



Appeal Decision

Site visit made on 17 October 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2023

Appeal Ref: APP/B1550/W/23/3319265

7 Hillside Avenue, Hawkwell, Essex SS5 4NN

- 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 Mike Reddan (Reddan Contractors) against the decision of Rochford District Council.
 - The application Ref 22/01086/FUL, dated 10 November 2022, was refused by notice dated 12 January 2023.
 - The development proposed is described as "Demolish existing single storey dwelling house to create 2No new residential dwellings".
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Decision

1. The appeal is allowed and planning permission is granted for demolish existing single storey dwelling house and develop 2No new residential dwellings at 7 Hillside Avenue, Hawkwell, Essex SS5 4NN in accordance with the terms of the application, Ref 22/01086/FUL, dated 10 November 2022, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. I have made a minor amendment to the description in my decision above in the interest of clarity.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the site and surrounding area; and
 - the integrity of protected European Sites.

Reasons

Character and appearance

4. The area surrounding the appeal site is suburban, comprising mainly detached and semi-detached houses and bungalows of varied ages, sizes, styles and designs. The dwellings have a diverse range of hipped and gabled roof forms. The overall built form is generally compact, with varied plot sizes. The appeal site itself is wider than most nearby plots, having previously accommodated a relatively wide bungalow.
5. The proposal would subdivide the appeal site into two parallel frontage plots. These plots would be narrower than some others in the surrounding area, particularly those to the immediate north on Hillside Avenue. The new houses

themselves would also be narrower and more closely positioned than some others nearby. However, in the context of surrounding streets beyond Hillside Avenue, the proposed subdivision would not result in a significantly more compact layout than the prevailing urban grain. Moreover, there are narrow and closely sited detached dwellings elsewhere in Hillside Avenue, such as at Nos 13, 17 and 19. Compared to those houses, the new dwellings would not appear unduly close or cramped on their plots.

6. The Council refers to guidance on infill development in its Housing Design Supplementary Planning Document 2007 (SPD2). This states site frontages shall ordinarily be a minimum of 9.25 metres for detached properties or of a frontage and form compatible with the existing form and character of the area. I accept one of the two new plots would be narrower than 9.25 metres. Nevertheless, for the reasons set out above I find this layout would be compatible with the form and character of the area. This is notwithstanding that some of the narrower plots that now contribute to the diverse local form and character predate the adoption of SPD2.
7. I am also satisfied on the evidence before me that the appeal site is accessible by a choice of means of transport and within easy access of local facilities and services. These are circumstances in which SPD2 supports higher densities for infill development. On balance, therefore, I find the proposal would be consistent with SPD2. Furthermore, whilst plot ratios would be at the upper end of the range in the street, they would be broadly consistent with guidance for compact residential areas in the National Model Design Guide.
8. The height and style of the new houses would complement that of neighbouring dwellings. Overall, the proposed roofs would be compatible with the varied roof forms of surrounding houses, even if these include few 'crown roof' elements. In any event, few of the surrounding dwellings are 'traditional buildings of Essex' as identified in the Essex Design Guide.
9. The front building line of the new dwellings would be broadly consistent with that of other houses in the street, helping to achieve integration in the street scene. Use of complementary materials and design finishes would also aid assimilation and could be secured by condition. The slightly deeper rear building line compared to neighbouring houses would be of little consequence given the length of the proposed rear gardens and variety of house designs in the area. Taking all these factors together, I find the proposal would not look out of place and would instead make a positive contribution to the already diverse character of the surrounding area.
10. For the above reasons, I conclude the proposal would not have a harmful effect on the character and appearance of the site and surrounding area. Accordingly, I find no conflict with Policy CP1 of the Rochford District Council Local Development Framework (RLDF) Core Strategy 2011 (CS) or Policies DM1 and DM3 of the RLDF Development Management Plan 2014 (DMP). Together, these policies seek high quality design that positively addresses the existing street pattern, density and character of the locality. I also find no conflict with the National Planning Policy Framework (the Framework) where it seeks development that is sympathetic to local character while not preventing appropriate innovation or change (such as increased densities).

Integrity of protected European sites

11. The appeal site lies within the Zone of Influence of the Essex Estuaries Special Area of Conservation (the SAC), and four Special Protection Areas that are also Ramsar sites: Blackwater Estuary, Crouch and Roach Estuaries, Dengie, and Foulness Estuary (the SPAs). The SAC and SPAs are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
12. The SAC is a coastal plain estuarine system with associated open coast mudflats, sandbanks, saltmarshes, scrubs and inter-tidal zones. It contains a very wide range of marine and estuarine sediment communities, including the reef-building worm and brittlestar. The SPAs support nationally and internationally important populations of breeding and migratory bird species, such as the little tern, hen harrier and ringed plover. They are particularly important for wintering waterbirds such as the dark-bellied brent goose and cormorant.
13. Together, the SAC and SPAs provide an important recreational and economic resource. On the evidence before me, the proposal, particularly when combined with other development in the area, would be likely to have a significant effect on these protected European sites. Consequently, under the Habitats Regulations, an appropriate assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.

Appropriate Assessment

14. The conservation objectives of the SAC and SPAs aim to ensure the integrity of the sites is maintained or restored. This includes maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats; and the population and distribution of each of the qualifying features within the sites. There is a threat to their integrity from public access and disturbance, including from recreational activities such as walking, dog walking and water sports.
15. It is likely the occupants of the proposed dwelling would visit the SAC and SPAs, resulting in increased recreational activity that would disturb the protected habitats and birds within the sites. Therefore, the development, alone and in combination with other development, would be likely to have significant adverse effects on the integrity and conservation objectives of the SAC and SPAs.
16. The parties have agreed a financial sum in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and associated Essex Coast RAMS Supplementary Planning Document. The sum would be put towards a programme of strategic mitigation measures. Natural England has been consulted as part of this appropriate assessment and has confirmed that the Essex Coast RAMS measures are sufficient to avoid an adverse impact on the integrity of the SAC and SPAs.
17. Although not contained within a legal agreement, I am satisfied on the evidence before me that the appropriate tariff has been received by the Council for the purposes of contributing to the strategic mitigation measures in the

Essex Coast RAMS. I therefore find there would be no adverse effect from the proposed development on the integrity of the SAC and SPAs.

Conclusion

18. For the reasons set out above, I conclude the proposed development would not have an adverse effect on the integrity of protected European sites. Accordingly, it would be consistent with the Framework, which requires adequate mitigation if significant harm to sites protected under the Habitats Regulations cannot be avoided.

Other Matters

19. The Council is satisfied with the effect of the proposal on the living conditions of neighbouring occupiers, with respect to privacy, outlook and light. This includes in relation to the Council's 45-degree test for proximity to neighbouring dwellings. On the evidence before me, I see no reason to disagree with these conclusions, subject to a condition to secure restricted opening and obscured glazing for the ground and first floor windows in the proposed side elevations of the new houses.
20. The proposed side door in each house would provide access to a utility room, so would not be a principal entrance given alternatives at the front and rear of the houses. Use of the side doors would therefore be occasional, so would not cause a material level of disturbance to neighbours.
21. The number of off-street spaces proposed would be consistent with the Council's parking standards, notwithstanding that other houses in Hillside Avenue have more spaces and/or garages. However, conditions are necessary to secure the satisfactory design of off-street vehicle parking spaces and vehicle crossovers, including in relation to existing street furniture; and to secure and retain adequate cycle storage. Subject to these conditions, on the evidence before me I am satisfied the proposal would not generate a significant increase in on-street parking stress or adversely affect highway safety, even allowing for deliveries, refuse collection and access to services and facilities.
22. Construction would cause some disruption, but this would be temporary and would be mitigated by a Construction Management Plan, which could be the subject of a condition.
23. Given only one net additional dwelling is proposed, increased demands on local infrastructure, such as schools and health facilities, would be limited. This impact would be little different from that associated with a previously permitted planning application (Reference 22/00425/FUL). Whilst I acknowledge concerns were raised at the time of that earlier application, each application and appeal must be assessed on its individual merits.
24. The issue of impact on property values has been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property.

Conditions

25. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. In addition to the standard time limit condition, I have imposed a condition

requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.

26. A condition is necessary to mitigate risks to highway safety and impacts on neighbouring occupiers during construction. It is a pre-commencement condition because mitigation needs to be agreed before any works on site take place.
27. Conditions in relation to parking and access layouts and bicycle storage are necessary for the reasons given in other matters. Conditions on materials and landscaping are necessary to secure the satisfactory appearance of the development. The landscaping condition is also necessary to secure appropriate surface treatments at vehicle accesses and in circulation areas, and it incorporates the Council's suggested separate condition in this regard. Finally, a condition is necessary to protect the privacy of neighbouring occupiers as explained in other matters.

Conclusion

28. For the above reasons the proposal accords with the development plan, read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with it. I therefore conclude the appeal should be allowed.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 780 P01 Existing and Location Plan; 780 P02 Proposed Elevations; 780 P03 Proposed Plans.
- 3) No development shall take place, including any ground works, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in construction of the development;
 - and
 - wheel and underbody washing facilities.The approved Construction Management Plan shall be adhered to throughout the construction period.
- 4) No development above ground shall take place until details of all materials to be used in the external surfaces of the building (including windows, doors, roof, rainwater goods, soffits and eaves) have been

submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 5) No dwelling shall be occupied until details of car parking layouts, vehicle accesses and pedestrian crossovers have been submitted to and approved in writing by the local planning authority. These details shall include provision for closure of the redundant parts of the existing access and reinstatement to full height of the highway verge, footway and kerb. The approved details shall be implemented prior to first occupation of the development. The parking spaces shall thereafter be kept available at all times for the parking of vehicles.
- 6) No dwelling shall be occupied until details of hard and soft landscaping have been submitted to and approved in writing by the local planning authority. The details shall include:
 - existing and finished levels shown as contours with cross-sections if appropriate (including any level thresholds);
 - paving and hard surfaces, including access, circulation and parking areas;
 - boundary treatments;
 - trees to be retained;
 - planting schedules;
 - areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment; and
 - an implementation programme.

The hard and soft landscaping works shall be carried out in accordance with the approved details and implementation programme. Any trees, shrubs or plants which within a period of 5 years from occupation of the building die, are removed or become seriously damaged or diseased shall be replaced in the next planting season and in the same location with others of similar size and species.
- 7) No dwelling shall be occupied until secure and covered bicycle storage that accords with EPOA Parking Standards has been provided. The bicycle storage shall thereafter be kept available for the parking of bicycles.
- 8) No dwelling shall be occupied until ground and first floor windows on the side elevations of the houses hereby permitted have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the rooms in which they are installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

End of schedule