



Appeal Decision

Site visit made on 21 February 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2023

Appeal Ref: APP/B1550/W/22/3301768

4 Mortimer Road, Rayleigh SS6 9NX

- 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 Miss C Hartshorn against the decision of Rochford District Council.
 - The application Ref 21/01379/FUL, dated 30 December 2021, was refused by notice dated 18 May 2022.
 - The development proposed is the demolition of the existing garage and subdivision of the existing plot to provide a new single storey dwelling at the rear with associated development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

3. The proposed development would be accessed via the existing and extended driveway that would run along the sides of 4 and 6 Mortimer Road. Parking spaces and a turning area would be positioned towards the end of the existing rear garden which would be subdivided.
4. The proposed access would serve only one dwelling. The position of the access, parking spaces and turning area at this site are such that the starting, manoeuvring and passing of cars would take place very close to the sides of Nos 4 and 6, including their side-facing windows and rear gardens.
5. Such activity would result in a greater and unacceptable level of disturbance than is currently the case. At present, the rear gardens in this location are peaceful with limited built form beyond the established building lines. The proposed change in relationship would be to the detriment of the living conditions of the occupiers of Nos 4 and 6. Landscaping, including boundary treatments and the use of non-loose driveway materials, could assist in mitigating the effects of the proposed development. However, I have no clear evidence before me to demonstrate that this would sufficiently mitigate against noise and disturbance, even if this limited views of passing vehicles from side-facing windows and light spillage. Moreover, there is no certainty, or

mechanism before me to ensure, that future occupants would use a quieter electric vehicle, even where a charging point is proposed.

6. The appellant sets out that a driveway already exists at present, and the use of permitted development (PD) rights forms a fallback position. Specifically, it is set out that domestic outbuildings could be erected on the appeal site without the need for planning permission. Evidence of a certificate of lawful development has been provided in support of this. Nevertheless, even were an outbuilding and extended vehicular access erected under PD, this would be ancillary to the main house and not associated with a standalone dwelling. Therefore, traffic movements in that case would not increase from those currently experienced from the existing drive. Consequently, there is no substantive evidence before me that demonstrates that the appellant could reasonably implement a similarly harmful scheme under their PD rights.
7. Whilst the proposed development would undoubtedly change the relationship between the appeal site and neighbouring properties along Eastview Drive, Hullbridge Road and 10 Mortimer Road, which back onto the existing rear garden, the proposed parking area would be positioned a considerable distance away from those properties. This would mean that there would be no unacceptably harmful impacts on the living conditions of the occupiers of those properties. However, the lack of harm in those respects does not overcome the harm identified above.
8. For the above reasons, I conclude that the proposed development would unacceptably harm the living conditions of neighbouring occupiers, with regard to noise and disturbance, contrary to the relevant provisions of Policy CP1 of the Rochford Core Strategy Adopted Version (2011) and Policies DM1 and DM3 of the Rochford Development Management Plan (2014). These policies, amongst other objectives, seek to ensure that proposed development has a positive relationship with existing and nearby buildings in respect of living conditions. This is in a similar vein to the provisions of paragraph 130(f) of the National Planning Policy Framework, insofar as the provision of a high standard of amenity for existing users is concerned.

Other Matters

9. The Council does not object to the principle of the proposed development. Based on the evidence before me and from my site visit, I have no reason to disagree with those findings. The proposal would assimilate to an acceptable standard with the surrounding area.
10. The proposed dwelling would meet a number of other planning policy objectives including in respect of its high-quality design, living conditions for future occupiers, trees, ecology and sustainable construction. The site would also contribute to the creation of one additional dwelling in the district, make efficient use of a windfall site in a sustainable location and introduce additional landscaping measures.
11. There would also be some temporary economic benefits of the development during the construction phase and longer-term benefits through increased support of local shops and services. However, these benefits, both individually and cumulatively, would inevitably be limited due to the scale and nature of the proposed development.

12. The highway authority does not object to the proposed development from a highway safety perspective and I note that pre-application advice was obtained prior to the submission of the planning application. Nevertheless, the lack of harm in that respect is essentially neutral in my assessment of the appeal and any pre-application advice would not be determinative.
13. The appellant has brought my attention to recent planning permissions at a number of sites, including at Ferndale Road, Rawreth Lane, London Hill and Plumberow Avenue. Only limited information has been provided in respect of those schemes. However, the characteristics of each site and location are different, not least in the case of London Road. In that case, there appears to have been a pre-existing driveway which extended well beyond the rear elevation of properties. The case at Ferndale Road relates to an outbuilding. The case at Plumberow Avenue includes the demolition of an existing property.
14. Even where there are similarities between sites, including at Rawreth Lane in respect of distances to neighbouring properties, the existence of that scheme is not reason to automatically accept a harmful development at the appeal site. Ultimately, I have considered the proposed development on the evidence before me and my observations on site, and those other cases have not led me to conclude differently on the main issue.

Conclusion

15. For the reasons above, and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal is dismissed.

A Price

INSPECTOR