
Appeal Decision

Site visit made on 22 November 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/V1505/W/16/3154321

Land to the east of 24 St Teresa's Close, Basildon, Essex SS14 1SW

- 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 Aedis Homes Ltd against the decision of Basildon District Council.
 - The application Ref 15/01576/FULL, dated 15 December 2015, was refused by notice dated 24 May 2016.
 - The development proposed is the construction of 2 properties.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2 properties at Land to the east of 24 St Teresa's Close, Basildon, Essex SS14 1SW in accordance with the terms of the application, Ref 15/01576/FULL, dated 15 December 2015, subject to the conditions on the attached Schedule A.

Application for costs

2. An application for costs was made by Aedis Homes Ltd against Basildon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. During the consideration of the planning application, the Council accepted amended plans showing changes to the flank of the dwelling on plot 1 and addition of a car port. The appeal has been considered on this basis.

Main Issues

4. The main issues are the effects of the proposal on (a) the character and appearance of the area and (b) the safety and convenience of highway users in St Teresa's Close, having regard to parking and additional traffic movements and (c) open space provision.

Reasons

Character and appearance

5. The appeal site comprises an area of open space at the end of St Teresa's Close, a residential cul-de-sac. Directly to the north of the site, there are detached and semi-detached dwellings which front onto the highway, including a private drive. Between the private drive and the appeal site, there is a garage and a parking area. To the west of the site, there is a parking/turning
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area beyond which there is the side wall of a terraced dwelling on the cul-de-sac. Immediately to the south of the appeal site, there are the grounds of a church whilst to the east, there is a dual carriageway beyond some landscaping.

6. The pair of proposed semi-detached dwellings would be located in the eastern part of the site and their frontage elevations would face neighbouring dwellings to the north in St Teresa's Close. On these elevations, there would be a projecting first floor above a ground floor bay window and the two storey flank elevation of the plot 1 dwelling would face some retained open space. The dwellings would be separated from the northern boundary of the site by a carport and area of hard surfacing for car parking, and from the dwellings opposite on St Teresa's Close by a further intervening area comprising garaging, car parking, a driveway and the frontage garden of these neighbouring properties.
7. The flank elevation of the plot 1 dwelling would be separated from the west boundary of the site by an area of retained open space and from the side wall of the nearest dwelling by a further area of car parking and driveway. The two storey flank would adjoin the retained open space but this would not be a significant depth compared to that of the overall open space. There are windows within the elevation to provide visual relief and there would be landscaping within the open space to avoid any excessive dominance in the street scene. Overall, the size of the dwellings would also be similar to those in St Teresa's Close and would replicate their detailed design. By reason of their siting, the dwellings would also be set back significantly from the boundaries of site adjacent to St Teresa's Close.
8. There are two willow trees on the site protected by a tree preservation order. However, one of these trees is showing signs of decay and is leaning, and willow species are short lived compared to most other trees. The proposal would incorporate additional landscaping including species within the retained open space. Overall the loss of the two trees would be acceptable on this basis. Currently, the space has some landscaping providing some visual interest to the area but the proposal would retain a modest proportion of this which, with the implementation of a new planting scheme, could be attractively landscaped.
9. In conclusion, the development would not harm the character and appearance of the area for all these reasons. Accordingly, the proposal would comply with policies BAS R1, BAS BE12 and DC1 of the LP, which states that new development should not cause significant harm to recreational or amenity value of open space, should respect or enhance the existing character of the area in terms of the layout, massing, height, general design and materials, and should aim to retain existing trees and hedgerows.

Highways

10. Dwellings on St Teresa's Close have garaging and frontage hard surfaced areas for parking. The carriageway is wide enough for some on-street parking on the highway beyond entrances into individual dwellings and road junctions.
11. There would be two car parking spaces per dwelling provided in the form of carports and designated hard surfaced areas. This provision would accord with ECC/Essex Planning Officers Association (EPOA) vehicle parking standards.

There is no additional requirement for visitor parking in this instance. If additional car parking for visitors was required, there would be some scope to park on the access drive for one of the dwellings. Nevertheless if visitor parking was required elsewhere on-street, this would be likely to be occasional. For this reason, even taking into account any greater need for on-street parking in evenings and weekends, I am not persuaded that this would pose an acute problem in terms of inconsiderate parking. In this regard, there is no detailed evidence such as a survey to indicate this would occur and result in significant inconvenience or danger in highway safety terms.

12. Notwithstanding the lack of need for on-street parking, St Teresa's Close is a cul-de-sac where traffic speeds would be low and inevitably there will be traffic slowing down to access properties or park on-street. For these reasons, even with additional traffic associated with two dwellings, any additional hindrance to other drivers, additional disturbance and effect on the free flow of traffic would be negligible. Consequently, there would be no harm on these grounds.
13. In conclusion, there would no harm to highway safety or convenience of highway users. In this regard, the National Planning Policy Framework advises development should only be prevented or refused on transport grounds where the cumulative impacts are severe. Furthermore, I note that the Highway Authority has not raised any objections to the proposal.

Public Open Space

14. The site is designated as an existing open space on the Proposals Map which accompanies the LP. As part of the original planning permission for the estate, there was a planning requirement for the open space to be laid out as open space, with free unhindered access to the public at all times. However, no requirement has been brought to my attention that ensures the management of it, and it is currently in private control and poorly maintained.
15. The proposal would ensure that some open space is retained with landscaping, including trees. On this basis, the proposal would not cause significant harm to the recreational or amenity value of the open space or affect the contribution which the open space makes to the character of the area within which it is located. Accordingly, the proposal would comply with LP Policy BAS 1. In not highlighting any conflict with this policy, such a view accords with that of the Council.
16. There is a nearby public open space at Luncies Road and the Council has confirmed that Basildon has sufficient open space to meet its needs. Nevertheless, the Council has sought a contribution from the Appellant towards improvements at Luncies Road Open Space. Written Ministerial Statement of 28 November 2014 indicates that tariff-style contributions should not be sought in connection with developments of 10 residential units or less, such as this. Notwithstanding this, the need for such a contribution has not been justified given the Council's previous acknowledgement that open space needs have been met. Accordingly, any contribution is not necessary based on the evidence before me and would not meet the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
17. In summary, the loss of the open space is acceptable and a contribution towards open space improvements is not justified.

Other matters

18. There has been a long planning history on this site, involving planning refusals and a planning permission for a single dwelling on the site. More recently, there has been a refusal of a scheme for two dwellings on the site. However, the appeal proposal has been considered on its own particular planning merits.

Conditions

19. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance; for clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.
20. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of certainty. In the interests of safeguarding the character and appearance of the area, conditions controlling external materials, hard and soft landscaping, and boundary treatments are necessary. A condition has been imposed to secure adequate car parking.
21. In the interests of highway safety, conditions have been imposed to secure adequate access, the prevention of mud and/or debris on the road and the details of material loading and storage. A restriction on construction hours has been imposed in the interests of the living conditions of residents. Withdrawal of certain permitted development rights has not been imposed because exceptional circumstances have not been detailed or proven.

Conclusion

22. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A of attached conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2643/10 and 2643/11.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings and carport hereby permitted have been submitted and approved in writing by the local planning authority. Development thereafter shall be carried out in accordance with the approved details.
4. No dwelling shall be occupied until vehicle parking space has been laid out within the site in accordance with drawing no. 2643/10. Thereafter these spaces shall not be used for any purpose other than the parking and turning of vehicles in connection with the approved development.
5. Prior to the occupation of the development, the vehicular access shall be constructed at right angles to the existing carriageway, as shown on the drawing no. 2643/10. The width of the access at its junction with the highway shall not be less than 3 metres.
6. Details of the construction, drainage and finish of the proposed driveway, parking spaces, footpaths and other non-adopted hard surfaced areas shall be submitted to and approved in writing by the local planning authority, prior to the commencement of the development. There shall be no discharge of surface water onto the highway, and no unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary. The development shall be carried out in accordance with the approved details.
7. Prior to the commencement of the development hereby approved, details of the design, height and materials of all boundary treatments shall be submitted to and approved in writing by the local planning authority. No gate, fence, wall or other means of enclosure shall be erected on or around the open space area, as shown on the drawing no. 2643/10, other than the rear boundary fence/wall shown on this plan for plot 1. The approved boundary treatments shall be implemented prior to the first occupation of the development and retained as such thereafter.
8. The area shown as being retained as open space on drawing no 2643/10 shall be laid out as open space, with free unhindered access to the public at all times. Before the development hereby permitted commences a scheme of landscaping of this amenity area shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of existing trees and hedgerows on the land, and details of any to be planted, together with measures for their protection in the course of development. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, or completion of the development, whichever is sooner. Any trees or plants, which within a period of 5 years from the completion of development die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species.

9. Prior to the commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials shall be identified clear of the highway.
10. Prior to the commencement of the development measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with construction of the proposal. The approved details shall be fully implemented for the duration of the construction period.
11. Demolition or construction works shall take place only between 0800 to 1800 hours Monday to Friday and 0800 to 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.