

Appeal Decision

Site visit made on 23 June 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/M1520/W/21/3286308
25 & 27 High Street, Canvey Island SS8 7RB

- 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 N Chovatiya against the decision of Castle Point Borough Council.
 - The application Ref 21/0759/FUL, dated 30 July 2021, was refused by notice dated 11 October 2021.
 - The development proposed is ground floor rear extension to shop (no.27 High Street) and creation of new first floor over both premises to form 2-bedroom flat and store for ground floor shop.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site lies within the zone of influence for three designated habitats sites. A Unilateral Undertaking (UU) and a direct payment in regard thereto has been made to the Council. Nevertheless, it is incumbent upon me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of these designated sites either in isolation or in combination with others and, if so, whether this can be adequately mitigated.

Main Issues

3. The main issues are therefore the effect of the proposed development on:
 - the integrity of habitats sites;
 - the living conditions of surrounding residents with respect to the demand for on-street parking; and
 - the character and appearance of the area.

Reasons

Habitats Sites

4. The site falls within the zone of influence for the Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar, the Foulness Island SPA and Ramsar and the Blackwater Estuary SPA and Ramsar. The Council has adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) to address the likely significant effects of development within these areas.

5. Regulation 63(2) of The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) confirms that it is incumbent on any person applying for permission to provide such information as the competent authority may reasonably require for the purposes of assessment. The SPD does not contain all of the information I would require to carry out this assessment and no additional evidence has been provided.
6. Even if I did have sufficient information to enable me to establish whether there would be a likely significant effect, either alone or in combination with other development which could be adequately mitigated, there is no sufficiently robust mechanism before me to secure the contributions identified by the SPD. I am not satisfied the UU could be relied upon to secure any contribution and it is not consistent with the Council's officer report with regard to the contribution necessary to mitigate any effects of the development. Although I note a direct payment has subsequently been made, there is no accompanying mechanism to ensure this would be used towards the measures set out in the SPD. Without that certainty, I could not conclude that the proposed development would not have an adverse effect on the integrity of the habitats sites.
7. Consequently, the proposed development would be contrary to the habitats regulations and Section 15 of the National Planning Policy Framework (the Framework) insofar as it relates to habitats sites, which require all impacts to be mitigated against.

Living Conditions

8. High Street is commercial in nature however there is extensive residential development to the rear. It was clear at my site visit, which was during the day, that there is significant pressure for car parking in the surrounding area due to the high levels of on-street parking despite a number of properties having access to off-street parking, much of which was also in use.
9. The appeal proposal does not make any provision for off-street parking. It is for a two bedroom first floor flat in a central location. While this does not guarantee that occupiers will not have a car, the site is well located for access by foot to services and facilities to meet day to day needs without the use of a car. However, given the extent of parking demand that was evident at my site visit, I can only conclude that even the increased demand from one car would result in additional parking stress and inconvenience to those living in the area. This would have an adverse effect on the living conditions of surrounding residents, contrary to Castle Point Borough Council Local Plan adopted 17 November 1998 (LP) Policy T8 which sets parking standards for the area.

Character and Appearance

10. The site is a single storey end terrace building occupying a corner plot on the junction of High Street and Adelsburg Road. The front elevation sits forward of its attached neighbour. It has a mixed roof profile, both flat and pitched. There is no consistent style, form or appearance to the buildings along High Street. The immediate area includes compact single storey commercial properties in a stepped arrangement, a large supermarket with a long, generally unrelieved mansard roof and a terrace with a pitched roof.
11. The proposed first floor extension would be flush on the front elevation with the first floor of the attached neighbouring property. This would leave single

storey, flat roof projections to both front and rear which would be clearly visible in the street scene given its corner location and the views available along the straight High Street. The apex of the roof would not align with that of its neighbour. While this would appear somewhat incongruous, it would not be any more so than the existing arrangement. The roof form would not be prominent or conspicuous in the street scene due to its position in line with the upper floor of the attached neighbour, the short view from the west and the particularly varied nature of the immediately surrounding development on High Street.

12. The proposal would therefore not be harmful to the character or appearance of the area, in accordance with LP Policy EC2 which requires, amongst other things, the design of development to be appropriate to its setting and not harm the character of its surroundings. It would also be in accordance with paragraph 130 of the Framework which, amongst other things, requires development to be sympathetic to local character including the surrounding built environment.

Conclusion

13. Notwithstanding my conclusions in regard to the third main issue, it would not be sufficient to make the proposed development acceptable in light of the harms I have found in respect of the other two. This would result in conflict with the development plan for which there are no material considerations, including the approach of the Framework and worthy of sufficient weight, that would indicate otherwise. The appeal should therefore be dismissed.

J Downs

INSPECTOR