
Appeal Decision

Site visit made on 20 July 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2020

Appeal Ref: APP/P1560/W/20/3249120

25 Keynes Way, Dovercourt CO12 3UA

- 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 & Mrs G Cousins against the decision of Tendring District Council.
 - The application Ref 19/01117/FUL, dated 25 July 2019, was refused by notice dated 17 September 2019.
 - The development proposed is described as 'Proposed new dwelling adjacent to 25 Keynes Way (Provisionally numbered as 25A)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant and the Council have indicated that the development would have likely significant effects on Hamford Water Special Protection Area (SPA) and Ramsar site. In addition, the appellant has submitted a completed unilateral undertaking (UU) dated 7 July 2020 which intends to mitigate the effects.
3. Both main parties have referred to the emerging Local Plan¹ (the eLP) within their submissions. The eLP is yet to complete its examination in public. The eLP is therefore subject to change and thus it attracts limited weight in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

Reasons

5. The appeal site comprises 25 Keynes Way which features a detached bungalow set within a spacious plot at the end of a cul-de-sac. The site is located beside a footpath and an area of public open space that connects Keynes Way with the surrounding streets. The site includes a low hedge and a grassed area that run alongside the footpath. Behind those, hedges and fencing form an enclosure to the rear of no 25.
6. The adjacent public open space provides the area with a sense of spaciousness and the land within the site beside the footpath makes a positive contribution

¹ Tendring District Local Plan 2013-2033 and Beyond Publication Draft

to it as a further open area. In addition, whilst they are not oriented in the same direction, the bungalow and the dwellings behind it at nos 11, 15 and 17 Nightingale Close are set back from the public open space in a reasonably consistent building line, which enhances the sense of spaciousness and contributes to the surrounding order of the built form. Although the dwellings within the wider area are set within plots of varying sizes and are often close to one another, the properties within Keynes Way also have a spacious feel as they are mostly set back from the highway and have front gardens that are either unenclosed or bound by low hedges.

7. The design of the proposed bungalow would be reflective of the appearance of the surrounding properties. However, the bungalow would project significantly forward of the building line which would have a narrowing effect on the public open space and harm its spacious feel. The bungalow would appear in an incongruous position close to the public open space, with limited intervening landscaping present to soften its appearance. In addition, fencing and a gate would project in front of the bungalow and attach to its front elevation close to a window. The bungalow would appear cramped and the character of the site and the surrounding area would be harmed as a result.
8. The appellant considers that the removal of the hedges and fencing that enclose the rear of the existing bungalow would improve the spacious character of the area. I also note that the bungalow would be set back from the public open space more than the hedges and fencing. However, these matters do not outweigh the harm that the bungalow would cause to the character and appearance of the site and the surrounding area.
9. The appellant contends that the land beside the footpath has limited usability and the proposal would use the land more effectively. However, it nonetheless contributes positively to the character and appearance of the area and, as a result of the harm I have identified, the proposal would not make effective use of the land.
10. I do not consider that approving this proposal would set a precedent for development of the public open space as the proposal entails the infilling of land within the curtilage of an existing residential property and thus different considerations would be relevant. Nevertheless, I have identified that the proposed development would be harmful.
11. Paragraph 124 of the National Planning Policy Framework (the Framework) sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. In addition, I note that paragraph 127 of the Framework states that planning decisions should ensure that development is sympathetic to local character.
12. I find that the proposal would have a harmful effect on the character and appearance of the site and the surrounding area. The proposal conflicts with Policies QL9, QL10, QL11 and HG14 of the Tendring District Local Plan 2007 (the LP). These policies are consistent with the Framework in requiring that development is compatible with the character of its surroundings and, accordingly, I also find that the proposal is contrary to the Framework. The proposal also conflicts with eLP Policy SPL3, which requires local character to be protected and enhanced, albeit I attach limited weight to the eLP as it is subject to change.

Other Matters

13. If I were minded to grant planning permission, I would need to be satisfied that the proposal would have no adverse effects on the integrity of the Hamford Water SPA and Ramsar site, in addition to any other European sites designated under the Conservation of Habitats and Species Regulations 2017. I would need to have regard to the UU in my consideration of this matter.

Planning Balance

14. The Council contends that the eLP's housing requirement for the district is less than the housing need figure calculated using the standard method. In any event, the Council has nevertheless confirmed that it cannot currently demonstrate a 5 year supply of deliverable housing sites. Paragraph 11d of the Framework is therefore engaged.
15. In the event that I found that the effects of the proposal on European sites were not adverse, they would constitute neutral considerations rather than benefits that weigh in favour of the development.
16. The appellant has put forward that the proposed bungalow's occupiers would add to the vitality and vibrancy of the community and it would be in an accessible location, energy efficient, easily accessed by those with mobility and sensory impairments and contribute to housing supply. I also note that Policy QL1 of the LP indicates that Dovercourt is an appropriate location for additional housing within the district. However, the scale and thus the benefits of the proposal are small. I therefore attach limited weight to these matters.
17. I have found that the proposal would result in harm to the character and appearance of the site and the surrounding area and it is contrary to the Framework for this reason. Overall, I find that 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. The Framework does not therefore indicate that planning permission should be granted.
18. I conclude that the proposal is contrary to the development plan as a whole. There are no material considerations which outweigh my findings in respect of the development plan. It is thus not necessary to assess the effects of the proposal on European sites as the outcome of that assessment would not have any bearing on my decision.

Conclusion

19. For the above reasons the appeal is dismissed.

Mark Philpott

INSPECTOR