens are excluded from the definition given by the NPPF to the term ‘previously developed land’.
- 7.3 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the Borough. Similarly, the Council’s Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the Borough. The HDT and 5YHLS carry some weight in favour of the principle of the development given the proposed creation of two additional units. Moreover, the proposal is for three-bed dwellings, a type of housing for which there is significant need as identified within the South Essex Strategic Housing Market Assessment.
- 7.4 The location of the proposed dwellings would render them as backland development. Policy DM3 is applicable which states: “All development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:
- i. Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or
  - ii. Conflict with the character and grain of the local area; or
  - iii. Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or
  - iv. Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”
- 7.5 With regard to criterion (i) and as set in detail in following sections of this report, it is considered that the impact of the proposed development upon the amenity of current and future neighbouring occupiers would be unacceptable. Due to its proximity to the dwelling at 2 Belfairs Close and the upper floor main windows, the proposed northern dwelling would result in materially harmful overlooking and loss of privacy to the detriment of this neighbour’s amenity. This was also an issue when the 2014 Application was determined and the subsequent appeal dismissed.

- 7.6 In relation to criterion (ii), the application site is within an area where long rear gardens of verdant nature are characteristic. Any non-street facing structures are ancillary or incidental buildings. The proposal is for dwellings within the rear gardenscape detracting from and materially harming the urban grain in the area. Similar harm was identified when the 2014 Application was determined and the subsequent appeal dismissed.
- 7.7 Considering criterion (iii), as already discussed in the previous paragraphs there are concerns about the overlooking that would be caused from the upper floor windows but on balance, given the size of the proposed private amenity areas and neighbouring gardens, the harm would not be materially detrimental to the usability of those areas. A similar conclusion was reached by the Inspector who considered the 2014 Application.
- 7.8 Concerning criterion (iv), the site was cleared prior to the submission of the application. The protected trees were retained and the submitted Arboricultural Report contains measures for their protection. The size of the proposed gardens and their orientation is not likely to give rise to any reasonable pressure for the removal of those protected trees. Third parties advised that before the clearing of the site they had seen protected species on site. Furthermore, the site is in the proximity of a known habitat. Whilst almost certainly some habitat value was lost with the clearing of the site, it is possible that if the site were managed as rear garden land or left undisturbed, rather than being developed, some of the original habitat value would be retained. The application was not supported by any ecology and biodiversity appraisals and as such has failed to demonstrate whether any loss of ecological assets as a result of the proposal would be avoided. The Applicant stated that any necessary surveys could be secured by planning conditions, but this would not be reasonable, given that the loss of ecological assets goes to the heart of the application and is a determinative factor as to whether permission should be granted or not.
- 7.9 On the basis of the above analysis it is considered that the principle of the proposal would be unacceptable. Other material planning considerations are discussed in the following sections of the report.

### **Design and Impact on the Character of the Area**

- 7.10 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that: “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”
- 7.11 Paragraph 124 of the NPPF states that: “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.” Policy DM1 of the Development Management Document states that all development should: “add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.”

- 7.12 Paragraphs 199 and 200 of the Southend Design and Townscape Guide (2009) state in relation to development of existing rear gardens: “Gardens are by their nature open spaces that have not previously been developed. Preserving gardens is as important as preserving open space between and around dwellings, as they provide amenity space for the dwelling, rainwater soak up areas and areas for wildlife. There is a general presumption against the redevelopment of existing private gardens especially where they are a significant part of local character. Piecemeal development of gardens in areas of strong uniform character would disrupt the grain of development and will be considered unacceptable.”
- 7.13 When the 2014 proposal was considered, the Local Planning Authority (the “LPA”) and the Inspector found that the provision of a dwelling to the rear garden of 30 Lime Avenue would be harmful to the layout and urban grain of the area (see paragraphs 4.5 to 4.13 of Appendix 1 and 3 to 5 of Appendix 2). The current proposal is for two dwellings within the same rear garden location. The character and urban grain of the area remains materially the same as in 2014 when the previous application was refused and the subsequent appeal was dismissed. As discussed in the previous sections of this report, the area is characterised by long rear gardens and street facing development with only ancillary or incidental buildings to the rear. The proposal would be materially out of keeping and would detract from the prevailing pattern of development in the area causing material harm to its urban grain and setting an undesirable precedent for other rear garden dwellings.
- 7.14 In terms of scale and form the proposed development would respect the two-storey scale of surrounding development and would reference the chalet form also noted in other sites in the locality. In relation to the proposed appearance, there is a lack of cohesion in the design of the proposal. There is no symmetry or alignment and there are too many different types and angles on the pitches of the roofs. The configuration of the windows is varied with proposed use of different sizes of windows and lack of clear vertical alignment. The result is a development which would appear convoluted and contrived. Whilst this is a negative aspect of the scheme, given the limited public views, on balance, the appearance of the proposed dwellings would not be sufficient to justify the refusal of the application on this ground.
- 7.15 The proposed choice of materials references the palette of materials in the locality and would be acceptable. Similarly, the proposed landscaping appears acceptable but further details would be required. If the application were otherwise found to be acceptable conditions could be imposed to secure appropriate details for the materials and the landscaping of the proposal. The submitted Arboricultural Report and its recommendations would be sufficient to preserve the protected and other mature trees on site. The proposed vehicular crossover could potentially harm the root plate of the existing street tree but conditions could be imposed to ensure that a trial is first carried out and then appropriate methods of construction are implemented. The harm in terms of layout and appearance identified above is so significant that would justify the refusal of the application. The proposal would have an unacceptable impact on the character and appearance of the area and would be contrary to policy in the above regards.



## Standard of Accommodation and Living Conditions for Future Occupiers

- 7.16 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.

### Space Standards

- 7.17 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes. The required overall sizes for residential units and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

	Area (m <sup>2</sup> )	Bedroom 1	Bedroom 2 (and 3)	Storage area (m <sup>2</sup> )	Amenity space (m <sup>2</sup> )
Standard for 3 bed 6 person (two storey)	102	11.5m <sup>2</sup> Wmin=2.75m	11.5m <sup>2</sup> Wmin=2.55m	2.5	N/A
Proposed dwellings 3 bed 6 person (two storey)	173.1	15.7m <sup>2</sup> Wmin = 3m	13.7m <sup>2</sup> (14.4m <sup>2</sup> ) Wmin =2.85m (2.9m)	4.8	229 (south) 320 (north)

- 7.18 The table shows that the proposed flats would meet the overall space, the bedroom area and dimensions, and the minimum internal storage space required by the NDSS. These arrangements would result in acceptable living conditions for the intended future occupiers.

### Daylight, Sunlight and Outlook from Habitable Rooms

- 7.19 All habitable rooms would have acceptable outlook and benefit from acceptable levels of daylight and sunlight. These arrangements are considered acceptable and policy compliant in this regard.

### Amenity Provision

- 7.20 The amenity provision for the proposed dwellings, given their size and type, is considered acceptable. These arrangements would result in acceptable living conditions for the intended future occupiers.

### Interlooking

- 7.21 The submitted plans show a side window at the ground floor level of the proposed front gable. This arrangement would create two windows, one at each property, facing each other at a distance of 17m which potentially would create harmful interlooking between the two properties and loss of privacy. This issue can be addressed with a condition if the application is otherwise found to be acceptable.

- 7.22 As already discussed in previous sections of the report, when the 2014 proposal was considered by the LPA and the Inspector, it was found that the location of the then proposed dwelling, which was 2m to the south-east of the location of the currently proposed northern dwelling, would result in overlooking between the proposed property and 2 Belfairs Close. It is considered that the 2m separation would not be sufficient to overcome that previous reason for refusal and that the resulting overlooking would be detrimental to the living conditions of the intended future occupiers of the proposed northern dwelling.

#### M4 (2) – Accessibility

- 7.23 On the submitted plans, it is shown that the front entrances would have ramps to achieve step-free access to both dwellings. The ground floor areas also appear to be adaptable. The doors and hallways appear to be sufficiently sized for a wheelchair. The proposed dwellings appear to be adaptable in order to satisfy building regulation M4 (2). Confirmation of this could be required by a condition if the proposal were otherwise acceptable.
- 7.24 Overall, it is considered that the proposal, by reason of its location and relationship with 2 Belfairs Close would result in substandard living conditions for its future occupiers by reason of the resulting overlooking and loss of privacy. The proposal is therefore unacceptable and contrary to relevant policies in these regards.

#### Impact on Residential Amenity

- 7.25 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: “having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”
- 7.26 The nearest residential property to the proposed dwelling is the neighbouring property to the rear, at 2 Belfairs Close, located some 21m from the rear elevation of the proposed northern dwelling. Other neighbouring properties are at 22 to 32 Lime Avenue, located between 37m and 41m from the front elevation of the proposed dwellings. The rear elevations of all these neighbouring properties contain primary habitable room windows facing the proposed dwellings directly or indirectly. The nearest rear facing window serving a habitable space in 2 Belfairs Close is located some 4.5m away from the boundary of the site. Stephens Court (26 Lime Avenue) and 32 Lime Avenue have single-storey garage blocks within their rear gardens.
- 7.27 The current proposal would have two storeys of accommodation with associated openings. The proposed siting, scale and orientation would not result in any material detrimental impact to the neighbours’ amenity in terms outlook, sense of enclosure/overbearing relationship, daylight and sunlight. Other than the windows to the side of the front projecting gable feature which were discussed in the previous section of this report, there are no other side facing windows. The proposed dwellings would have all their primary windows serving habitable spaces to the front and rear. This would result in direct and indirect overlooking to all nearby properties mentioned in the previous paragraph. Given the separation distance from the properties on Lime Avenue, it is not considered that the resulting loss of privacy and overlooking would be materially harmful to their amenity.

- 7.28 Regarding the impact on 2 Belfairs Close, this was previously considered to be materially harmful (see paragraphs 4.19 to 4.22 of Appendix 1 and paragraphs 6 to 7 of Appendix 2). It is noted that the harm was a result of the openings of the then proposed first and second floor and the distance from this neighbour which was proposed to be some 19m. Despite the fact that the proposed scheme is for one storey less and the proposed siting is 2m further away from this neighbour, it is considered that the resulting overlooking and loss of privacy would be, on balance, materially harmful to this neighbour's amenity.
- 7.29 The proposed development has the potential of creating materially harmful pollution, noise and disturbance only during its construction phase. Appropriate conditions could be imposed to secure the impact on the neighbouring occupiers would not be detrimental in these regards. Overall, the proposed development is, on balance, unacceptable and contrary to policy in the above regards.

### **Traffic and Transportation Issues**

- 7.30 Policy DM15 of the Development Management Document states: "Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner". The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.31 For dwellings with two or more bedrooms, a minimum of two on-site car parking spaces and one cycle storage space should be available. The proposal is policy compliant in this regard. Two car parking spaces, one for each proposed dwelling, would be provided within their frontage. Two garages, one for each dwelling, would also be provided. The garages would meet the 3m by 7m minimum dimensions required by policy and as such are each considered to be able to accommodate one car parking space and at least one cycle storage space. The access arrangements for the new dwellings would utilise the existing access for the existing properties on site. Despite the length of the proposed driveway, the access arrangements are considered acceptable. The new proposed vehicle crossover for 30 Lime Avenue would comply with the vehicle crossover policy, subject to retaining the adjacent street tree, and would not result in a material harm to the highway safety in the area. The Council's Highways team raised no objections to the proposal. The proposed development is acceptable and policy compliant in these regards.

### **Refuse and Recycling Storage**

- 7.32 For schemes smaller than five units, the policy expects that the Council's kerb collection service would be used. The location of the development is not convenient for the use of the service at the existing kerbside neither for the intended future occupiers or for the collection services. There is enough space to allow for waste collection vehicles to reach the site but this would create an issue regarding noise and disturbance to the existing properties on site. If the application were otherwise acceptable it is likely that a condition to secure an appropriate waste management solution could be imposed. Subject to such a condition the current proposal is acceptable and policy compliant in this regard.

## **Energy and Water Sustainability**

- 7.33 Policy KP2 of the Core Strategy requires that: “at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)”. Policy DM2 of the Development Management Document states that: “to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”. This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.34 No information has been provided regarding proposed renewable energy to demonstrate how the proposal meets the 10% policy requirement. However, it is considered that the requirement for renewable energy and restrictions on water usage could be controlled with conditions provided any such externally mounted technologies respect the character and appearance of the area if the proposal were otherwise found to be acceptable. This aspect of the proposal is therefore considered to be acceptable and policy compliant in this regard, subject to conditions.

## **Flooding and surface water drainage**

- 7.35 National policy requires that any development is safe from flooding and does not increase the risk of flooding elsewhere. The proposed extensions would be built within undeveloped land, an area of the ground where surface water would otherwise permeate. Adequate drainage should be installed to ensure that there is no increased risk of flooding on site or elsewhere. Details of drainage arrangements incorporating principles of Sustainable Drainage Systems could be secured by condition. Subject to such a condition, the development would be acceptable and policy compliant in these regards.

## **Community Infrastructure Levy (CIL)**

- 7.36 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application may also be CIL liable.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, including the 2014 Application which was refused by the LPA and dismissed on appeal, and which carries significant weight, it is found that the proposed development is unacceptable and contrary to local and national planning policies. The proposed development would result in material harm to the local grain and character of the area, , it would, by reason of its proposed location and upper floor windows, cause materially harmful overlooking and loss of privacy to the detriment of the residential amenity of neighbouring occupiers at 2 Belfairs Close and the living conditions of its intended future occupier. Moreover, it has not been demonstrated that the proposal would not have a materially harmful impact on the ecology of the site and the potential presence of protected species. The benefits of the proposal, including the provision of additional but limited housing, do not outweigh the significant and material harm identified. The application is, therefore, recommended for refusal.

## **9 Recommendation**

### **9.1 REFUSE PLANNING PERMISSION for the following reasons:**

- 01** The proposed development by reason of its siting and layout would materially conflict with the grain of the local area, would appear incongruous and be materially out of keeping with and detract from the character and appearance of the site and wider surrounding area. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the National Design Guide (2019) and the Southend Design and Townscape Guide (2009).
- 02** The proposed development, in particular the northern dwelling, by reason of its position and upper floor window arrangements, would result in material harm to the residential amenity of neighbouring occupiers at 2 Belfairs Close, due to overlooking and material loss of privacy. This is an unacceptable form of development which is contrary to the National Planning Policy Framework (2019); Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015).
- 03** The proposed development, in particular the northern dwelling, by reason of its siting and relationship with 2 Belfairs Close, would result in overlooking which would be detrimental to the living conditions of the intended future occupiers of the proposed dwelling. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM8 (as amended by the Technical Housing Standards Policy Transition Statement (2015)) of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).
- 04** The proposal fails to demonstrate that the development would not result in the loss of local ecological assets including wildlife habitats. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1, DM3 and DM14 of the Southend-on-Sea Development Management Document (2015).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action via the pre-application service available at [https://www.southend.gov.uk/info/200155/make\\_a\\_planning\\_application\\_and\\_planning\\_advice/365/planning\\_advice\\_and\\_guidance/2](https://www.southend.gov.uk/info/200155/make_a_planning_application_and_planning_advice/365/planning_advice_and_guidance/2)

**Informatives:**

- 1 Please note that this application would have been liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore, if an appeal is lodged and subsequently allowed the CIL liability will be applied. Any revised application may also be CIL liable.**

**APPENDIX 1**

<b>Reference:</b>	<b>14/01237/FUL</b>
<b>Ward:</b>	<b>West Leigh</b>
<b>Proposal:</b>	<b>Erect 3-storey detached dwelling and block of 2 garages on land at rear</b>
<b>Address:</b>	<b>30 Lime Avenue, Leigh-on-Sea, Essex SS9 3PA</b>
<b>Applicant:</b>	<b>Mr B Bishop</b>
<b>Agent:</b>	<b>Hedgehog Development</b>
<b>Consultation Expiry:</b>	<b>11<sup>th</sup> September 2014</b>
<b>Expiry Date:</b>	<b>9<sup>th</sup> October 2014</b>
<b>Case Officer:</b>	<b>Patricia Coyle</b>
<b>Plan Nos:</b>	<b>P1001 Rev A; P1002 Rev A; P1003; P1004; P1005 Rev A; P1006 (Garages)</b>
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

**1 The Proposal**

- 1.1 This application proposes the erection of a 3-storey detached house in the rear garden of the existing chalet bungalow at 30 Lime Avenue, Leigh-on-Sea. The proposal would involve the demolition of the existing garage to the side of the frontage property and the provision of a shared access drive to the southern boundary.
- 1.2 The proposed house would be located approximately 56m back from the rear edge of the highway; approximately 38m from the rear elevation of the existing property. It would be located just over 1m from the existing shared flank boundaries. The house would be 8.7m wide (ground floor) 7m wide at first and second floor levels, 11.5m deep (roof maximum depth 12.8m) and with a pitched gabled roof with a ridge height 9m above ground level. The house would have a large living/dining/kitchen area to the ground floor with a separate study and WC. To the first floor would be two bedrooms (one with en suite and a rear balcony) together with a family bathroom and to the third floor there would be two bedrooms both with en-suite shower room arrangements. The rear bedroom at third floor level would have an inset, covered balcony.
- 1.3 It is proposed that the new property would have a rear garden of approximately 16m deep with the existing property retaining an amenity area 23.5m deep.
- 1.4 In order to facilitate the new house, the existing side entrance door to 30 Lime Avenue would be removed and a new entrance door would be provided to the front elevation of the property. It is indicated that this would be undertaken under permitted development allowances.

- 1.5 It is proposed to provide two garages to the front of the new property. The garages would provide one car parking space and space for two bicycles and 2 bins for each property.

## **2 Site and Surroundings**

- 2.1 The application site comprises a chalet bungalow to the eastern side of Lime Avenue. It has an attached single garage and a relatively large rear garden. The site has an area of just over 1,000 sq.m.
- 2.2 There is an existing vehicular access to Lime Avenue to the southern boundary of the application site. The garden area is mature with a large number of trees to this and the adjoining flat garden areas.
- 2.3 The character of the area is residential, typified by one and two-storey houses to the north and opposite side of Lime Avenue. Nonetheless both No.s 26 and 32 Lime Avenue, which are located directly adjoining the application site, are small purpose-built flatted blocks with vehicle accesses to garages located to the rear. Further south is the St Margaret of Antioch Church which also has a frontage onto London Road.

## **3 Planning Considerations**

- 3.1 The main issues to be considered are, the principle of residential redevelopment of the site, the design and impact of the development on the wider area, impact on the surrounding highways network, parking and servicing, impact on neighbouring development, impact on the natural environment and renewable energy.

## **4 Appraisal**

### **Principle of development**

**Planning Policy: NPPF: Achieving Sustainable Development, Core Planning Principles, Section 1, DPD1 (Core Strategy) policies KP1, KP2 CP4, CP8 and BLP policies H5, H6, H10; Emerging Policies DM3 and DM7 of the Development Management DPD are also relevant.**

- 4.1 The NPPF states at paragraph 6 that *"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system."* At paragraph 17 – Core Planning Principles – the NPPF states that planning should *"encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value"*. And, under 6. Delivering a wide choice of high quality homes at paragraph 48. states in respect of windfall sites this *"should not include residential gardens"*. At paragraph 53 this is reiterated *"Local Planning Authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area."* The NPPF Glossary confirms that Previously Developed Land excludes (among others) private residential gardens.



- 4.2 The Council's Core Strategy predates the NPPF. Policy KP2 of the Core Strategy states that development should "*make the best use of previously developed land*" and "*respect, conserve and enhance the natural and historic environment*". This approach is reiterated in Policy CP4 which states: "*Development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend.*"
- 4.3 Policy CP8 of the Core Strategy identifies the number of dwellings the Council is required to deliver up to the year 2021. There is a particular need for family housing within the Borough which is reinforced by the Council's emerging Development Management Document which identifies a shortage for this form of residential development. The proposal would provide an additional dwelling of 4 bedrooms which would help to meet the identified shortage in family dwellings in the Borough. It should be noted however that the 5-year land supply for housing can be met without recourse to backland development.
- 4.4 Policy H10 of the Borough Local Plan specifically indicates that applications for residential development on backland sites will only be permitted where proposals respect the character of the area... 'tandem' development will normally be refused. In addition this policy also indicates that the pattern of development is also a significant factor in considering whether the proposal would be acceptable. Whilst Belfairs Close has previously been the subject of development which may be considered to be "backland", in this case the general pattern of development to Lime Avenue is frontage development with relatively long rear gardens. It is likely that if this tandem development were to be allowed, contrary to the general pattern, that it would set a precedent for similar future development of the adjoin/nearby rear gardens.
- 4.5 The applicant has cited the recently constructed development of 3 detached houses (one a replacement) at 2 Belfairs Close which backs onto the application site as a reason why backland development is acceptable in this location. Planning permission was granted for this 3-house development in 2009 which pre-dates the NPPF and also the change to the previous Government policy PPG3 which excluded back gardens from the "brownfield" category specifically to prevent the continuation of the loss of rear gardens to further residential development. The Belfairs Close development also involved the total redevelopment of the application site which is not the case here.
- 4.6 The proposal would be contrary to the NPPF in that it would involve the development of a private residential garden which is not within the definition of "previously developed land"; as such, the NPPF indicates that such development would not be considered to be "sustainable development" and it is therefore considered that the proposal which would also not be in character with the existing grain and pattern of development in the area, would be unacceptable in principle.

### **Visual impact and impact on character of the area**

**Planning Policies: NPPF Sections 7 and 12, DPD1 Core Strategy Policy CP4, BLP Policies C11, H5, H6, H10, SPD1 Design and Townscape Guide. DMDPD Policies DM1, DM3 and DM7**

4.7 Policy CP4 of the Core Strategy states:

*“Development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend” and “promoting sustainable development of the highest quality and encouraging innovation and excellence in design to create places of distinction and a sense of place”*

- 4.8 Policy C11 indicates that new buildings or extensions and alterations should be designed to create a satisfactory relationship with their surroundings in respect of form, scale, massing, height, elevations design and materials.
- 4.9 The proposed house would be located in the rear garden of the existing chalet bungalow. There are no other properties and no outbuildings of over one-storey height in the rear garden areas of properties to this side of Lime Avenue and it is therefore considered that it would introduce an uncharacteristic form of backland development into this area. It is recognised that there has been a recent development of three houses on a plot at 2, Belfairs Close, nonetheless this was considered on its own merits at a time when rear gardens were considered by default to be brownfield, or previously developed, land. Their presence does not of itself justify the provision of a 4-bedroomed house in a rear garden in a street where there is only frontage development (Belfairs Close itself being located to the rear of properties fronting onto Eastwood Road) and with their being no similar existing development in the rear garden areas.
- 4.10 The proposed materials and design are modern. The applicant states that as there are various properties of differing ages and designs in the vicinity this is the most appropriate response. The Council is not against the provision of modern design and materials, nonetheless the provision of an over-sailing roof to a three-storey property, large balconies, large/deep glazing panels and the overall size of the property relative to the existing frontage chalet bungalow and the two-storey flat blocks, results in a form of development which is overly conspicuous, dominating and uncharacteristic in this rear garden environment where no existing buildings are more than 1-storey in height.
- 4.11 The new driveway leading to the parking area to the rear would be hardsurfaced. From the streetscene this would appear little different to those currently at No.s 26 and 32 and the proposed house would be visible only from the rear gardens of the surrounding properties and directly along the new driveway when it would appear as an awkward afterthought. However, due to it being 56m back from the rear edge of the highway, it is not considered that the proposed house would result in any significant harm to visual amenity when viewed from Lime Avenue.
- 4.12 It is proposed to provide separate amenity spaces of a minimum depth of 16m for each property. In respect of the amount of amenity space this is considered acceptable in design/layout terms. Details of the landscaping will need to be submitted and a suitable condition could be attached to any grant of planning permission.
- 4.13 It is considered due to the backland location, scale and form of the proposed development, and as it would be out of kilter with the grain and pattern of existing development in the area that the proposal would not have a satisfactory relationship

with its immediate neighbours and is considered to be unacceptable in design/layout terms.

## **Parking and Highway Issues**

**Planning Policies: NPPF: Section 4, DPD1 (Core Strategy) policies: KP1, KP2, KP3; CP3: BLP Policies: T8, T11, T12, T13, SPD2.**

- 4.14 The proposal would provide one parking space for each dwelling. The site is situated in a relatively sustainable location just off the A13 (London Road), close to local amenities and it is well located to encourage alternative modes of travel, benefitting from good local bus services and excellent pedestrian and cycle links for both commuting and leisure journeys.
- 4.15 EPOA standards indicate that for main urban areas and locations where access to public transport is good, a maximum of 1 space per dwelling is appropriate. The proposal would provide 1 garaged car parking space for each dwelling which is considered to be acceptable in respect of the EPOA Standards. However, the Development Management DPD (DMDPD) has reached its Submission Stage and it indicates that 2+ bedroom dwellings should have a minimum of 2 spaces per dwelling. It is considered that as additional spaces could be provided to the front of the existing property and to the front/side of the proposed property, that the proposal could accord with this emerging policy.
- 4.16 Vehicle access to the driveway and the manoeuvring area for smaller vehicles, including private cars, is considered to be acceptable in highway terms. However, the driveway width at 2.4m is too narrow for refuse/servicing (see below) and emergency vehicles. Sprinklers can be provided in lieu of access by Fire Appliances which would need to be addressed through the Building Regulations should planning permission be granted.

### *Cycle parking*

- 4.17 The EPOA Cycle parking standard indicates that no separate cycle parking is required if a garage is provided. The garages indicate that they would accommodate cycle parking for 2 cycles for each property. This is reiterated in the emerging DMDPD. This is considered to be acceptable.

### *Servicing*

- 4.18 Adequate refuse storage is shown to be provided. The location of the bins at 56m along a relatively narrow access drive is too remote and separate collection arrangements would be needed. It is considered that suitable arrangements could be made to enable a bin store to be provided to the front or a suitable collection to be agreed for collection days – details could be required to be submitted via a suitably-worded condition attached to any grant of planning permission and would need to have an acceptable impact in the streetscene.

## **Impact on residential amenity**

**Planning Policies: NPPF: Core Planning Principles, Section 11, DPD1 (Core Strategy) policies, KP2, CP4; Borough Local Plan Policy H5, H10**

- 4.19 There are currently no internal floorspace standards for new dwellings. The emerging

Development Management DPD Policy DM8 provides indicative minimum floor space standards (Policy Table 4) for 4-bed houses to be at least 108sq.m to enable reasonable day to day accommodation for upto 7 people (bedspaces). The proposed 4-bedroom house would have an internal floor space of approximately 216sq.m and it is considered that the proposed house would be of a size which would be acceptable for day-to-day living. It is nonetheless considered that the omission of a window to the south facing flank elevation would be a missed opportunity.

- 4.20 The new house would have windows to each elevation. Those to the side elevation would be secondary or to non-habitable spaces such that they could be fitted (at first floor and above) with obscure glazing to prevent any loss of privacy to adjoining occupiers. However, the main windows are located to the front and rear elevations. Those to the front would face onto the rear elevation and rear garden areas of the existing frontage properties to Lime Avenue. While the bathrooms could be fitted with obscure glazing, the two bedrooms (one with Juliette balcony) would enable direct viewing at first and second floor levels into the rear of the frontage properties. The distance of at least 35m (which is significantly longer than the 25m usually acceptable) is considered to prevent any material harm arising.
- 4.21 The proposed windows and balconies to the rear elevation would face the new two rear properties at No.2 Belfairs Close. The nearest property is at a distance of 18m away and is orientated north/south such that there would be no direct interlooking. However, at this distance, the proposal would enable viewing of the area directly behind the property and it is considered that this would be likely to result in loss of privacy to this occupier. It is recognised that there are trees to this boundary and those within 2 Belfairs Close are protected trees, nonetheless the plans submitted do not indicate that any trees currently within the application site would be retained and the preserved Oak Trees are deciduous. Whilst not directly relevant to this application (as the trees lie outside the control of the applicant), an application for works to lop, top or remove the tree nearest the rear of No. 2b Belfairs Close has recently been refused, however the pressure to carry out works/remove this tree remains due to the close proximity of this tree to the detached house. In the absence of details indicating tree retention and, as the garden itself is of limited depth at 16m, it is likely that there would be at least some direct overlooking of the adjoining occupier's garden area immediately behind the property.
- 4.22 It is considered that the proposal would result in material harm to the adjoining occupiers' existing amenity.

**Preserved Trees and trees within the application site**  
**Planning Policies: Borough Local Plan Policy C14**

- 4.23 There are 4 TPO trees in the garden of the neighbouring property at 2b Belfairs Close. The proposal would not result in any loss of preserved trees, nonetheless, the close proximity of the dwelling to the preserved trees may lead to pressure for their removal. The applicant has not submitted a tree report and no protection measures are proposed in relation to protecting the root protection zone(s) during construction.
- 4.24 The submitted plans show the removal of all existing trees within the rear garden area of the application site. While the trees are not the subject of a preservation order, it is considered that trees are a characteristic of the area, in particular due to the length of the gardens to Lime Avenue properties. The loss of the trees would be

unacceptable and contrary to BLP Policy.

### **Other matters**

- 4.25 There was no specific evidence of a badger sett observed at the site visit. While foraging areas are also protected, the proposal to provide one house is not considered to be likely to result in any significant loss of foraging area which would harm any local badger population.

## **5.0 Conclusion**

- 5.1 The redevelopment of an existing rear garden for residential development of a three-storey house is considered to be unacceptable in principle, contrary to Government Guidance in the NPPF. Due to its set-back location, the impact on visual amenity in the streetscene is acceptable. However, the location, scale, design and appearance of the development and its siting in a backland location would run contrary to the urban grain and pattern of development in the area. It is also considered that, as there are other similar sized garden areas to Lime Avenue, that the proposal would set a precedent for other similar unacceptable development. The proposed parking and highway arrangements would also be somewhat contrived. In addition it is considered that the amenities of neighbouring properties would be adversely affected by the development. Therefore the development is considered to be contrary to Development Plan Policy.

## **6. Planning Policy Summary**

- 6.1 National Planning Policy Framework: Achieving sustainable development, Policies: 1.Building a strong, competitive economy; 4.Promoting sustainable transport; 7.Requiring good design; 8. Promoting healthy communities
- 6.2 Development Plan Document 1: Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP8 (Dwelling provision)
- 6.3 BLP Policies; Borough Local Plan Policies C11 (New Buildings, Extensions and Alterations), C14 (Trees, Planted Areas and Landscaping), H5 (Residential Design and Layout Considerations), H10 (Backland Development), T1 (Priorities), T8 (Traffic Management and Highway Safety), T11 (Parking Standards), T12 (Servicing Facilities); T13 (Cycling and Walking).
- 6.4 SPD1 Design and Townscape Guide
- 6.5 EPOA Vehicle Parking Standards
- 6.6 Revised Proposed Submission Development Management DPD: DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), D8 (Residential Standards)

## **7.0 Representation Summary**

### **Design and Regeneration**

- 7.1 The proposal is to build a 2.5 storey house on the rear garden of 30 Lime Avenue. In terms of the principle of the development, although this is a long rear garden the proposed development would be out of character with the grain of the area and if allowed could set a precedent for other properties in the area to do the same. Although this proposal would not be prominent in the streetscene it would appear as an anomaly in the landscape, especially when seen from the surrounding houses.

In terms of design detail there is a concern that the front elevation is top heavy and unbalanced particularly in terms of the fenestration design and its inconsistency in proportion and poor interrelationship and this has not resulted in a well designed elevation. It is also considered that the single storey element does not integrate well to the overall design. To the sides the lack of articulation highlights the bulk of the proposal. To the rear the elevation is better resolved.

No information has been provided for the landscaping to the front and this would need to be conditioned in any approval. This area will be dominated to some extent by the proposed garages and would need to be mitigated with good landscaping. The garages themselves are rather traditional in their detailing and roof form and this seems to conflict with the modern style of the proposal.

The proposed amenity area seems reasonable although it should be noted that the oak tree on the other side of the rear boundary is protected by a TPO and therefore would require root protection measures if the application were approved.

#### Sustainability

If approved this proposal would be required to provide 10% renewables.

#### Mistake on the plan

3 windows are shown on the first floor plan, but only 1 on the elevation.

### Environmental Health

- 7.2 No comments received

#### Parks

- 7.3 No comments received

### Highways and Transport

- 7.4 The site is access via a narrow access way which is approximately 2.4m wide. It is considered that the width is sufficient to serve one dwelling. The access way is approximately 55m in length which would be out of current refuse collection guidance therefore alternative arrangements would need to be made on the day of collection. Emergency services may well have an objection as the access way is not sufficient to allow an emergency vehicle to access.

Given the above there are no highway objections to this proposal.

### Leigh-on-Sea Council

- 7.5 The Town Council object on the following grounds:

- Erect dwelling and garages on land to rear of existing property
- This three storey structure would be back-land development and over development. It would overlook the adjacent properties and their private amenity space.
- Accessing and leaving the property would be problematic and also produce parking issues.

## **Public Consultation**

7.6 10 Neighbours were consulted, a site notice displayed and press notice published. 7 letters were received raising the following objections

- Surrounding properties are only two storey and new occupiers would be able to look down onto existing properties
- The plot size is too small/overdevelopment
- Trees, possibly preserved, could be lost
- Too large
- Out of place in the area
- Would set a dangerous precedent for other gardens
- The garden is generous in its length but not in width, providing a three-storey house and garages seems optimistic
- The house would be located in a rear garden/backland location
- The house would be out of keeping with the scale of the surrounding area
- The dwelling will be very visible to surrounding residents impeding privacy and restricting enjoyment of their rear gardens
- The proposed parking is insufficient for the size of property proposed which would result in further parking stress on Lime Avenue, caused in part by the many Church-based activities nearby
- The supporting statement suggests that the proposed house could be extended in future to provide additional space for disabled users and this could result in an annexe or conversion of the house into flats which would be unacceptable
- Lime Avenue is low density with uniform openness and the proposal would not fit in
- The proposed garages would open east onto the front elevation of the new property; this would result in the existing occupier driving/manoeuvring right in front of the new occupier's front door
- The proposed access drive would be a maximum 7 ft/2.4m wide which is too narrow for delivery vehicles
- The proposed property is not 3-storey but two-storey with a third floor in the roof space
- As a result of the development at Belfairs Close, several trees have been removed and there is little screening to this boundary
- The plot size is relatively small compared with others in the locality
- Possibility of a badger sett nearby
- The applicant may be submitting for a three-storey house in the hope that if refused, a two-storey one would then be acceptable

## **8 Relevant Planning History**

8.1 None

**9 Recommendation:**

**REFUSE PLANNING PERMISSION for the following reasons:**

**01 The proposed development of an existing rear garden to No. 30 Lime Avenue resulting in “tandem” backland development would be unacceptable in principle contrary to the National Planning Policy Framework (NPPF) and Policies KP1, K2, CP4 and CP8 of the Core Strategy and BLP policies C11, H5 and H10 and guidance contained in the Design and Townscape Guide SPD1**

**02 The development would, by reason of its siting in a rear garden, scale, height, closeness to flank boundaries and form, result in an obtrusive and overly dominant building which is visually intrusive and out of character with the existing form of development in the locality contrary to Policies K2, CP4 of the Core Strategy and BLP policies C11, H5 and H10 and the Design and Townscape Guide SPD1**

**03 The development would, by reason of its siting, size and location of fenestration and balconies (including Juliette-style), result in overlooking and loss of privacy to adjoining occupiers contrary to Policy CP4 of the Core Strategy and BLP Policies C11 and H10**

**04 The applicant has failed to demonstrate that the development can be carried out without causing either damage to both preserved and other trees which contribute to the character of the locality or without leading to pressure for their future removal, contrary to Policy C14 of the Borough Local Plan**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.**



## APPENDIX 2



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# Appeal Decision

Site visit made on 15 May 2015

**by J A B Gresty MA MRICS**

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

Decision date: 19 June 2015

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**Appeal Ref: APP/D1590/W/15/3003827**

**30 Lime Avenue, Leigh-on-Sea, Essex SS9 3PA**

- 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 Brian Bishop against the decision of Southend-on-Sea Borough Council.
  - The application Ref 14/01237/FUL, dated 28 July 2014, was refused by notice dated 7 October 2014.
  - The development proposed is a single new dwelling to the rear of 30 Lime Avenue with two new garages.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. There are two main issues in this case. Firstly is the effect of the proposed development on the character and appearance of the local area and, secondly, is the effect of the proposed development on the living conditions of the occupiers of nearby dwellings with regard to loss of privacy.

### Reasons

#### *Character & Appearance*

3. The appeal property is chalet bungalow with a long and relatively narrow back garden. The surrounding area is predominantly residential and, whilst the neighbouring property at No 32 has a small block of garages behind it, this part of Lime Avenue is characterised by dwellings, set back from the road behind front gardens and driveways and with substantial back gardens of similar depth to that of the appeal property. The back gardens of the properties on this part of Lime Avenue combine to form a leafy gardenscape, with many mature and semi-mature trees, which is a prominent and attractive characteristic of the local area.
  4. The appeal proposal includes construction of a detached, three-storey house on land towards the end of the appeal property's back garden. It is inevitable that development would require removal of a significant amount of the greenery in the appeal property's garden, including well established trees and shrubs. Also, to create the proposed access drive it would appear that the boundary hedge between the appeal property and No 26 would require either removal or
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considerable reduction in width along all or part of the driveway. Following construction of the new house, it is likely that there would be a need to reduce the size of some of the trees in the neighbouring gardens to avoid encroachment onto the space of the new house. Whilst these trees and shrubs are not protected, their removal or extensive reduction in size would result in a significant reduction in the leafy character and appearance of the appeal site and potentially that of the adjoining properties, contrary to the general thrust of Policy C14 of the Southend-on-Sea Local Borough Plan (LP). Whilst some replacement landscaping could be secured by way of condition, overall the loss of greenery would be harmful to the distinctive character and appearance of the local gardenscape and it would open up the new house to wide view from other residential properties in the local area.

5. Because of its height, depth and bulk the new house would stand out very prominently in an area of garden land where there are no other substantial, two or three-storey buildings. Consequently, the house would appear as an isolated, unduly prominent and incongruous feature that would be harmful to the character and appearance of the local area. In these respects the development would fail to comply with Policy K2 of the Southend-on-Sea Local Development Framework Core Strategy (CS) which requires new development to respect the character and scale of the existing neighbourhood. Nor would the development comply with LP Policy C11 which requires new development to have a satisfactory relationship with its surroundings. Further, the development would fail to maintain the general amenity and appeal of the local residential area, contrary to the thrust of CS Policies CP4 and CP8 and LP Policies H5 and H10.

#### *Living Conditions*

6. There would be direct views from the first and second floors of the new house of the back garden and first floor windows of the house to the rear of the appeal plot at Belfairs Close. This would result in a significant loss of privacy for the occupiers of that house, especially in winter when the deciduous trees are bare, contrary to the requirements of CS Policy CP4.
7. There would be oblique views into the back gardens of the neighbouring properties at Nos 26 and 32 Lime Avenue and 3 Belfairs Close. Although the use of obscure glass in some windows and balustrading could reduce the amount of overlooking of these properties, it would not overcome it altogether. Whilst these properties have good sized gardens and the new house would be some distance from the most intensively used areas close to the respective dwellings, the resulting loss of privacy would not enhance the living conditions of the occupiers of those properties. This does not weigh in favour of the proposed development.

#### **Other Matters**

8. Concern has been expressed regarding the space available for construction of the proposed vehicular access. Access would be taken through the site of the existing single garage situated to the side of the chalet bungalow. The width available is about 2.4 metres at ground level. The space available at about ground floor ceiling height of the bungalow would appear to be less as the eaves of the bungalow project into this space. Consequently, the proposed access would be insufficiently wide for most emergency and refuse/servicing

Appeal Decision APP/D1590/W/15/3003827

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- vehicles to access the site. Whilst the Council considers that the issue of fire could be controlled with sprinklers in the new house, it is unclear whether other emergency vehicles such as ambulances or even larger domestic vehicles could access the development. Although not in the Council's reasons for refusal, the restricted nature of the proposed access does not weigh in favour of the development.
9. The proposed development would result in loss of the bungalow's garage. The appellant has the use of one of the lock-up garages situated to the rear of No 32 and this would be made available to the occupiers of the bungalow. However, the garage is some distance away from the bungalow and would not provide particularly convenient vehicle storage and parking for the occupiers of the bungalow. Further, it would be difficult to ensure that the garage remains available for use by the occupiers of the bungalow, in which case the bungalow could be left without off road car parking. Again, the issue of garaging for the occupiers of the bungalow was not one of the Council's reasons for refusal but it does not weigh in favour of the proposed development.
10. The appellant refers to the construction of three new houses at Belfairs Close. However, these houses were built following planning permission granted in 2009 under former Government guidance and before the publication of the National Planning Policy Framework (the Framework). Whilst Belfairs Close contributes to the current character and appearance of the local area, each case must be considered on its own merits and the new houses add little weight in favour of the proposed development.

### **Conclusion**

11. At the heart of the Framework is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. In this case the proposed development would detract considerably from the character and appearance of the local area and would result in significant loss of privacy for the occupiers of some of the neighbouring properties. Further, the backland development would fail to respect the prevailing pattern of development on Lime Avenue contrary to the thrust of part 5.2 of the Southend-on-Sea Supplementary Planning Document 1 Design and Townscape Guide 2009. Therefore, whilst the development would contribute to relieving an identified shortfall in family housing in the area, the appeal scheme would not represent sustainable development as sought by the Framework. Consequently, for the above reasons, I conclude that the appeal should be dismissed.

*J A B Gresty*

INSPECTOR