
Appeal Decision

Site visit made on 7 September 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/V1505/W/22/3292462

2 Littlehurst Lane, Noak Bridge, Basildon, SS15 4JT

- 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 Murray against the decision of Basildon Council.
 - The application Ref. 21/01243/FUL dated 11 August 2021, was refused by notice dated 27 September 2021.
 - The development proposed is the erection of a dwelling house on front/side garden of 2 Littlehurst Lane.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling house on front/side garden of 2 Littlehurst Lane, Noak Bridge, Basildon, SS15 4JT in accordance with the terms of the application, Ref 21/01243/FUL, dated 11 August 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matters

2. The proposed development in the application to the council was described as "Proposed new build dwelling house on vacant land adjacent to the property". This was amended by the council to "Proposed erection of dwelling house on front/side garden of 2 Littlehurst Lane". The council's description more accurately reflects the appeal proposal since the site of the development is part of the curtilage of the donor dwelling, rather than vacant land. I have therefore adopted this description in the heading above.

Main Issue

3. The main issue in this case is the effect on the living conditions of the occupants of the donor property in respect of overshadowing, dominance, and loss of outlook.

Reasons

The site and its surroundings

4. Number 2 Littlehurst Lane, the donor property, is immediately north of the junction with Bridge Street, with its curtilage fronting both roads. The appeal site is currently part of the side and rear garden of the donor property, which is part of a semi-detached pair, it being joined to No.4 Littlehurst Lane. Number 4

fronts onto Littlehurst Lane, whilst No.2 runs at right angles to the road, and is set behind the southern half of No.4. Number 2 faces south, with a substantial front garden largely paved for parking and storage. Currently, at the rear, to the east, the front garden is separated from the rear garden by a high fence.

5. The proposed dwelling would be set on the western part of the site and set back between 1m and 1.8m from the Bridge Street and Littlehurst Lane frontages respectively. It is designed with a clipped hipped roof form, with its main façade onto Bridge Street. A two-storey projection is proposed to its west side fronting Littlehurst Lane, with additional accommodation being provided in the roof space, with two bonnet dormers proposed in the southern roof-plane. Two driveways are shown to the north of the dwelling, providing two spaces each for the existing dwelling and the proposed dwelling. A garden area is proposed to the east side of the dwelling.
6. The site is within a development of similar styled 1990s properties, most of which are within the Noak Bridge Conservation Area. This housing development was designed in a traditional village style, closely following the principles of the original Essex Design Guide. The boundary of the conservation area is immediately opposite No.4 Littlehurst Lane. The surrounding area is a mix of mainly semi-detached and detached houses, set close to frontages of their plots, linked by garages/car ports to provide an enclosed feel to the street scene. The original development, in seeking to provide a traditional village feeling, has interesting relationships between houses, and an organic feel to the layout. In these terms the proposed dwelling would sit reasonably comfortably with the original concept.

The effect on the living conditions of the occupants of the donor property in respect of overshadowing, dominance, and loss of outlook.

7. The distance from the front (south) elevation of No.2 (the donor property) to the northern elevation of the proposed house is about 6.85m. This northern elevation, facing No.2, has no windows, the relief to the blank elevation being the division of facing brickwork to the ground floor and render to the first floor. This is not a particularly inviting outlook, but half of the view from the front of No.2 would be the fencing of the rear garden of the appeal proposal which would not be oppressive. This fact is important, because the way that the proposed house is set close to the 2 highways at the junction means that its rear (east) elevation runs off at right angles about halfway along the frontage of No.2. In other words, looking out from the front of No.2, only half of the prospect would consist of the proposed house.
8. This situation has to be judged in the context of the 'village' within which it sits, briefly described in paragraph 6 above. Within this area there are frequent examples of houses set very close to the highway boundary, and frontages facing across to side elevations are not uncommon. There are a number of examples of houses in the area, put forward in the appellant's design and access statement, that are said to be similar to the appeal proposal in this respect. These examples are indicative of the rather dense layout of the original development, and the variety of juxtapositions between dwellings that exist. I have not been provided with detailed dimensions, but my site visit inspection suggests that there are examples that are similar to the appeal proposal and its relationship with the donor dwelling.

Conclusions

9. Following from my analysis in paragraphs 7 and 8 above, I conclude that the relationship between No.2 Littlehurst Lane and the proposed house is not ideal, in as much as the proposed dwelling would to a degree bring some overshadowing and dominance, and a partial loss of outlook. However, such interactions between buildings can be seen in traditional villages that the original development of Noak Bridge sought to emulate, and these effects are to be balanced by the generally attractive nature of the layout and the house designs that led to the conservation area status of most of the village. To the extent that the relationship of the proposed house and the donor property are nevertheless not ideal, these shortcomings are relatively minor.
10. At this point there is an additional consideration; the fact that the council is only able to demonstrate a housing land supply of 2.4 years, well below the 5-years + buffer that ought to be achieved bearing in mind persistent under performance. This brings the 'tilted balance' of the National Planning Policy Framework (the Framework) into play, where at paragraph 11dii it is said that permission should be granted unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."* I also bear in mind that the Framework, in strongly supporting the provision of additional housing, makes the point that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly (paragraph 69).
11. Obviously the appeal proposal would only provide 1 additional dwelling, whilst bringing meagre benefits in terms of the overarching objectives of the planning system – economic, social and environmental. Nevertheless, the modest weight that these considerations add to the balance favouring the appeal proposal, coupled with the fact that the shortcomings of the scheme are minor, lead me to conclude that the appeal should be allowed.

Conditions

12. The Council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text.
13. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; conditions 3, 4 and 5 are to ensure that the appearance of the development permitted integrates with the existing in a visually satisfactory manner; Condition 6 is to ensure a satisfactory appearance to boundary enclosures and avoid loss of privacy to neighbouring occupiers; condition 7 is to ensure that control can be exercised over curtilage building so that there is no loss of amenity to neighbouring occupiers; conditions 8 and 9 are to ensure that the development is well landscaped to the benefit of the appearance of the area; condition 10 is to ensure the proper provision of recycling facilities; condition 11 is to ensure that on-street parking of vehicles in the adjoining streets does not occur in the interests of highway safety; condition 12 is to encourage the use of sustainable modes of transport; conditions 13 and 14 are ensure safe entry and exist of cars at the access and provide adequate inter-visibility between the users of the access and pedestrians on the adjoining public highway in the interest of highway

safety; conditions 15 and 16 are to conserve and enhance Protected and Priority species and allow the council to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended, s40 of the NERC Act 2006 (Priority habitats & species) and s17 of the Crime & Disorder Act 1998.

14. Condition 4 is a 'pre-commencement condition'. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, if the Inspector is minded to grant planning permission subject to pre-commencement condition(s) he/she may only do so with the written agreement of the appellant to the terms of the condition(s). In this case the appellant has agreed to the imposition of condition 4.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out only in accordance with the drawings numbered Sheet 1 of 2 Revision 06 (Existing and Proposed Plans and Elevations) and Sheet 2 of 2 Revision 06 (Location Plan, Site Plan Existing, Site Plan Proposed, Existing and Proposed 3D Views).
- 3) No development above ground level shall take place until details/samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 4) Before the development hereby approved commences on site details of existing site levels, and finished floor levels of the proposed dwelling shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Details of the materials to be used for the parking area, footpaths and other hard surfaced areas, shall be submitted to and approved in writing by the local planning authority, prior to the commencement of above ground works related to the development. The development shall be carried out in accordance with the approved details.
- 6) Details of the fencing, walls and other means of enclosure to be installed on the site, shall be submitted to and approved in writing by the Local Planning Authority, prior to their erection. The fencing, walls and other means of enclosure shall be erected in accordance with the approved details prior to first occupation of the dwelling and retained thereafter.
- 7) Notwithstanding the provision of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, extension or other alterations permitted by Classes A, B, C and E of Part 1 of Schedule 2 of the 2015 Order shall be erected, constructed or placed on any part of the plot the subject of this permission without the prior approval in writing of the Local Planning Authority.
- 8) No development above ground level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping for the site, which shall include indications of all existing trees, shrubs and hedgerows on the site and details of those to be retained.
- 9) The landscaping scheme as approved in accordance with condition No.8 shall be carried out in the first planting and seeding seasons following the occupation of the building or completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously

damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

- 10) The dwelling hereby permitted shall not be occupied until refuse and recycling facilities as detailed on the 'Site Plan Proposed' Sheet 2 of 2 Revision 06, shall have been provided on site, and these shall be retained thereafter.
- 11) The dwelling hereby permitted shall not be occupied until the 2 car parking spaces, as shown on the drawing numbered Sheet 2 of 2 Revision 06 'Site Plan Proposed' have been provided and the vehicle parking area shall be retained in this form at all times. The vehicle parking areas shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority. Each parking space shall have minimum dimensions of 2.9 metres by 5.5 metres.
- 12) The development hereby permitted shall not be occupied until details of an electric vehicle charging point to be provided for the proposed dwelling has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details, prior to the occupation of the development, and permanently retained thereafter.
- 13) Prior to occupation of the development the existing vehicular access shall be widened and shall be provided with a dropped kerb vehicular crossing of the footway as shown in principle on planning application drawing number Sheet 2 of 2 rev 06.
- 14) Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on the southern side of the widened vehicular access. This visibility splay shall be retained free of any obstruction in perpetuity. This visibility splay must not form part of the vehicular surface of the access.
- 15) Prior to the commencement any development above ground level a Biodiversity Method Statement for Protected and Priority species particularly Nesting birds, amphibians and Hedgehog, shall have been submitted to and approved in writing by the local planning authority.

The content of the method statement shall include the following:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

The works shall be carried out prior to occupation of the development strictly in accordance with the approved details and shall be retained in that manner thereafter.

- 16) No development above ground level shall take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. The enhancement measures shall be implemented prior to the first occupation of the development hereby permitted in accordance with the approved details and all features shall be retained in that manner thereafter.