



Appeal Decision

Site visit made on 7 February 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 7th March 2023

Appeal Ref: APP/M1520/W/22/3296822

19 Romsey Road, Benfleet, SS7 5TP

- 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 Peter Marchant against the decision of Castle Point Borough Council.
 - The application Ref 21/1160/FUL, dated 5 January 2022, was refused by notice dated 24 February 2022.
 - The development proposed is to demolish existing bungalow and associated outbuildings and construct 3 No. dwellings including new vehicle crossover and extension of existing vehicle crossover for associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed development on the streetscene and the locality; ii) the effect on neighbouring occupiers; iii) the extent of outdoor amenity space; iv) the extent of the proposed internal space living space; v) the extent of the provision of parking space; and vi) is there mitigation in accordance with the council's adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

Reasons

The effect of the proposed development on the streetscene and the locality

3. The council has adopted a supplementary planning document 'Residential Design Guidance'. Within this, guidance at RDG2, it states that space around a new development should be informed by the prevailing character of space around dwellings. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern. It should seek to provide at least 1m between the properties and the boundary in order to provide buildings with an adequate setting within the wider streetscene.
4. The site is located on the southern corner of Romsey Road and Romsey Drive. It is rectangular in shape, measuring approximately 33.6m deep and some 16.2m wide, with the north-west corner following the radius of the road junction with Romsey Drive. The site currently contains a detached two-

bedroom bungalow with a detached garage. The site is located within a residential area comprising mainly detached and semi-detached dwellings, predominantly houses but interspersed with bungalow and chalet style properties. Either side of the junction with Romsey Drive are two bungalows, with that which currently occupies the appeal site having an unfenced frontage of hardstanding which provides an open character to this side of the junction.

5. The houses adjoining the appeal site on Romsey Road are in fact a semi-detached pair, with garages built forward of their front elevations. The first development fronting Romsey Drive is a recent group of 4 houses, on the opposite side of the road to the appeal site. These are in linked form, with a main façade set forward of the linking elements. These linking elements have first floor accommodation set within the roof space, aided by dormer windows. In effect, this is a terrace of 4 houses, the mass being broken up by the articulation of the front elevations. They are set back a reasonable distance from the highway, but they have noticeably narrow frontages. These 4 houses are followed by a cul-de-sac, Romsey Close. The houses on each side of Romsey Close have their side elevation just set back from the highway, as does the end dwelling on Romsey Crescent, at the rear of the appeal site.
6. From my site inspection I observe that the principal character of Romsey Road is one of closely spaced detached and semi-detached dwellings, generally separated by each having a 1m side access, but also often having an attached garage built out to the side boundary.
7. Within this general character, the rear gardens of the houses in Romsey Crescent are generally smaller than the area taken as a whole. The effect of this is that plot 3 of the appeal proposal is placed close to the rear elevation of No.2 Romsey Crescent, which is immediately at the rear of the appeal site, with the flank elevation of proposed plot 3 being on the boundary. This relationship is made more unsatisfactory by the small rear gardens of proposed plots 1 and 2, so that the rear elevation of plot 1 is separated by a small space from plot 3, within which the car parking provision of plot 3 intervenes. The footprints of the proposed houses are considerably smaller than almost all of the surrounding housing, save for the linked houses that I have referred to in paragraph 5. But unlike the linked houses, the appeal proposal is for units which are not seen as a composition. This is compounded by the narrow gap between plots 1 and 2 and between plot 2 and No. 21 Romsey Road.
8. These considerations lead me to conclude that there is a distinct character to the development around the appeal site which creates a strong pattern in its physical form. This pattern is one of reasonably substantial dwellings being closely spaced; but the effect of the proposed development would be at odds with this, in that it would appear cramped in relation to the neighbours. The narrow gap between proposed plots 1 and 2 would emphasise the effect of development being squeezed onto a plot of inadequate size, as would the relationship of the frontage pair with plot 3, and plot 3 with No.2 Romsey Crescent. This would be to the detriment of streetscene and the character of the locality.

The effect on neighbouring occupiers

9. This issue relates to over-looking from first floor windows in the plot 3 dwelling, such that there would be a loss of amenity to the garden of the neighbouring dwelling at 21 Romsey Road. Whilst this could potentially be overcome by

means of obscure glazing, that would not be appropriate for rooms used as bedrooms and study where an outlook should be expected. The proposal would have an unsatisfactory relationship between the proposed dwelling and its neighbour. In addition, I consider that the plot 3 dwelling would have an overbearing presence on No.2 Romney Crescent.

The extent of outdoor amenity space

10. The largest of the proposed private amenity areas is 69m², which is set against at least 90m² that is sought in the guidance. This, in the context of the proposed dwellings being 5 person detached houses, might be acceptable in some situations but, taken with the other matters, I consider that the shortfall is unsatisfactory, resulting from attempting to get 3 substantial houses on a small plot.

The extent of the proposed internal space living space

11. The criticism of the council in respect of the internal living spaces concerns built-in storage. Oddly the officer's report refers to this in the following way: "none of the flats have any built in internal built-in storage and is indicative of poor design and internal layout", when of course flats are not being proposed. In the absence of any more clearly articulated explanation of any such shortcoming, I will not come to a conclusion on this issue and it does not stand against the proposed development.

The extent of the provision of parking space

12. Plot 1 cannot accommodate spaces commensurate with the adopted parking standards without spaces overlapping one another as well as the public footpath. This in itself is unacceptable. However, the highway authority response states that the proposed car parking spaces have been provided in accordance with the preferred car parking standard dimensions (5.5m long by 2.9m wide) as contained within the EPOA car parking standards but notwithstanding the details submitted, the required minimum dimensions (5m long by 2.5m wide) as contained within the Parking Standards, can be provided within the curtilage of the site. I am satisfied that this is a reasonable approach and this issue does not stand against the proposed development.

Is there mitigation in accordance with the council's adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

13. Under the Conservation of Habitats and Species Regulations 2017, a Habitats Regulations Assessment (HRA) is required for land use plans and for planning applications which are likely to have significant effects on a Habitat Site. The appeal site falls within 'zones of influence' (ZOI) identified by Natural England for likely significant effects to occur to European designated sites, in this case specifically the Southend and Benfleet ZOI and the Blackwater ZOI. Those likely significant effects would occur through increased recreational pressure when considered either alone or in combination with other residential development. The necessary mitigation could be achieved by submitting a unilateral undertaking to pay a RAMS contribution at a future date or to make an upfront payment to avoid the need for a unilateral undertaking.
14. The appellant has provided a copy of a unilateral undertaking that would have dealt with this issue. However, the council considers that it is not satisfactory because, among other matters, the planning reference has not been added to

Schedule 2. It appears clear that it was the appellant's intention to pay the necessary mitigation, but since I am dismissing the appeal there is no point in seeking to overcome the shortcomings of the document.

Conclusions

15. It will be seen from the above that it is only the first, second and third issues that lead to my decision on this case. For the reasons given above I have found that the appeal proposal would appear cramped in relation to the neighbours, the narrow gap between proposed plots 1 and 2 emphasising the effect of development being squeezed onto a plot of inadequate size. This would be to the detriment of streetscene and the character of the locality. I have also found that the development would bring a loss of amenity to the garden of the neighbouring dwelling at 21 Romsey Road, and that the proposed plot 3 dwelling would have an overbearing presence on No.2 Romney Crescent. As far as the extent of outdoor amenity space is concerned, I concluded that, taken with the other matters just referred to, the shortfall is unsatisfactory, resulting from the attempt to get 3 substantial houses on a site too small to accommodate them in a satisfactory way
16. These conclusions lead to the necessity to consider the council's 5-year housing land supply position. The officer's report acknowledges that the council does not have a 5-year supply, and the appellant puts this at no more than 4 years, and questions the extent of 'buffer' that should be added. Reference is also made to the poor results of the housing delivery test. These matters mean that paragraph 11 d) of the National Planning Policy Framework must be considered. This is within the section of the Framework setting out the presumption in favour of sustainable development. It states:
d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
17. The areas or assets of particular importance (set out in footnote 7) include habitats sites. In this case, as set out in paragraph 13 above, the appeal site falls within 'zones of influence' (ZOI) identified by Natural England for likely significant effects to occur to European designated sites. This fact provides a 'clear reason for refusing the development proposed' in the absence of satisfactory mitigation. As explained in paragraph 14 above, this mitigation has not been provided. That means, under Framework paragraph 11 d) i. the 'titled balance does not apply, and permission should be refused. Indeed, without an Appropriate Assessment and a finding of satisfactory mitigation, I could not allow the appeal.
18. In recognition that it appears that the appellant wished to pay the mitigation fee, it is appropriate that I indicate what my conclusion would have been if the mitigation was in place. That would lead to the presumption under paragraph 11 d) ii., which requires permission being given unless the adverse impacts of

doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I have set out my conclusions on the adverse impact in paragraph 15 above. Therefore the benefits of the proposed development need to be enumerated so that a balanced judgement can be formed.

19. Sustainable development has 3 overarching objectives: economic, social, and environmental. The economic objective would be met by short term employment during the construction phase and the delivery of materials that would likely come from local suppliers. I cannot see that the addition of 3 new households would materially add to the viability of businesses in the area. The social objective would clearly include the net gain of 2 new dwellings, which would have an enhanced value when the councils housing land supply is so constrained, and when, as advised in Framework paragraph 69, 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. Nevertheless, 2 addition dwellings would make only a marginal difference in bolstering housing numbers. I cannot see any meaningful benefit to the environmental objective, other than the expectation that the dwellings would be more efficient in the use of energy.
20. On balance I conclude that the adverse impacts of the development are such that they outweigh the benefits when assessed against the policies in the Framework taken as a whole.
21. For the above reasons, the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR