
Appeal Decision

Site visit made on 12 November 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2019

Appeal Ref: APP/C1570/W/19/3236005

**Land rear of Swallow Cottage, Radwinter Road, Ashdon, Saffron Walden
CB10 2ET**

- 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 Sleven against the decision of Uttlesford District Council.
 - The application Ref UTT/19/0080/FUL, dated 4 January 2019, was refused by notice dated 22 March 2019.
 - The development proposed is a single storey 2 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The spelling of the appellant's name on the appeal form is given as 'Slevern'. I have used 'Sleven' in the banner heading above which is taken from the application form.
3. The Council's evidence refers to policies within the emerging Local Plan which is currently at examination. I do not know whether or not there are unresolved objections to these policies, and they could be subject to change. I therefore attach limited weight to the emerging policies.

Main Issues

4. The main issues in this appeal are:
 - i) whether or not the development would provide acceptable living conditions for occupiers of the proposed dwelling with particular regard to provision of private amenity space;
 - ii) the effect of the development on the living conditions of the occupiers of Garden Cottage with particular regard to outlook; and
 - iii) the effect of the development on highway safety including with regard to provision for parking.

Reasons

Living Conditions

5. Swallow Cottage adjoins Harvest Cottage at the end of a short terrace of dwellings facing Radwinter Road. To its opposite side, the neighbour at Garden Cottage comprises a large detached dwelling on a corner plot at the junction of Radwinter Road with Kates Lane. This neighbour is set back significantly from

Radwinter Road and is positioned beyond the rear wall of Swallow Cottage. The appeal site is located to the rear of Swallow Cottage and would be accessed from Kates Lane via a relatively narrow access which runs past the brick wall at the rear boundary of Garden Cottage.

6. Saved Policy GEN2 of the Uttlesford Local Plan 2005 (ULP) requires, amongst other things, that development does not have a materially adverse effect on the occupation or enjoyment of a dwelling as a result of loss of privacy, loss of daylight, overbearing impact or overshadowing.
7. The main garden space for the proposed dwelling would comprise a courtyard garden to its side which the Council advise would satisfy the guideline area requirements within the Essex Design Guide. The proposed dwelling would screen the majority of this space, and in particular the space immediately to its rear, to views from the rear of surrounding properties offering private space for future occupiers. While some parts of the garden may be visible from the first floor windows of Garden Cottage which are in relatively close proximity, the relationship would not afford significantly greater views than are commonly the case in residential areas so as to give rise to any undue overlooking.
8. I am therefore satisfied that the development would provide adequate private garden space to ensure a suitable standard of living conditions for future occupiers. In this specific respect, it would not conflict with saved policy GEN2.
9. Given the positioning of the proposed dwelling's windows and boundary treatment, there would be no unacceptable overlooking to neighbouring occupiers. I am also satisfied that the separation to Swallow Cottage and Harvest Cottage and scale and layout of the development would ensure no unacceptable loss of light or outlook for these neighbouring occupiers.
10. However, there would be a different relationship with Garden Cottage. While the proposed dwelling would be single storey and I note that it would not be positioned directly on the boundary, it would nevertheless extend for a significant distance along the depth of the rear garden to this neighbour and the plans indicate separation of only just over 4m between the closest corners. Although the appellant has suggested that the proposed dwelling would be set down from ground level, the eaves would nevertheless be higher than the existing boundary treatment, and despite the hipped form, the roof would add considerable bulk to the dwelling as viewed from within this neighbouring garden.
11. Notwithstanding the set in of the proposed dwelling from the boundary, the resulting height, depth, bulk and proximity of the dwelling would be a dominant and intrusive feature and together with the increased height of the proposed wall to the boundary would have an unacceptable overbearing and enclosing effect on the garden of Garden Cottage. Moreover, the patio to the rear of Garden Cottage is at a lower land level than the main garden of this neighbour, the appeal site and the proposed development. This would serve to exacerbate the overbearing impact of the development and harm to outlook for both this patio area and from the closest ground floor glazing which faces onto the patio.
12. Notwithstanding my findings in relation to the provision of private amenity space to serve the proposed dwelling, I therefore conclude on this main issue that the proposal would result in an overbearing effect which would cause

unacceptable harm to the living conditions of occupiers of Garden Cottage. The development would therefore conflict with Saved Policy GEN2 of the ULP.

Parking and Highway Safety

13. Saved Policy GEN8 of the ULP includes a requirement that the number, design and layout of parking spaces to serve development is appropriate for the location. 2 parking spaces are proposed to serve the proposed dwelling parallel to the boundary of the courtyard garden with the access from Kates Lane which would accord with the requirements for a 2 bedroom dwelling set out within the Uttlesford Local Residential Parking Standards 2013.
14. The spaces would project beyond the wall and grassed verge at the rear of Garden Cottage onto the access which also serves the four garages and area used for parking to the rear of Swallow Cottage and neighbours within the terrace. However, the proposed site plan also indicates removal of the grass verge to the opposite edge of the access as well as removal of part of the verge to the rear of Garden Cottage. This would offset much of the reduction in the width of the access as a result of the stepping out of the proposed parking.
15. I accept that the access would be relatively narrow and there would be a pinch point at the edge of the proposed space closest to Garden Cottage. However, the access serves a relatively limited number of garages and area of parking and given the existing layout and approach to and from Kates Lane, vehicles using the access would generally be travelling at fairly low speeds. Taking these factors into account and in comparison to the existing situation, I do not find that the width of the access past the site would not be so constrained as to make it impassable or unsafe for future traffic or pedestrians using it.
16. However, the proposed spaces would only meet the minimum bay size dimensions indicated within the Essex County Council Vehicle Parking Standards (2009), and this guidance also advises that spaces should be increased in length where there is a parallel arrangement and increased in width where bays are adjacent to solid structures. The spaces would be positioned close to the boundaries to the garden of the proposed dwelling and Garden Cottage and the narrow width of the access past these spaces to the proposed post and rail fencing opposite is likely to further impede manoeuvring. Given the size and layout of the spaces and in the absence of swept path analysis or other evidence to demonstrate otherwise, I am not therefore satisfied that access to these spaces would be achievable in practice to enable the spaces to meet the needs of the proposed development.
17. Accordingly, I conclude on this main issue that it has not been demonstrated that the design and layout of the proposed parking would be suitable, and in that regard the proposal would conflict with ULP Policy GEN8.

Planning Balance

18. The Council have provided a copy of their Housing Delivery Test and 5-Year Land Supply Statement dated October 2019 which considers whether or not there is a 5 year supply of housing. The Statement includes two calculations; one based on the methodology presented to the Local Plan hearings in July 2019 which indicates a supply of 2.68 years and a second which offsets 'surplus' delivery of housing above target levels for the period 2011/12-2018/19 and which indicates a supply of 5.65 years. The Council have not

indicated which calculation they consider should apply in the determination of this appeal. The appellant suggests the supply position is 2.68 years, but no context or further comment on this has been provided.

19. Should the Council be unable to demonstrate a 5 year supply of housing, this would trigger the presumption in favour of sustainable development test within paragraph 11(d) of the Framework. This states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In the absence of applicable policies in 11(d)(i), the proposal would fall to be assessed against 11(d)(ii) only.
20. In light of my findings above, saved Policies GEN2 and GEN8 of the ULP are most important for determining the proposal. Achieving well designed places is a key aspect of sustainable development and the Framework requires provision of a high standard of amenity for existing and future users, as well as consideration for patterns of movement and parking in contributing to creating high quality places. Saved Policies GEN2 and GEN8 are consistent with the Framework in this regard and the conflict with these policies therefore carries a reasonably significant amount of weight.
21. In terms of benefits, the proposed dwelling on this site within Ashdon would contribute positively to housing supply and the Council's identified requirement for housing. The extent of the benefit is tempered by the small amount of development, but nevertheless I give it moderate weight in the overall planning balance.
22. However, in the context of paragraph 11(d) of the Framework the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, even if I were to find that the Council were unable to demonstrate a 5-year supply of housing with a supply position of 2.68 years as is suggested by the appellant, the proposal would not therefore represent sustainable development, and the conflict with the development plan would not be outweighed by other considerations including the Framework.

Other Matters

23. The appeal site is within the Ashdon Conservation Area (ACA). In accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the ACA. However, given the location, scale and design of the development, I see no reason to disagree with the Council that there would be no harm to this heritage asset.
24. I have had regard to matters raised by interested parties including in relation to the quality of internal accommodation for future occupiers, conditions on a previous consent, and use of the parking area and garages to the rear of Swallow Cottage. However, these do not affect my findings on the main issues.

Conclusion

25. While I have found no harm in relation to the living conditions for future occupiers of the development, this would not outweigh the harm that the development would cause to the living conditions of the occupiers of Garden Cottage and it has not been demonstrated that there would be adequate provision for parking. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR