



Appeal Decision

Site visit made on 7 December 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/M1595/W/21/3288090

31 Elmway, Grays, RM16 2HS

- 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 Hamza Olayinka against the decision of Thurrock Borough Council.
 - The application Ref 21/01418/FUL, dated 14 August 2021, was refused by notice dated 2 November 2021.
 - The development proposed is erection of a 3-bedroom new-build dwelling in the side garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are the effect of the proposed dwelling on the:
 - Character and appearance of the surrounding area;
 - Pedestrian and vehicular safety; and
 - Integrity of the Thames Estuary and Marshes Special Protection Area (SPA).

Reasons

Character and appearance

3. The appeal site comprises a semi-detached dwelling on a plot at the junction of Elmway and Oakway. The proposal would create a short terrace but there is nothing inherently incongruous about development of this type in a residential area. Although the properties in the immediate vicinity are generally semis, many of them are closely spaced and terraces are prevalent within the wider estate. As the new dwelling would perpetuate the form and design of the attached dwelling with a full hipped roof, it would fit comfortably into the locality and respect its context.
4. A margin of 2.64m would be retained to the return boundary thereby keeping a reasonable degree of spaciousness at the corner. The dwelling would be prominent in the street scene and in front of the notional building line in Oakway. However, due to the separation to the side it would not appear cramped or dominant. Indeed, it would integrate satisfactorily with the general pattern of development and so make a positive contribution in line with the *Residential Alterations and Extensions* Supplementary Planning Document.

5. Therefore, the proposed dwelling would not harm the character and appearance of the surrounding area. There would be no conflict with Policies PMD2, CSTP22 and CSTP23 of the Core Strategy and Policies for Management of Development. These are concerned with design, layout and the character and distinctiveness of Thurrock. Amongst other things, Policy PMD2 refers to optimising the potential of the site to accommodate development.

Safety

6. The Council expects that 3 or 4 off street parking spaces should be provided for the existing and proposed dwellings. No such provision is proposed so future occupiers would rely on street parking on the footway.
7. It is apparent that cars are already parked in this way in the area. Moreover, the only evidence is that there would be scope for vehicles associated with both houses to be parked here, as saturation point has not been reached. The footway is wide so that pedestrians would not necessarily be obstructed. Whilst parking could, in theory, occur at the junction this is not precluded at present and the concerns expressed are not specific. There is nothing to indicate, for example, that this is a particularly busy or awkward corner.
8. Therefore, there would not be an unacceptable impact on pedestrian and vehicular safety. The proposal would not be contrary to Policy PMD2 in this respect and Policy PMD9 is about the road network hierarchy. Although the standards expected by Policy PMD8 would not be achieved this is outweighed by the absence of adverse consequences as a result.

Integrity of the SPA

9. The site is located within the Zone of Influence of the Thames Estuary and Marshes SPA. Because of this, and in combination with other development in Thurrock, an extra dwelling would have a likely significant effect on the SPA. To address the effects of recreational disturbance a mitigation strategy has been developed which requires a financial contribution based on a tariff.
10. The Council refers to the use of a legal agreement for this purpose in the event that permission was to be given. However, the Conservation of Habitats and Species Regulations provides that the plan or project may only be agreed to having ascertained that it will not adversely affect the integrity of the SPA. Therefore, without the certainty that the requisite funding for the mitigation measures will be forthcoming, planning permission cannot be granted.

Other Matters

11. The Council cannot currently demonstrate a five year housing land supply although the extent of the shortfall is not specified. In any event, paragraph 182 of the Framework confirms that the presumption in favour of sustainable development, set out in paragraph 11, does not apply. This is because an appropriate assessment has concluded that the plan or project would adversely affect the integrity of a habitats site.

Conclusion

12. There would be no harm to the character and appearance of the area and no unacceptable impact on highway safety. The proposal would accord with the development plan as a whole. However, as there is no mechanism in place to

secure the necessary payment for mitigation, it would adversely affect the integrity of the SPA. This is an overriding consideration. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR