



Appeal Decision

Site visit made on 13 October 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2022

Appeal Ref: APP/P1560/W/21/3284886

Land On The West Side Of St Georges Close, Great Bromley CO7 7HZ

- 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 Simpson (Lexden Homes (Colchester) Limited) against the decision of Tendring District Council.
 - The application Ref 21/00445/FUL, dated 2 March 2021, was refused by notice dated 14 July 2021.
 - The development proposed is described as the "erection of a single bungalow and garage".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the Council issued its decision, Section 2 of the 2013-33 and Beyond Local Plan was adopted by the Council on 25 January 2022. Therefore, the Development Plan for Tendring District Council now comprises the adopted Section 1 and Section 2 of the Tendring District Council 2013-33 and Beyond Local Plan (LP).

Main Issues

3. The main issues in this appeal are the effect of the development on 1) safeguarded open space, and 2) on the character and appearance of the area.

Reasons

Safeguarded Open Space

4. The appeal site forms a parcel of land that sits between St Georges Close and Brook Street. Although a close boarded fence has been erected around the appeal site, it is low enough that it remains possible to see into the site which is mainly laid to grass and contains a number of trees.
5. The site lies within the Settlement Development Boundary of Great Bromley, where residential development is considered acceptable in principle. However, the Council confirm that the appeal site is allocated as Safeguarded Open Space within the LP on inset map B.12. Policy HP4 of the LP states that development resulting in the loss, in whole or in part, of safeguarded open space will not be permitted unless the criteria set out within the Policy are met.
6. The appellant argues that the site is within private ownership so public access can be denied at any time. Moreover, until such time as the land is placed in

public ownership, Policy HP4 has no force and is ineffective. However, should planning permission be granted for the proposed development, the appellant is willing to transfer ownership to a public body or remove the fence around the remaining part of the site.

7. It is evident that the appeal site is within an area identified in the Development Plan as safeguarded open space. As the site has a visual amenity, it also meets the definition of an open space as defined at Annex 2 of the National Planning Policy Framework (the Framework). Consequently, it is provided with a level of protection by Policy HP4 of the LP and the Framework, both of which actively seek to ensure that developments that prejudice the use or the loss of open spaces is resisted.
8. Therefore, the appeal site falls within the definition of safeguarded open space within the Development Plan and for the purposes of Policy HP4, it is land that is subject to a local designation. This is regardless of it being in private ownership where public access could be restricted.
9. Thus, it has not been demonstrated that the loss of the safeguarded open space meets the criteria as set out a Policy HP4 of the LP. It would be in conflict with Policy HP4 of the LP and paragraph 99 of the Framework which seek, amongst other things, to protect the loss of areas of open space.

Character and Appearance

10. The site lies on the corner of Brook Street and St Georges Close. Properties in the area tend to face on to its respective road and form a linear development along the highway. Whilst the properties on St Georges Close follow a similar arrangement, they are set back from Brook Street and behind the open spaces to the front, which includes the appeal site.
11. Whilst the appeal site is close to existing properties, it is an area of land that makes a positive contribution towards the character of the area through its open and undeveloped nature. Although the proposal would not develop the entire open space, the siting of the dwelling on this parcel of open land to the front of properties on St Georges Close would reduce the positive contribution that it currently provides and would be clearly visible from surrounding residential properties.
12. Moreover, the development of the site would also be at odds with the prevailing character at this particular location, where dwellings are set behind the open space to the front. The development would therefore result in the loss of an important parcel of open and undeveloped land, harming the character and appearance of the area.
13. The development would result in harm to the character and appearance of the area. It would be in conflict with Policy SP 7 of the LP and paragraph 130 of the Framework which seek, amongst other things, to ensure that all new developments respond to local character and context to preserve and enhance the quality of existing areas.

Other Matters

14. I acknowledge that the design of the development is acceptable and that suitable materials could be employed. I also note the pre-application advice from the Council regarding a proposed development on the appeal site.

Notwithstanding this, I am not bound by the advice given by the Council prior to the submission of the planning application, and it does not alter or outweigh my conclusion on the main issues.

15. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.
16. The appeal site falls within the Zone of influence for a designated habitats site. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme and to consider the unilateral undertaking provided by the appellant to secure contributions towards RAMS¹. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conclusion

17. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the Development Plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR

¹ Essex Coasts Recreational Disturbance Avoidance and Mitigation Strategy