
Appeal Decision

Site visit made on 10 February 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/M1520/W/19/3241369

Land adjacent to 24 Landsburg Road, Canvey Island, Essex

- 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 Dean Bullock of D.R. Bullock Builders Ltd against the decision of Castle Point Borough Council.
 - The application Ref 19/0618/FUL, dated 19 August 2019, was refused by notice dated 11 November 2019.
 - The development proposed is the construction of a 3-bedroom chalet with associated facilities and new public footpath.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The four main issues are:
 - the effect of the development on the character and appearance of the area, with regard to both the loss of the existing open space and the design of the proposal;
 - the principle of the loss of the existing open space in terms of its community value;
 - whether the proposed replacement pedestrian route would protect public safety; and
 - the effect of the development on the living conditions of neighbouring occupiers, particularly with regard to overshadowing and outlook.

Reasons

Character and appearance

4. The site sits in the middle of a very densely developed residential area. The site is currently an area laid to grass, with bollards to the eastern and western ends. The evidence before me is that although the land used to be a road, it has been closed to vehicular access for decades. It now provides a wide and reasonably attractive route for pedestrians and cyclists, linking Munsterburg

- Road and Landsburg Road. There are similar plots of land directly to the west, divorced from the site by bisecting roads, but with a strong visual and functional connection.
5. Policy HS7 of the emerging Local Plan would designate the area as protected open space. However, the emerging Plan is still in the early consultation stages, is likely to be subject to change, and therefore has limited weight. By extension, because any potential designation of the site as a Local Green Space has limited weight, Paragraphs 99 – 101 of the National Planning Policy Framework (the Framework) do not directly apply.
 6. Nevertheless, the site provides greenery and offers some visual amenity, both by itself and in combination with the other open land to the west. This provides welcome relief within a very densely developed area. The site also provides a wide and pleasant non-vehicular route providing access both on its own, and in combination with the adjacent spaces, on an east-west route across this part of Canvey Island. The loss of the open land would therefore harm the character and appearance of the area.
 7. It is proposed to erect a new 2-storey, 3-bedroom home with associated garden, garage, and boundary fencing. The house would front onto Landsburg Road and pedestrian access would be provided on this elevation. The garage would be to the east and would be accessed from Munsterburg Road, over a new dropped kerb. A footpath would be provided to the southern elevation, with associated lighting and boundary fencing.
 8. Although directly flanked by bungalows along the Landsburg Road frontage, there are a variety of building types, including houses and dormer bungalows, in the wider area. There are also a number of narrow plots and the area is very densely developed. The proposed house would not therefore dominate Landsburg Road's street scene.
 9. However, the vast majority of the plots in the area front onto only one road or are on a corner plot, respecting the prevailing street pattern. The proposed layout, by placing the house fronting Landsburg Road but then providing its garage and garden fronting Munsterburg Road, does not respect the prevailing street pattern and plot depths. The garage would be out of place as a rear element to a plot along a street that is otherwise lined by the primary frontages of dwellings. Therefore, the overall site layout would be incongruous in its setting.
 10. Consequently, through the loss of the existing open space and by failing to respect the plot and street layout and pattern of development in the area, the proposal would harm the character and appearance of the area, failing to comply with the relevant parts of Chapter 12 of the Framework which encourages, amongst other things, high quality design which is sympathetic to local character.

Principle of loss of community open space

11. Evidence has been provided of the holding of informal community events on the site. The extent and regularity of these is not clear, and the relatively small size of the site, the lack of facilities, and the proximity to roads, all restrict the utility of the site in this regard. The community value of the open space is therefore limited.

12. Consequently, notwithstanding the objections outlined above to the loss of the existing space in terms of character and appearance, the loss of the space with regard to its community value would be acceptable in principle based on the evidence before me. The proposal therefore complies with the relevant parts of Paragraph 92 of the Framework, which seeks, amongst other things, to plan positively for the provision of community facilities.

Pedestrian route

13. The site currently provides a non-vehicular route between Munsterburg Road and Landsburg Road. This function would be replaced by the paved footway that is proposed to the southern boundary. The replacement footway would be some 2m wide including a verge and would be visually and physically contained by the proposed and existing tall boundary fences, which would run along the majority of its length. The combination of the existing and proposed boundary fences and the narrowness of the proposed footpath would create a relatively oppressive pedestrian environment. However, public safety would be maintained due to the relatively short length of the footpath which would mean that it would be clearly overlooked from the roads at each end. The proposed lighting and the lower sections of fencing at either end of the footpath would also help in this regard.
14. Overall, the proposed replacement footway would be likely to protect public safety and the proposal therefore complies with the relevant parts of Paragraph 95 of the Framework, which seeks, amongst other things, to promote public safety.

Living conditions of neighbouring occupiers

15. The proposed house would be set adjacent to an existing residential property to the north along Landsburg Road. Due to a combination of the proximity, the location directly to the south, and the height at two storeys, the proposed house would likely overshadow an existing window in the flank wall to the existing property. There is an existing boundary fence which already blocks out some of the light from the window in the flank wall. The window also appears to be either a secondary window or a window to a non-habitable room. The amount of increased overshadowing of this window would therefore likely be limited, as would the associated effect on living conditions. The proposed house would also likely overshadow the existing garden. However, because the proposal is largely alongside the existing house, would only be of moderate size, and the existing overshadowing from the boundary fence, any increase in overshadowing would likely be limited.
16. The existing property to the south would be largely unaffected by overshadowing because of its siting to the south of the proposal. The properties along Munsterburg Road are fairly distant from, and at an oblique angle to, the proposed house. And the proposed garage, which is nearer them, is small and short. The proposed development's effect on light to these properties would therefore be limited.
17. The proposed house would be set largely alongside the flank walls of the existing properties to the north and south. Only the small window in the flank wall of the property to the north along Landsburg Road directly overlooks the proposed house. All other properties are too distant for loss of outlook to be a significant factor. The loss of outlook to the occupiers of nearby existing

properties would therefore be limited, and this factor would not significantly affect living conditions.

18. Therefore, the proposed development would likely not have a significant effect on the living conditions of neighbouring occupiers, having particular regard to light and outlook. The proposal therefore complies with the relevant parts of Paragraph 180 of the Framework. Amongst other things, this seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions.

Other Matters

19. The appellant has stated that the replacement footway would provide greater accessibility than the existing site because it would be hard landscaped and therefore more useable in winter or following heavy rainfall. Although the hard landscaping would be of moderate benefit to the utility of the site as a footway link, any benefit from this is negated by the proposed substantial narrowing of the link. This factor is therefore only at best of neutral weight in consideration of the proposal.
20. I have considered the examples provided of equivalent spaces that have recently either been developed or have been granted planning permission to be developed. I do not consider 81 Mary Avenue to be a precedent because, while little information has been provided, that site is an area of grassland with no further grassland linked to it. It is seen in isolation and terminated by existing properties running at right angles to it on each side. 96 Smallgains Avenue is also of a different character, being a patch of land leading to a large park, located at the end of a road, rather than mid-way along a terrace. 40 San Remo Road has existing properties already blocking the site off to the west. Moreover, I am not familiar with all the circumstances associated with the determination of those planning applications. For these reasons, none of these sites provide justification for the redevelopment of the appeal site.

Planning Balance and Conclusion

21. The Council is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11d of the Framework is therefore engaged.
22. The proposal would result in the creation of one housing unit, which would help marginally towards addressing the shortfall in housing land supply. The proposal would bring temporary economic benefit from the construction process, and long-term economic benefit from the boost to local services from the new resident(s). The proposal is also in an accessible location. These factors weigh in favour of the proposal, but the benefits would be limited because only one residential unit is proposed.
23. The proposal would harm the character and appearance of the area by failing to respect the street and plot layout and pattern of development in the area, and through the loss of the existing open space. I place substantial weight on this, because the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. As set out in Paragraph 130 of the Framework, planning permission should be refused for development of poor design that fails to improve the character and quality of an area. Consequently, I conclude that the adverse effects of the proposal

would significantly and demonstrably outweigh the benefits outlined above, when assessed against the policies in the Framework taken as a whole.

24. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case no conflict with the development plan, which dates from 1998, has been drawn to my attention. However, I have found conflict with the Framework with regard to the harm to the character and appearance of the area. This weighty material consideration indicates that the appeal should be dismissed.

O S Woodward

INSPECTOR