



Appeal Decision

Site visit made on 23 January 2023

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/W1525/W/22/3300573

1 The Lindens, Stock, Ingatestone CM4 9NH

- 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 Mrs Mathew against the decision of Chelmsford City Council.
 - The application Ref 21/02414/FUL, dated 9 December 2021, was refused by notice dated 22 February 2022.
 - The development proposed is described as 'Demolition of existing dwelling. Construction of two new dwellings with a detached garage to Plot 1. Proposed formation of access, parking and associated landscaping'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - whether the proposal would result in satisfactory living conditions for the occupiers of the development and Nos 5 and 7 Well Lane, with particular regard to privacy and outlook.

Reasons

Character and appearance

3. The site includes a detached two storey dwelling, a garage and large front and rear gardens. It is adjacent to a curve and a turning head in The Linden's carriageway. A footway extends across the front and part of the side of the property and is adjacent to two vegetated areas that are next to the carriageway. The Lindens is predominantly characterised by detached dwellings of varying designs but sited mostly within generous plots and set back from the carriageway by large, open fronted gardens or wide and vegetated highway verges, which give the area an open, spacious and verdant feel. The site and the adjacent vegetated areas share and contribute to these characteristics.
4. The proposed dwelling at Plot 1 would be sited much nearer to the site's front boundary than the existing one. Furthermore, one corner of the dwelling would be positioned very close to the footway and the two vegetated areas. Consequently, the dwelling would appear cramped in immediate views and when entering The Lindens from Well Lane. Additionally, there would be limited space for soft landscaping to the front and side of Plot 1 due to the position of

the dwelling and the extent of the vehicular access and parking area. For these reasons, the area's open, spacious and verdant character would be harmed.

5. The front of the proposed dwelling at Plot 2 would be set close to a brick wall that runs along one side of the site's rear garden. Furthermore, its access would bend sharply from the turning head in an incongruous manner and be close to the rear of the dwelling at Plot 1. There would be very limited frontage available for soft landscaping so as to soften the appearance of the dwelling behind the wall. Consequently, the layout of Plot 2 would appear cramped and contrived, the sense of spaciousness provided by the existing rear garden would be eroded, and the open and verdant character of the area would be further undermined.
6. The appellant has put forward that other dwellings nearby including a recently permitted one at No 4¹ are sited close to the highway. However, the layout of Plot 2 differs markedly from the other dwellings that take access from The Linden's highway. The development is thus not directly comparable with properties elsewhere. Additionally, although No 6 is like the dwelling at Plot 1 insofar as a corner of it is next to a footway, the turning head and land towards the rear of No 6 provides a sense of openness and spaciousness around the dwelling when on approach from Well Lane. In contrast, the footway next to Plot 1 would appear to bend tightly around the dwelling and the open, spacious and verdant character provided by the existing front garden when approaching from Well Lane would be harmed.
7. It has also been advanced that the scheme would have a low housing density, both plots would be comparable in size or larger than others in the vicinity, and the minimum garden size requirements of Policy DM26 of the Chelmsford Local Plan (LP) would be exceeded. Additionally, I note that the designs and material finishes of the proposed dwellings would be compatible with others nearby. However, these matters do not overcome the harm identified.
8. The proposal would harm the character and appearance of the area. It conflicts with LP Policy DM23, which sets out that development must be compatible with its surroundings. It is also contrary to Chapter 12 of the National Planning Policy Framework (Framework) which states that development should be sympathetic to local character.

Living conditions

9. LP Policy DM29 seeks adequate living environments. Additionally, although not specified on the decision notice, the Council has referred to LP Policy DM26 and associated Appendix B. These set out housing standards including minimum separation distances between existing and proposed development with the aim of ensuring satisfactory levels of privacy, and outlook so as to prevent overbearing. However, the policy suggests that the standards can be applied with some flexibility depending on particular site circumstances.
10. The distance between the rear of the dwelling at Plot 1 and the side of the dwelling at Plot 2 would be 12 metres, which is very slightly below the standard for back-to-flank relationships pursued by Appendix B. However, the dwelling at Plot 2 would not extend across the entirety of the rear of the other one or its garden. Outlook for the occupiers of Plot 1 would therefore be satisfactory.

¹ Appeal reference: APP/W1525/W/20/3254149

Additionally, there would only be a ground floor toilet window facing Plot 1. Subject to it being fixed shut and obscure glazed, or appropriate fencing being installed between the dwellings, there would be no privacy issues. Accordingly, the relationship between the proposed properties would be satisfactory.

11. The rear of the dwelling at Plot 2 would feature two first floor bedroom windows and a bathroom window that would be slightly more than 4 metres from the rear garden boundaries of Nos 5 and 7 Well Lane. Appendix B suggests that this distance should be at least 15 metres.
12. Although the neighbouring properties include substantial rear gardens and thus outlook from them would not be harmed significantly, the arrangement would nevertheless result in an unacceptable loss of privacy to their gardens. Whilst there is vegetation along the shared boundary, there can be no certainty that this would be retained in perpetuity or to a height or density that would ensure adequate privacy levels to Nos 5 and 7. In addition, outlook from the rear of the proposed dwelling would be very limited due to its distance to the boundary; this would be exacerbated if the bedroom windows were fixed shut and obscured glazed to safeguard the neighbours' privacy, particularly from Bedroom 4 which would only have one window.
13. The proposal would therefore result in unacceptable harm to the living conditions of the occupiers of Nos 5 and 7 in respect of privacy and unsatisfactory outlook from the rear of the dwelling at Plot 2. The proposal thus conflicts with LP Policy DM29, the purposes of which are set out above.

Other Matters

14. I have been referred to a previous scheme at the site. However, it was dismissed at appeal² and its form differs from the proposed development. Consequently, it has little bearing on my decision.
15. The Council refers to potential harm from the proposal on 'habitats sites' as defined in the glossary to the Framework. If I had been minded to allow the appeal, I would have needed to have been satisfied that the proposal would not adversely affect the integrity of any habitats sites. However, even if there would be no adverse effect, this would constitute a neutral consideration rather than a benefit weighing in favour of the development. The proposal would make a small contribution to housing supply, and I note that the Framework seeks the effective use of land. The appellant also highlights that it will help to address need for 4-bedroom housing in accordance with LP Policy DM1. However, these matters do not outweigh the harm identified.

Conclusion

16. The proposal conflicts with the development plan. Material considerations do not outweigh that conflict. I have not therefore considered the effect of the proposal on habitats sites since this would have no effect on my decision.
17. Accordingly, the appeal is dismissed.

Mark Philpott

INSPECTOR

² Appeal reference: APP/W1525/W/21/3288177