

Appeal Decision

Site Visit made on 8 June 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2021

Appeal Ref: APP/B1550/W/21/3267169

36 Larkfield Close, ROCHFORD, SS4 1SS

- 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 David Adlington against the decision of Rochford District Council.
 - The application Ref 20/00901/FUL, dated 25 September 2020, was refused by notice dated 18 November 2020.
 - The development proposed is sub-divide plot and construct 2-bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the living conditions of future occupiers with particular reference to internal living standards; and
 - the Essex Estuaries Special Area of Conservation (SAC) and Foulness and Crouch and Roach Estuaries Special Protection Area and Ramsar Site (SPA).

Reasons

Living Conditions

3. Policy DM4 of the Rochford District Council Development Management Development Plan Document 2014 (DPD) requires development to adhere to minimum habitable floorspace standards. The Technical Housing Standards – Nationally Described Space Standards (NDSS) states that a 2 bedroom dwelling is required to provide 61 sqm of internal space for a single storey 2 bedroom 3 person dwelling.
4. I have taken the figure provided by the NDSS to have the greatest weight as required by the written ministerial statement of March 2015 which requires internal space standards within existing local plan policies to be interpreted to the nearest equivalent national technical standard.
5. The evidence before me indicates that the dwelling does not provide sufficient internal space to comply with the NDSS as the proposed dwelling would have an internal floor space of approximately 55 sqm.

6. Furthermore, the proposed dwelling has 2 bedrooms with the proposed floor plan showing a double bedroom and a single bedroom. The details provided within the NDSS states that a dwelling with two or more bedspaces must have at least one double (or twin bedroom). Any double (or twin bedroom) should have a floor area of at least 11.5sqm and the evidence before me indicates that the proposed double bedroom is only 11 sqm.
7. As a consequence of the lack of overall floor space and the insufficient size of the double bedroom, the proposed dwelling would represent an unacceptable and restricted form of residential accommodation, that would be meaningfully injurious to its occupants.
8. I have taken into account the number of openings serving the proposed bedrooms and living accommodation and that these rooms would receive an adequate level of light. I have also had regard to the access future occupiers would have to a good sized amenity space. However, these factors do not outweigh the harm resulting from the restricted overall size of the proposed accommodation.
9. I have also had regard to the overall size and scale of the development which would be similar to others within Larkfield Close. However, the living conditions of previous developments, which would not meet the NDSS should not be used as a benchmark for new development, as the housing standards were introduced in order to achieve new homes which are of high quality.
10. It has been put to me that development which does not meet the space standards could be permitted if it is of exemplary design and contributes to the other objectives and policies. I have not been directed to any local or national policy which sets out this requirement, however I am not persuaded that the proposed dwelling, whilst modest and sympathetic to the character of the wider area, could be considered exemplary design.
11. The development would result in an additional dwelling which would meet an identified need, in a highly accessible location, that would contribute to housing supply in the area. However, these benefits are not of sufficient magnitude to outweigh my overall conclusion.
12. In conclusion, the development fails to provide acceptable living conditions for future occupiers, with particular reference to internal living standards and is contrary to Policy DM3 of the DPD which requires proposals for infilling to be carefully considered and positively addressed and Policy DM4 of the DPD which seek to ensure that new dwellings provide adequate internal space.

Effect on the SAC and SPA

13. The site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) zone of influence for the SAC and SPA and the proposed development falls within the scope of the RAMS as relevant development. Given that the proposal is for additional housing, and its proximity to the SPA there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of this development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European site.

14. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SAC and SPA. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
15. The Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the measures to address direct and in-combination effects of recreational disturbance on the SAC and SPA. The RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SAC and SPA. A tariff to fund the mitigation, which is payable for all additional new dwellings is currently set at £125.58 per dwelling. Whilst the appellant has indicated that they are willing to pay this contribution I have not been provided with a signed and dated Unilateral Undertaking making provision for the required contribution.
16. Due to the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, I cannot be satisfied that the appeal proposal would not result in an adverse effect on the integrity of the SAC and SPA. Had such mitigation been in place, I would have sought clarification from the main parties on this matter and, if necessary, undertaken an Appropriate Assessment in order to consider the implications of the development on conservation objectives. However, this avenue is not available to me.
17. Based on the precautionary principle and the evidence before me, I conclude that the appeal scheme would be likely to have a significant adverse effect on the SAC and SPA due to the potential increased disturbance through recreational activity. The proposal would therefore fail to comply with the requirements of the Regulations. It would also fail to accord with Policy ENV1 of the Rochford District Council, Local Development Framework Core Strategy which seeks to maintain, restore and enhance sites of international, national and local nature conservation importance. It would also be contrary to Paragraph 175(a) of the Framework which states that where significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Conclusion

18. For the reasons given above, the proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR