
Appeal Decision

Site visit made on 13 December 2016

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 11th January 2017

Appeal Ref: APP/B1550/W/16/3157757

77 Louis Drive, Rayleigh, Essex SS6 9DY

- 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 T & M Withrington against the decision of Rochford District Council.
 - The application Ref 16/00030/FUL, dated 14 January 2016, was refused by notice dated 25 May 2016.
 - The development proposed is demolition of existing chalet bungalow and build four new 3-bed detached bungalows.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of future occupiers with particular regard to daylight; and,
 - whether the development would comply with local and national policies with regard to the existing trees on the site.

Reasons

Character and appearance of the area

3. The appeal site is an L-shaped plot, currently containing a large chalet bungalow. The plot is located mid-way along Louis Drive, which is largely characterised by chalet bungalows or single storey dwellings, many of which have had additional accommodation added in the roofspace. Plots on this side of the road are generous, and there is a grass verge between the appeal site's frontage and the road which contributes to a spacious character. Some 70-80 metres to the east there is a backland development of four dwellings (Louis Close).
 4. The development would comprise the demolition of the existing bungalow and its replacement with two bungalows on either side of a new access road, and two further bungalows to the rear. The evidence before me indicates that the
-

resultant plots on the frontage (Plots 1 and 2) would be narrower than most of the neighbouring plots.

5. Policy H1 of the Core Strategy¹ (CS) states that in order to protect the character of existing settlements the Council will resist the intensification of smaller sites within residential areas. Although limited infill will be considered acceptable, it will have to relate well to the street pattern, density and character of the locality. The SPD² for housing design states that for infill development, plots should ordinarily be a minimum 9.25 metres wide, and that there should be a minimum distance of 1 metre between habitable rooms and the plot boundary.
6. In this instance, the plot width of the two frontage dwellings (Plots 1 and 2) would comply with the SPD guidelines and although lateral separation distances for the underlying building pattern are generally slightly more than those proposed, the difference would not be significant. As such, the narrow plot widths of Plots 1 and 2 would not be detrimental to the street scene.
7. However, Plots 1 and 2 would be separated by an access road and their respective side boundary treatments would be 1 metre from their flank walls, with a similarly narrow strip of land available for landscaping directly alongside the carriageway. As such, I concur with the Council that the combination of the narrow plots of Plots 1 and 2 with the limited width of the access road and lack of footway or significant verges, would appear cramped. I appreciate that the highways authority has not objected to the proposed arrangement, but their interest is the safe and efficient operation of the highway rather than the impact of a development on the character and appearance of the area.
8. In addition, the dwellings to the rear (Plots 3 and 4) would be perpendicular to the building line on both Louis Drive and Goldhanger Close, and as such would be unrelated to the local building pattern. They would be on narrow plots with limited lateral separation and it appears that the north facing bedroom of Plot 3 would be less than 1 metre from the adjacent plot boundary. In addition, the garage of Plot 4 would be built almost on the boundary line of the rear garden to 1 Goldhanger Close.
9. The appellant argues that the backland development at Louis Close sets a precedent for development of this type and density, and I acknowledge that these dwellings are also perpendicular to the underlying building line on Louis Drive. However, the evidence before me indicates that these are some 20 years old and were approved in a different planning context. They are also some distance from the appeal site. As such, they are not directly comparable and in any case every appeal is determined on its merits. The appellant also argues that the development to the south of the appeal site is rather more irregular, and I agree that the street pattern is less rectilinear. However, Plots 3 and 4 would be unrelated to the building lines of either Louis Drive or Goldhanger Close. In addition, as noted above, they would represent a localised increase in density which is also contrary to the Council's current policy.

¹ Rochford District Council, Core Strategy 2011

² Rochford District Council, Housing Design, January 2007

10. Plot 3 would also extend for about 3 metres along the rear garden boundary of 75a Louis Drive (No 75a). The appellant argues that the dwelling on Plot 3 would have no more impact than an outbuilding located in a similar position. However, the ridgeline of Plot 3 would be some 6 metres high and its flank wall would be less than 1 metre from the common boundary. In addition, the full length of the dwelling, at some 12.5 metres, would be wholly visible from No 75a's rear garden, which is also significantly shorter than those of its neighbours. Consequently, although there would not be overshadowing, Plot 3 would be very prominent in views from No 75a and would appear to significantly enclose its garden. Having reviewed the evidence I conclude that such an arrangement is out of character with the locality and I disagree with the appellant in this respect.
11. It is accepted by the appellant that the rear amenity area of Plot 3 falls short of the 100 sqm required by the SPD for a three bedroomed house. Whilst I accept that it would be a usable shape, a large proportion of it would be shaded by a large eucalyptus tree in the garden of 75 Louis Drive (No 75) and this would potentially reduce its amenity value to the future occupiers of Plot 3. As such, I see no reason to disagree with the Council that the amenity space proposed for Plot 3 would fail to comply with the SPD guidelines.
12. Moreover, the development as a whole does not demonstrate provision for meaningful landscape treatments. The block layout plan shows that there would be few opportunities to provide tree or shrub planting as vehicular access, turning areas and access paths would take up most of the space to the front of the dwellings and along the access road. The rear gardens are also limited in size.
13. Consequently, I conclude that the development would appear as a localised increase in density and represent an intensification of development. Furthermore it would not relate well to the surrounding street pattern or character of the locality, or provide adequate opportunities for landscape treatment or amenity space.
14. In the light of the above, the development would fail to comply with Policy DM1 (iii, ix, x) of the Local Plan³ (LP) which requires development to provide adequate boundary treatment and landscaping within the development, and create a positive relationship with existing and nearby buildings, and promote visual amenity. It would also fail to comply with LP Policy DM 3 (i, ii, iv, viii) which states that infill or backland development should consider the development in relation to the existing street pattern and density, the adequate provision of amenity space, its impact on residential amenity and consider whether the number and type of dwellings are appropriate to the locality. The development would also be contrary to the provisions of CS Policy H1 and the SPD, as outlined above.
15. Paragraph 53 of the National Planning Policy Framework (the Framework) states that planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, and Paragraphs 56, 58 and 64 of the Framework, taken together, require development to development to respect local character. Consequently the

³ Rochford District Council, Development Management Plan, adopted December 2014

development would also fail to comply with these general design aims of the Framework and its concerns in relation to the development of garden areas.

Living conditions

16. The Council has suggested that the elongated form of the proposed dwellings would restrict daylight ingress into habitable rooms and the SPD states that there should be a minimum of 1 metre between windows in habitable and boundary treatments. The evidence before me indicates that the bedroom window on the northern boundary of Plot 3 would fail to meet this guideline. This would be to the detriment of the living conditions of future occupiers of that room, particularly as it is north-facing and the boundary would need to be some 1.8 metres high to provide privacy. It also reflects my underlying concern that the proposed layout is cramped and represents overdevelopment.
17. The appellant has drawn attention to other successful planning applications⁴ where there are similar distances between boundaries and windows and I concur that the elongated form of the proposed dwellings is not unusual in the area. However, separation distances of 1 metre are noted on the layout plans in those instances and as such they conform to the SPD. Moreover, these developments have significant rear gardens which would not be the case in this instance where the plots are of limited size, which is a further indication of overdevelopment.
18. In the light of the above I conclude that the development would be contrary to LP Policy DM3 (iv) which requires infill development to assess impact on residential amenity.

Trees

19. The appeal site contains a number of mature shrubs and trees, located primarily on the rear garden boundary. The appellant argues that there are no trees of landscape character that would be affected by the development. However, I noted on my visit that the conifers on the rear boundary are localised visual features which contribute to the verdant nature of the rear gardens and prevent some overlooking between gardens. Furthermore, the arboricultural report⁵ indicates that these are conifers⁶ up to 12 metres high, in early maturity and with a further life expectancy of 20 + years. As such, I conclude that they do make some contribution to character of this backland area.
20. Whilst the loss of the garden trees alone would be insufficient to warrant dismissal of the development, their loss combined with the very limited potential to provide replacements, also reflects my concern that the proposals represent overdevelopment. Consequently, whilst I agree that the impact of the development on the eucalyptus tree in the garden of No 75 could be dealt with by condition, I disagree that a condition would be sufficient to ensure replacement trees were provided, were the appeal to be allowed.

⁴ 15/00441/FUL & 14/00595/FUL

⁵ Andrew Day, July 2016

⁶ Groups G2 and G3

21. There is also a young street tree in the road verge, but in this instance I agree with the appellant that this could be relocated or replaced, were the appeal to be allowed.
22. I appreciate that the garden trees are not of conservation value or significant in the wider landscape. Nonetheless, they do have a localised value for residents. In the light of the above, the development would fail to comply with (LP) Policy DM25 which requires development to consider the impact of the loss of trees on landscape character, and their replacement. It would also, although to a lesser extent, be contrary to LP Policy DM1 (iv) which requires the retention of trees and other important landscape features.

Other matters

23. Interested parties have raised concerns including flooding, the accuracy of the plans, privacy, sunlight and noise and disturbance. However, as I have found harm in relation to the main issues it is not necessary for me to consider these further concerns.

Conclusion

24. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and Core Strategy and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR