



Appeal Decision

Site visit made on 11 June 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 July 2019

Appeal Ref: APP/B1550/W/19/3224438

Land to the rear of No 289 Ferry Road, Ferry Road, Hullbridge SS5 6NA

- 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 CJD Artillery Lane Ltd against the decision of Rochford District Council.
 - The application Ref 18/00418/FUL, dated 27 April 2018, was refused by notice dated 26 September 2018.
 - The development proposed is described as 'the demolition of an existing detached outbuilding and the erection of a single storey two bedroom dwelling (resubmission following the refusal of application 17/00228/FUL)'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The plot at No 289 originally accommodated a single dwellinghouse with a detached single storey outbuilding to its rear. However, the Council has recently granted permission to demolish this dwellinghouse and construct a block of 12 flats¹. This development has been implemented and is nearing completion. On the evidence before me, all of the flats are now sold and a significant proportion are occupied.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions at the flatted development at No 289, with particular regard to external amenity space; and
 - whether satisfactory living conditions would be provided for future occupiers of the proposed development, with particular regard to privacy and outlook.

Reasons

Character and Appearance

4. The section of Ferry Road in which the appeal site is located is characterised by a range of residential buildings set in generous plots. These include flatted developments and detached and semi-detached dwellings which vary in terms of scale and architectural style. I saw on site that these buildings were set back

¹ 17/00228/FUL

from the carriageway behind considerable front gardens or parking areas, with large open gardens to the rear. Not only does this common layout give the area a distinctly spacious feel, but it also gives the spatial pattern of built form along this section of Ferry Road a sense of rhythm and uniformity.

5. The appeal site itself is to the rear of the new flats at No 289. This is a large, two and a half storey development with most of the parking laid out to the front. There are, however, four parking spaces to the rear of the flats, adjacent to a communal garden area. From the evidence before me, the appeal site comprises land which was meant to form part of this communal garden. It also accommodates a partly demolished outbuilding associated with the former dwellinghouse at the plot. Furthermore, a 'finger' of the site extends into the very end of the adjacent plot at No 283 Ferry Road, which is a two storey residential development.
6. This proposal follows the refusal of a similar scheme² and seeks permission to demolish the existing outbuilding at the appeal site and construct a new single storey bungalow. Although I observed that the appeal site is currently separated from the flatted development at No 289 by a close boarded fence, this would formally sub-divide the single plot. I also note that an application³ has now been refused to vary the permission for the flatted development to allow for the erection of this bungalow.
7. It does not appear that there is a planning requirement to remove the existing outbuilding and I appreciate that the width and height of the proposed bungalow has been reduced compared to the recently refused scheme. Nonetheless, it would be bulkier than the outbuilding and its footprint would occupy a significant proportion of the appeal site. A dwelling of this size and mass would therefore erode the sense of openness to the rear of the flatted development. Moreover, the proposal would be sited at a right angle to the flats, close to its flank boundaries and to part of its rear boundary. It would also have a narrow and relatively short rear garden. This proposed layout would be markedly different to that of any nearby plot along this part of Ferry Road. Consequently, the proposal would also be out of character with the surrounding rhythm and pattern of development.
8. In addition to the above, the proposal would also appear to alter the original planned layout for the flats at No 289. Three of the four parking spaces to the rear of this development would be incorporated into rows of parking spaces to the front. This higher density parking layout would remove space for soft landscaping shown in-between parking spaces on original plans. Furthermore, from the evidence before me, both the cycle store and bin store would be positioned towards the site entrance. Not only would these features appear prominent within the streetscene, but they would again remove areas allocated for soft landscaping on the original plans. Consequently, I find that the proposal would result in a harsher appearance for the flatted development that would be clearly perceptible from the public domain. This reinforces the proposal's harmful overall impact on the character and appearance of the area.
9. I appreciate that the Rochford District Council Supplementary Planning Document 2 Housing Design (SPD) states that bungalows may be acceptable in some backland situations. Furthermore, this document does not specifically

² 17/01176/FUL

³ 18/00439/FUL

restrict backland developments to the rear of flats. However, taking everything together, not only would the proposal have a harmful impact on the original layout of the flats at No 289, but it would also fail to integrate effectively with the spatial pattern of surrounding built form. Whilst the proposed dwelling would not be conspicuous within Ferry Road, its bulk, mass and overall incongruity would be apparent from the rear of the flatted units at No 289, as well as from the rear gardens of several other nearby properties.

10. Notwithstanding the above, in common with the flats at No 289, I am satisfied that the individual design of the proposed bungalow would be of a high quality and would incorporate suitable materials. However, such a design would not address the fundamental problem associated with its size and siting. Planting could help screen the proposal. However, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable. Consequently, conditions specifying materials and requiring such planting would not mitigate the harm I have identified.
11. Since the application was determined by the Council the appellant has been given the option to buy additional land to the rear of No 283. This could increase the size of the proposal's rear garden. However, this land does not appear to have been purchased and is not within the appeal site. It would therefore not be reasonable to secure this conditionally with regards to the tests at paragraph 55 of the National Planning Policy Framework (the Framework). In any event, this would not mitigate the above mentioned harm.
12. I note that the Council has granted permission for backland developments at Southend Road⁴, Rawreth Lane⁵ and Plumberow Avenue⁶. However, these are not in the same area as the appeal site. In my view, they do not justify a development that would fail to add to the quality of the area when assessed upon its own individual planning merits.
13. For the reasons given, I conclude that the proposal would result in harm to the character and appearance of the area. It would therefore conflict with Policies DM1 and DM3 of the Rochford District Council Local Development Framework Development Management Plan (DMP) and Policy CP1 of the Rochford District Council Local Development Framework Core Strategy Adopted Version (CS). Amongst other things, these seek to ensure that developments for backland development positively address the existing street pattern and that all developments are of a high quality, promote the character of the locality and contribute positively to the surrounding built environment.
14. Turning to the Framework, this states that windfall developments, in the right location, can make a contribution to meeting the housing requirement of an area by making efficient use of land. However, this should not be at the expense of achieving high quality development which is sympathetic to local character and adds to the quality of the area. I have found that the proposal would not achieve this. There is therefore conflict with the design objectives of the Framework.

⁴ 16/01014/FUL

⁵ 16/01204/FUL

⁶ 17/00642/FUL

Living Conditions – Flatted Development

15. In terms of external amenity space, the SPD states that new flats should have a minimum balcony area of 5sq.m, with ground floor flats having a patio garden of 50sq.m. Alternatively, they should provide a useable communal garden area calculated on the basis of 25sq.m per flat. However, the SPD also states that external amenity space for flats may be delivered through a combination of the above mentioned methods.
16. To accord with the requirements of the SPD, in the absence of any other form of external amenity space, the flats at No 289 should have a communal garden of 300sq.m. The proposal would reduce the size of the communal garden shown on original plans for the flats. From the evidence before me, the resultant garden would be between 246sq.m and 310sq.m.
17. I observed on site that the ground floor flats at No 289 have reasonably sized private garden areas. In addition, several first floor flats have balconies which, on the plans before me, range from 2sq.m to 7sq.m in size. Taking this into account, even if the proposal reduced the communal garden to 246sq.m, in my view sufficient external amenity space would still be provided in a variety of forms throughout the flatted development. I am therefore satisfied that the proposal is in line with the identified requirements of the SPD.
18. For the above reasons, I conclude that the proposal would not adversely affect the living conditions of the occupants of the flatted development at No 289 in terms of external amenity space. It would therefore accord with Policies DM1 and DM3 of the DMP. When read together, these seek to ensure that developments have a positive relationship with existing and nearby buildings to avoid the loss of private amenity space at neighbouring dwellings.

Living Conditions – Future Occupants

19. The proposal's rear garden would be its primary amenity space. This would extend into a section of land at the very end of the garden at the adjacent No 283. In my view, on balance, there would be a sufficient distance between this garden and the built form at No 283 to ensure that there would not be significant overlooking from this adjacent development. Furthermore, there would only be oblique and relatively long distance views of this garden from the rear of the flats at No 289. Taking all of the above into account, and as the only window facing the flats at No 289 would serve a non-habitable room, I am satisfied that neither the proposed bungalow itself or its primary external amenity space would be significantly overlooked.
20. I accept that the developments at Nos 283 and 289 would be visible from the proposal's rear garden. However, given the scale of these developments and their distance from this garden, in my view they would not appear as visually dominant or oppressive features when viewed from this location.
21. For the reasons given, I conclude that the proposal would provide satisfactory living conditions for future occupants in terms of privacy and outlook. It would therefore accord with Policies DM1 and DM3 of the DMP which seek to protect residential amenity in terms of overlooking and visual amenity.

Other Considerations

22. The Framework encourages the re-use of buildings and the development of previously developed land (PDL). However, the proposal is for the construction of a new building rather than the re-use of the existing outbuilding. Furthermore, as the appeal site comprises residential gardens within a built-up area, I do not consider that it meets the definition of PDL within Annex 2 of the Framework. Consequently, it does not gain the support of the Framework in this regard. Neither does it gain the support of Policy H1 of the CS which seeks to make efficient use of land by prioritising the reuse of PDL.

Planning Balance

23. The appellant contends that the Council is unable to demonstrate a five-year supply of deliverable housing sites in the District. This is uncontested by the Council. Consequently, I have no evidence before me to show that paragraph 11 of the Framework should not be engaged. This paragraph states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This is a matter which I address below.
24. The proposal would provide a single dwelling, that may be suitable for first time buyers or the elderly, in an accessible location. However, regardless of the extent of the shortfall of housing land, its contribution to the Borough's housing needs would be minimal. Similarly, the economic benefits of the proposal would also be minimal and would primarily relate to short-term employment during the construction period. In this context, I give limited weight to these social and economic benefits.
25. I have found that the proposal would afford satisfactory living conditions for future occupants and would not harm the living conditions at the flats at No 289. I also note that the proposal would be acceptable in other respects. For example, it would not result in harm to biodiversity or designated heritage assets and the bungalow could be energy efficient. However, these are requirements of the development plan and are therefore neutral in the overall balance.
26. On the other hand, I have found that the proposal would harm the character and appearance of the area. This is a matter to which I give considerable weight.
27. Consequently, although I acknowledge letters of support from nearby neighbours, the harm that I have identified would significantly and demonstrably outweigh the limited social and economic benefits associated with the provisions of one dwelling. There are no material considerations, including the Framework, that justify a decision other than in accordance with the development plan.

Conclusion

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

M Heron

INSPECTOR