



Appeal Decision

Site visit made on 21 February 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 28 FEBRUARY 2022

Appeal Ref: APP/M1520/W/21/3280887

32 Dorothy Gardens, Thundersley, Benfleet, Essex SS7 3AE

- 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 P Allen against the decision of Castle Point Borough Council.
 - The application Ref 21/0265/FUL, dated 22 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is "proposed new two bed dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-bedroom dwelling at 32 Dorothy Gardens, Thundersley, Benfleet, Essex SS7 3AE, in accordance with the terms of the application, Ref 21/0265/FUL, dated 22 March 2021, subject to the conditions in the attached schedule.

Preliminary matters

2. The appeal site is said to lie within the zones of influence of two protected habitat sites which are subject to international designations. A payment has been made by the appellant to the Council's scheme for the mitigation of any recreational disturbance impacts on such sites. The Council is happy with this form of mitigation and raises no further issue in this respect. I am satisfied that the development would have no likely significant effects on any protected sites, either alone or in combination with any other scheme or schemes.
3. The local plan for the area is the Castle Point Borough Local Plan (the CPBLP), adopted in 1998. The Council and appellant are agreed that in that plan the appeal site lies within an area allocated for residential purposes, and that in terms of the principle of the development, there is no objection to the additional dwelling now proposed.
4. As at the date of the Council's officer report, in May 2021, it was stated that a new draft local plan was under examination. However, no relevant policies in that draft plan have been brought to my attention. I have determined the appeal on the submissions that are before me.
5. The Council acknowledges that the supply of deliverable housing sites in Castle Point District amounts to less than the five years' worth which is required by the National Planning Policy Framework (the NPPF). It is also accepted that, as a result, the 'tilted balance' provisions of NPPF paragraph 11(d) are engaged, so that permission should be granted unless the development's adverse impacts would significantly and demonstrably outweigh the benefits.

Main issues

6. Having regard to the submissions before me, I find that the main issues in dispute are:

- the proposed development's effects on the character and appearance of the area;
- and whether the scheme would provide a high standard of living conditions for future occupiers of both the proposed new dwelling and the existing dwelling on the site.

Reasons for decision

Character and appearance

7. The appeal site lies on the junction between Dorothy Gardens and Bradley Link. The existing property No 32 is one half of a semi-detached pair, with No 30. The new dwelling would be added to the side of No 32, taking the place of an existing flat-roofed single-storey extension, plus a garage and a storage building.
8. The development would take up much of the space between the existing dwelling and its side boundary, and to that extent there would be some loss of spaciousness. The new 2-storey flank wall would be relatively close to the boundary, and thus rather more visually dominant. But on the other hand, the single storey extension and other buildings that occupy that space are of poor quality, and detract from the street scene. The proposed new building would match the existing semi-detached pair in its design and style, and be of at least comparable quality, and would therefore represent a significant improvement in this respect. The reduction in space would, to some degree, be offset by this enhancement in quality.
9. The subdivision of the site would result in two plots of slightly lesser width than most others in the area. But the difference would not be so great as to be unduly noticeable. In any event, there is no proposal for any physical division of the front forecourt area, and therefore the individual plot widths would not be readily apparent. The development would therefore not look unduly cramped.
10. The existing semi-detached pair would become a terrace of three units, which would be a departure from the prevailing housing types, but I can see no reason why this in itself should be seen as harmful. Any future applications for similar forms of development would have to be considered on their own merits.
11. The lack of windows in the new dwelling's side elevation would slightly reduce the impression of natural surveillance to Bradley Link. But in practical terms, the effect would be minor, because two of the existing windows on this side are high-level, and the other serves only a stairway. In any event, this part of Bradley Link is in full view from several properties on the opposite side Dorothy Gardens, and this would not change.
12. The front forecourt area would be fully paved, but that would be no different from the existing situation. It is likely that the forecourt space would tend to be used more intensively, with two dwellings rather than one, but given that its maximum capacity would be for only three vehicles, the visual harm resulting from any such increase in usage would not be significant.

13. In respect of some of these matters, the proposed scheme would not fully accord with the advice in the Castle Point Residential Design Guide (the RDG), which was adopted as a supplementary planning document in January 2013. In particular, there would be conflict with Policy RDG4, which seeks to ensure that developments on corner plots provide active frontages and fenestration on all public elevations. However, in the context of the RDG as a whole, this is a fairly limited conflict. In terms of the RDG's other relevant policies, it seems to me that the plot sizes and space around buildings would be proportionate to the size of the new and existing dwellings on the site, and that these aspects have been adequately informed by the area's prevailing character; and, for the reasons already stated, I do not consider that the parking would dominate. Policies RDG1, RDG2 and RDG12 would therefore all be complied with. And in any event, having regard to the RDG's age and status, its role is clearly only as guidance, to be weighed against other relevant considerations.
14. Having regard to all the above, I conclude that in most respects the proposed development would be broadly compatible with its surroundings. The size and style of the building would be in keeping with neighbouring dwellings, and its siting in relation to the boundary would not be unduly dominant. No harm would arise from the width of the plots created, or from the parking arrangements. The flank elevation would lack articulation, and would thus be quite stark; this could have been improved on, but nevertheless this aspect alone does not make the scheme unacceptable. Overall therefore, the harm caused to the area's character and appearance would be limited.
15. On balance, I find no significant conflict in this respect with Policy EC2 of the CPBLP, which seeks a high standard of design.

Living conditions

16. In the RDG, Policy RDG6 requires that all dwellings should be provided with amenity space of 15 sq m per habitable room. The NPPF, at paragraph 130, requires developments to promote health and well-being, with a high standard of amenity for existing and future users. I agree that the RDG policy supports this aim.
17. In the appeal proposals, the proposed new dwelling, with four habitable rooms, would require 60 sq m to meet the RDG standard. The appellant suggests that the scheme would provide a gross area of 63 sq m for this dwelling, but this figure includes a second parking space, accessed off Bradley Link, which is needed to meet the Council's parking standards. The Council contends that, after deducting this space, the net area would be 39 sq m. In the absence of any more detailed measurements from either party, it seems to me from the submitted plans that the Council's figure looks the more realistic. But even if the appellants' figure were accepted for the gross area, the resulting net area would clearly still fall well below the Policy RDG6 requirement.
18. With regard to the existing dwelling, given that the ground floor appears to comprise a single, open-plan living/dining/kitchen/breakfast space, it is not clear-cut as to how this area should properly be assessed as to the number of habitable rooms in the property. But even if these were considered as a single room (which to my mind would be somewhat generous), the dwelling as a whole would then have four habitable rooms, and the resulting policy requirement would again be 60 sq m. On the appellant's own measurements, the rear garden would be only 54 sq m, and thus would again fail the RDG

standard. If the dining and breakfast areas were considered as separate rooms, then the shortfall in garden area would be further increased.

19. The two rear gardens would be rectangular in shape, fairly level, and south-facing. They would enjoy a degree of privacy broadly equal to most other similar suburban gardens. Both would have either rear or side access. To my mind, both gardens would be able to accommodate some of the functions normally required for a dwelling of their respective sizes, although not necessarily all. It follows that they would be likely to meet the needs of some potential occupiers, but not others. Consequently, in so far as Policy RDG6's purpose is to ensure that developments can meet the needs of the widest possible range of occupiers, the present proposal would fall short.
20. In addition, the Council raises a concern regarding safe and convenient access for persons on foot, between the parking spaces on the front forecourt. I agree that this is a reasonable concern, especially in this case as the parking spaces, as drawn, would be close together. But in practice, it is likely that most vehicles would not fill the whole width of a parking space. And in the event of occupiers or visitors with special needs, it would appear relatively easy for small adjustments to be made, on an ad-hoc basis. In this latter respect I find no significant conflict with Policy RDG12.
21. But nevertheless, for the reasons already discussed, the scheme would fail to provide a high standard of living conditions, in terms of the amount of garden amenity space that it would provide for future occupiers, at both the proposed and existing dwellings, contrary to Policy RDG6.

Planning balance

22. Planning law requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise¹. In the present case, I have found no conflict with CBPLP Policy EC2, with regard to the proposed development's effects on the character and appearance of the area. No other development plan policies are cited in the Council's reasons for refusal, or are relied on subsequently. Whilst I have found conflict with some policies of the RDG, that document is not part of the development plan. It is common ground that the site is within an area identified in the CPBLP where residential development is acceptable in principle. Having regard to all these considerations, I find the proposed development to be clearly in accordance with the development plan as a whole.
23. Turning to the other material considerations, there is only one consideration that weighs against the development. This is the conflict that I have identified with the RDG, with regard to garden sizes. The development would fail to provide the amount of space sought by Policy RDG6, and thus would not meet the aspirations of either the Guide, or the NPPF, for high standards of amenity for all occupiers. That shortcoming would not mean that living conditions at the site would be unacceptable, but nevertheless, they would be compromised. The scheme would therefore result in a development that was suitable for a more limited range of potential occupiers. In my view, the conflict with the RDG in this respect carries moderate weight.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004

24. On the other hand, the development would provide a new dwelling, in a District with an urgent need for deliverable sites, as measured by the recognised shortfall in the 5-year housing supply. The net addition to the housing stock would only be a single dwelling, but given the proven need, this would represent a benefit carrying substantial weight. In addition, it is said that the scheme would meet the specific needs of the appellant's parents. I have no reason to doubt this, and as such I give this some modest additional weight. The development would also be likely to have some benefits for the local economy, and in the present case I again give this modest weight.
25. Having regard to NPPF paragraph 11(d), it is clear in my judgement that the limited harm that has been substantiated does not significantly or demonstrably outweigh the combined weight of the development's several benefits. Indeed, on the contrary, it seems to me that the balance of these other material considerations is clearly weighted in favour of the development.
26. In summary therefore, I conclude that the appeal proposal is supported both by the development plan and by the balance of the other considerations. It follows that the appeal should succeed, and that planning permission should be granted.

Conditions

27. The permission that I shall grant is subject to the conditions set out in the attached schedule. These are based on the draft versions suggested by the Council, but in some cases I have edited them for reasons of clarity and precision.
28. A condition relating to materials is necessary to ensure a satisfactory appearance. A condition to secure the provision of the access and parking spaces is needed for highway safety. A restriction on some classes of permitted development is justified, because of the limited sizes of the proposed gardens, and the potential that permitted development extensions could exacerbate an imbalance between these and the sizes of the new and existing dwellings. I have also added a condition specifying the approved plans, in the interests of certainty and to define the approved development.

Conclusion

29. For the reasons set out above, I conclude that planning permission should be granted. I have taken account of all the matters raised, but none changes this conclusion. The appeal is therefore allowed.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:

172/03A:	Proposed floor plans
172/04:	Proposed elevations
172/05:	Proposed site plan
- 3) The materials to be used on the external surfaces of the new dwelling shall match those on the existing building, as shown on the approved plans.
- 4) The new dwelling shall not be occupied until the existing site access has been altered, and two parking spaces have been laid out for each of the proposed and existing dwellings on the site, as shown on the approved plans. Thereafter, the parking spaces shall be retained and kept available for that purpose.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no rear or upward extensions shall be carried out, on either the proposed new dwelling or the existing property, No 32 Dorothy Gardens.

[END OF SCHEDULE]