



Appeal Decision

Site visit made on 7 October 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2019

Appeal Ref: APP/B1550/W/19/3232385

Land rear of 37, 39 & 41 Down Hall Road, Rayleigh, Essex SS6 9JT

- 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 Steve Blakesley & Tony Robinson against the decision of Rochford District Council.
 - The application Ref 18/01064/FUL, dated 12 November 2018, was refused by notice dated 10 July 2019.
 - The development proposed is described as '2 number detached 3-bedroom dwellings to land at rear of properties 37, 39 & 41 Downhall Road'.
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Decision

1. The appeal is allowed, and planning permission is granted for 2 number detached 3-bedroom dwellings at land at rear of properties 37, 39 & 41 Down Hall Road Rayleigh, Essex SS6 9JT, in accordance with the terms of the application, Ref: 18/01064/FUL, dated 12 November 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The address of the appeal site is given as 41 Down Hall Road on the application form, but the description of development refers to land rear of 37, 39 & 41 Down Hall Road. I have used the latter as it is more accurate.

Main Issue

3. The main issue in this appeal is the adequacy of the proposed access.

Reasons

4. The appeal site encompasses the rearmost sections of the gardens at 37 and 39 Down Hall Road (Nos 37 and 39) and a row of garages and the associated forecourt located to the rear of 41 Down Hall Road (No 41). Access to the garages is from a driveway between 7 and 9 Cheapside East (Nos 7 and 9). The occupants of Nos 37 and 39 use the driveway to access the garages, which are currently used for storage, as a workshop and to park a small vehicle.
5. There is a parking area in the front garden of No 7 in addition to the garage to the rear of the property, which is also accessed from the driveway. Similarly, there is also space at Nos 37 and 39 for vehicle parking in the respective front gardens. Accordingly, it is unlikely that the access driveway serving the garages is intensively used given the alternative parking areas available, which are comparatively more convenient to use if accessing Nos 7, 37 and 39.

6. The existing driveway access is very narrow, being less than the width stated in Development Control Advice 15 (2nd Addition), but it is long standing and established. There is also space for vehicles to turn and exit along it in a forward gear. However, the narrowness of the driveway leaves no space for vehicles to pass if motorists meet. Thus, if a vehicle exiting the appeal site were to meet another entering, then there is the possibility that the vehicle entering the driveway would have to reverse into Cheapside East. There would also be conflict between vehicles and pedestrians if they were to meet.
7. The appeal scheme would moderately increase the intensification in the use of the driveway because it would function as the sole means of access to the two dwellings proposed. Whereas, at present, the use of the garages is currently split with the parking areas to the front of Nos 37 and 39 and No 7. Thus, the implementation of the appeal scheme would probably result in a modest increase in the likelihood of vehicles having to reverse into Cheapside East.
8. However, Cheapside East is not a busy road being a quiet cul-de-sac. I have seen nothing of substance to suggest this would change in the future with development off Raworth Lane. It is also straight, with good forward visibility. As such, a reversing manoeuvre out of the appeal site driveway, whilst undesirable, need not be inherently unsafe. This is because motorists undertaking the manoeuvre, or those within Cheapside East, would be able to see one another. Motorists entering or exiting the appeal site would also be able to see pedestrians (and children) and wait for them to negotiate the section of the driveway which is not wide enough for them to pass. Vehicle speeds in the driveway would be low given the narrowness of the access thereby allowing time to react to obstructions, even at night.
9. In fact, many of the properties in Cheapside East have parking areas in front gardens where vehicles would not be able to turn and exit in a forward gear. Accordingly, it is likely that vehicles often reverse into the road. Substantive evidence has not been advanced to suggest this has proven to be unsafe, or that motorists waiting for a vehicle to exit the appeal site would block the road for more than very short periods. Thus, the appeal site access is not inherently more unsafe than other driveways in Cheapside East. Moreover, the likelihood of vehicles meeting one another would not be high as only two dwellings are proposed and No 7 has alternative parking in the front garden. It is a point of note that the Local Highway Authority has not objected to the appeal scheme.
10. The access driveway is probably too narrow for emergency vehicles to use but there is nothing before me demonstrating emergency services could not attend the proposed dwellings from the public highway if so required. Other vehicles up to the size of an older transit van can use the access so it would be possible for deliveries to take place without damage to the walls of Nos 7 and 9. Bins can be wheeled out on collection day and otherwise stored within the site.
11. The existing garages are too small to accommodate most types of vehicles and there is limited space in front of them. However, there is nothing to suggest the garages must remain. They could be removed to create larger parking spaces. In addition, there would be space to the side of Plot A. Accordingly, there is scope to devise an appropriate parking arrangement that would meet the Council's standards. This would be secured through the imposition of a planning condition requiring such details. Thus, the parking arrangements

would not prevent a safe and convenient access to the proposed dwellings or result in an inherent need to park regularly in Cheapside East.

12. In conclusion, the appeal scheme would have an adequate access that, in the circumstances, can be considered safe and suitable. Therefore, a conflict with Policies DM1 and DM3 of the Development Management Plan 2014, which seek to secure the availability of a sufficient access and adequate car parking, would not occur. Similarly, there would be no conflict with Paragraph 105 of the National Planning Policy Framework.

Other Matters

13. The proposed dwellings would be modest in scale and located far enough away from the windows of other properties to ensure there would be no unreasonable loss of light, privacy or outlook. The provision of additional landscaping, such as replacement trees, would soften the visual effect further, particularly as dark materials could be used for the upper floors and roofs. Moreover, Plot A would not be directly at the end of the garden of No 9, thereby reducing its visual presence. Side first floor windows can be obscured to prevent unreasonable overlooking of adjacent neighbouring gardens. Substantive evidence has not been provided to demonstrate the proposal would increase the risk of localised flooding.
14. The 'back land' location of the proposal would jar with the prevailing character and layout of the area, which largely comprises frontage development. But the dwellings would not be visually prominent from public vantage points, and the plot layout would not be cramped, adhering to the Council's guidance in Supplementary Planning Document 2 – Housing Design. Therefore, the overall effect on character and appearance would not be harmful. The increased use of the driveway could result in some modest additional noise disturbance, but this would be infrequent and could be improved by changing the surface material from gravel to a bound material. Concerns relating to land ownership are civil matters and thus not determinative in the scope of this appeal. The impacts from construction would be short lived and thus acceptable.

Conditions and Conclusion

15. The appeal scheme would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.
16. In allowing the appeal it is necessary to impose conditions. In so doing I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours to ensure that the development is undertaken in accordance with the approved drawings, that a scheme of tree protection, landscaping and above ground services is provided, approved and maintained, samples of external materials are approved, and some of the windows obscured. To adhere to the development plan and parking standards, it is necessary to impose a condition requiring water efficiency standards to be met and parking details approved.

Graham Chamberlain
INSPECTOR

Schedule of Planning Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the following approved plans: Drg. Nos. D0618342 – L01 Rev. A, L02 Rev. A, L03 No revision, L04 No revision and L05 Rev. A.
3. Prior to the first installation or use, details of all external facing (including windows and doors) and roofing materials to be used in the development shall have been submitted to and approved in writing by the Local Planning Authority. Such materials as may be approved, shall be those used in the development hereby permitted.
4. Prior to occupation of the development hereby approved, details of the parking layout shall be submitted to and approved in writing by the Local Planning Authority. The parking layout shall include provision for at least two on-site parking spaces per dwelling, each with a minimum dimension of 2.9m by 5.5m. The development shall not be occupied until the approved parking spaces have been provided and thereafter, they shall be retained in perpetuity as parking spaces to serve the approved dwellings.
5. The windows to be created in the first floor northern and southern elevations shall be finished in obscure glass and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall thereafter be retained in this form.
6. The development hereby permitted, shall be carried out in accordance with the approved Arboricultural Impact Assessment and the accompanying tree protection plan prepared by Hallwood Associates submitted in support of the application. The approved scheme for the protection of the existing trees shall be implemented concurrently with the commencement of development and shall be maintained in full until the development has been completed.
7. The development shall not be occupied before plans and particulars showing precise details of the hard and soft landscaping which shall form part of the development hereby permitted, including the access driveway from the appeal site to the edge of the public highway, have been submitted to and approved in writing by the Local Planning Authority. The scheme of hard and soft landscaping shall show the existing trees, shrubs and hedgerows on the site to be retained and include the following details:
 - schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted including at least two trees (to compensate for the loss of trees arising from the development);
 - areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
 - paved or otherwise hard surfaced areas;
 - existing and finished levels;
 - means of enclosure and other boundary treatments;
 - External lighting and existing and proposed functional services above ground level;
 - Means to prevent the discharge of surface water from the development onto the highway.

8. The details approved pursuant to Condition 7 shall be implemented in their entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be approved in writing by the Local Planning Authority. Any existing or proposed tree, shrub or hedge plant details in the approved landscaping scheme that is removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same type and size and in the same location, in the first available planting season following removal.
9. The dwellings shall not be occupied until the Building Regulations Optional requirement Part G (water efficiency) has been complied and thereafter the water efficiency measures shall be permanently retained.