



Appeal Decision

Site visit made on 5 September 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/P1560/W/22/3303621

Land to the rear of 88 Lee Road, Dovercourt, Essex CO12 3SB

- 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 Timothy Lewis Hay against the decision of Tendring District Council.
 - The application Ref 22/00597/FUL, dated 29 March 2022, was refused by notice dated 22 June 2022.
 - The development proposed is a one bedroom bungalow.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The address on the application form and drawings refers to the location of the appeal site as 4 Langley Close. However, there were no apparent features on the appeal site that identify it as such. The postcode stated by the appellant relates to Lee Road. Therefore, for the banner heading above, I have used the address stated on the Council's decision notice and used in its publication of the application. This coincides with the address given by the appellant in the appeal form and I am satisfied that assessing the appeal on this basis would cause no prejudice to any party.
3. I am advised that the appeal site lies within the zone of influence of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site, which is protected as a European site of nature conservation importance and subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (as amended). I will return to this matter later in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area.
 - Whether the proposal would provide adequate living conditions for future occupiers of the proposed dwelling, and the occupiers of 88 Lee Road (No. 88), with particular regard to the amounts of outdoor amenity space.
 - The effect of the proposed development on highway safety with particular regard to vehicle parking provision for No. 88.

Reasons

Character and appearance

5. Langley Close (the Close) is a relatively short residential cul-de-sac that is fronted mostly by detached and semi-detached 2 storey houses, along with a few single storey bungalows and a large flat block. These buildings are generally set in plots of comparable widths and on an irregular building line that responds to the curvature of the road.
6. Despite the different heights of the buildings fronting the Close, all have relatively wide facades and main roof slopes that face the Close, with side facing main gables. With the exception of the period style building at numbers 37 and 39, all buildings are constructed from similar materials of predominantly light-coloured brick, with painted render to the upper floor walls of some buildings. These predominant characteristics give the buildings in the Close a generally consistent, well-ordered and unified character and appearance.
7. The proposed dwelling would occupy an uncharacteristically narrow plot within the Close and it would appear uncomfortably cramped set near to the rear wall of No. 88. The façade of the proposed dwelling, with its angular shape and asymmetric form, would be considerably narrower than the facades of the other existing buildings in the Close, including the bungalows.
8. Together with the proposed dwelling's side facing roof slopes, I find that the scale, form and appearance of the proposed dwelling would contrast markedly with the designs of the existing dwellings on the Close. It would therefore represent an incongruous addition to the street scene that would erode the characteristic pattern of relatively wide fronted buildings of similar designs that contribute positively to the character and appearance of the area. The extensive use of dark coloured stone in the external surfaces of the proposed dwelling's façade and tall side facing wall, would not be reflective of the lighter coloured brick buildings in the Close, and would emphasise its incongruity in the street scene.
9. For these reasons, I conclude that the appeal proposal would harm the character and appearance of the area. As such, it would conflict with Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond - North Essex Authorities' Shared Strategic Section 1 Plan (Adopted January 2021), (the LP1) and Policy SPL3 of the Tendring District Local Plan 2013-2033 and Beyond, Section 2, (Adopted January 2022) (the LP2), which, amongst other objectives, seek development of a high standard of design, which relates well to its site and surroundings, particularly in relation to its siting, height, scale, massing, form, design and materials, and preserves and enhances the quality of existing places.
10. Insofar as is relevant to this appeal, those policies are consistent with the aims of the National Planning Policy Framework (the Framework) in Paragraph 130, which requires developments that are well designed and sympathetic to local character, including the surrounding built environment. For the reasons given above, the proposal would be contrary to those aims of the Framework.

Living conditions

11. Relative to the size and likely occupancy level of the proposed dwelling, the outdoor amenity space, although smaller than most in the locality, would be

conveniently accessible to the living area within the proposed dwelling. It would also be of a shape and size sufficient to establish a small outdoor seating area for relaxation. As such, it would contribute to providing adequate living conditions for the future occupiers of the proposed dwelling in this location. The retained outdoor amenity space for No. 88, would also be of a shape and size sufficient to establish a modest outdoor seating area for relaxation and socialising, along with space for domestic purposes such as the drying of washing.

12. For these reasons I conclude that the proposed development would provide adequate living conditions for future occupiers of the proposed dwelling, and the occupiers of No. 88, with particular regard to the amounts of outdoor amenity space. It would therefore be consistent with Policy SP7 of the LP1 and Policy SPL3 of the LP2, insofar as they require development to protect the amenity of existing and future residents, including the provision of adequate private amenity space.

Parking

13. Although many of the period style dwellings in the area do not have off-street parking spaces, the grid like pattern of the relatively wide roads in the area of the appeal site, including Lee Road in the vicinity of No. 88, generally provides unrestricted vehicle parking on both sides.
14. During my site visit on a weekday afternoon, which was a snapshot in time, I observed relatively low levels of vehicle parking along the section of Lee Road in the vicinity of No. 88, and close to the junction with Elmhurst Road and Old Vicarage Road, with spaces available for the parking of several vehicles. There were also parking spaces available at intermittent intervals along the rest of Lee Road and other roads joining it. Vehicles were not parked around junctions or on footways and vehicle movements were relatively infrequent on this local road, which I attributed to the choice of highway routes in the area.
15. Overall, I observed sufficient capacity within Lee Road and surrounding roads to accommodate the parked vehicles associated with the occupancy of No. 88, which would be displaced by the appeal proposal. I have no evidence to show that the conditions I observed during my visit were abnormal.
16. Whilst I note the Local Highways Authority's description of the area and concerns over the consequences of increased parking stress, I am satisfied, taking account of my observations, that the appeal proposal would not lead to an excessive additional demand for on-street parking. As such, the proposal would not be likely to lead to vehicles being parked in locations where they would cause an obstruction to road users or congestion resulting in severe highway impacts.
17. Taking all the above into account, I conclude that the absence of off-street parking provision for No. 88, would not result in an adverse effect on highway safety. As such, the proposal is consistent with Policy SPL3 of LP2, which seeks to ensure, amongst other objectives, that development makes adequate provision for vehicle parking and will not lead to a severe traffic impact.

Other Matters

18. The evidence indicates that the resident population of the proposed dwelling is likely to contribute to increased visitor numbers to the SPA. In turn, this would

exert increased recreational pressure on the SPA, leading to disturbance and likely significant adverse effects on the nature conservation interests for which the SPA is designated.

19. The appellant has expressed a willingness to make a direct payment to the Council of the requisite tariff-based contribution towards the delivery of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy to mitigate the proposal's potential adverse in-combination effects of on the nature conservation interests of the SPA. The appellant contends that the Council is acting unreasonably in requiring that a planning obligation be entered into to secure payment of the contribution.
20. The appellant suggests that payment can be obligated by a mechanism to be agreed between the main parties through the imposition of a planning condition. However, the Planning Practice Guidance (PPG) advises¹ that no payment of money or other consideration can be positively required when granting planning permission. The PPG² states that a condition requiring a planning obligation to be entered into is appropriate only in exceptional circumstances.
21. There is no substantive evidence before me to demonstrate any exceptional circumstances that would justify imposing a planning condition requiring a planning obligation to be entered into. Therefore, the contribution to deliver the requisite mitigation has not been properly secured and I cannot be certain that the proposed development would not harm the integrity of the SPA, as required by Policy PPL4 of LP2. Nevertheless, in light of my findings on the main issues above, it is not considered necessary to look at the harm to the SPA in detail, given that the proposal is unacceptable for other reasons.
22. I note that housing development is supported in principle in this location, which has good access to a range of services, facilities and employment opportunities. The proposed dwelling would make efficient use of land and could meet a demand for smaller and more affordable homes with low maintenance gardens, particularly for older persons seeking to downsize or younger persons seeking a first time property.
23. However, the evidence indicates that the Council can demonstrate a 5-year supply of housing land and in the absence of substantive evidence of either a need for small single bedroom homes, or a shortage of such homes, along with any mechanism to control the occupancy of the dwelling to younger and older persons, these are factors of limited weight in favour of the appeal proposal.
24. The construction and occupancy of the proposed dwelling would generate short and long-term economic activity and lasting social benefits through residents supporting facilities and services in the local economy. However, given the scale of the proposed development and its likely level of occupancy, the economic and social benefits are small and attract limited weight in its favour.
25. I have found that the appeal proposal would not harm the living conditions of the occupiers of No. 88, the future occupiers of the proposed dwelling or the safety of highway users. Furthermore, I have no evidence of any harm to designated heritage assets. Nonetheless an absence of harm in these respects

¹ Paragraph: 005 Reference ID: 21a-005-20190723

² Paragraph: 010 Reference ID: 21a-010-20190723

would be a requirement of any well-designed development and it does not weigh either in favour or against the appeal proposal.

26. I acknowledge that the appeal site is overgrown. However, I am not persuaded that the appeal proposal is the only means for this to be addressed.

Conclusion

27. I have found that the appeal proposal would harm the character and appearance of the area, and I give significant weight to the conflict with Policy SP7 of the LP1 and Policy SPL3 of the LP2, insofar as they seek development of a high standard of design, which relates well to its site and surroundings, and preserves and enhances the quality of existing places.
28. The appeal proposal would not result in any other harms. However, the material considerations, including the aforementioned potential benefits of the proposal and the associated provisions of the Framework, do not carry sufficient weight to outweigh the harm, nor do they indicate that the application should be determined other than in accordance with the development plan.
29. For the reasons given above and having considered all matters raised, I conclude that the proposed development conflicts with the development plan as a whole. Therefore, the decision should be made in accordance with the development plan and the appeal should be dismissed.

G Sylvester

INSPECTOR