



Appeal Decision

Site visit made on 12 December 2023

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2023

Appeal Ref: APP/P1560/W/23/3315143

164 St Osyth Road, Clacton-on-Sea, Essex CO15 3HA

- 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 J Waller (Dowanhall Estates Ltd) against the decision of Tendring District Council.
 - The application Ref 22/01014/FUL, dated 14 June 2022, was refused by notice dated 16 August 2022.
 - The development proposed is a 2-Bed dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of the occupiers of 162 and 164 St Osyth Road with regards to outlook and privacy;
 - whether the development makes satisfactory provision for garden space;
 - the effect on highway safety with regards to parking provision;
 - the effect of the development on the integrity of designated sites of nature conservation.

Reasons

Character and appearance

3. 164 St Osyth Road (No 164) is one half of a pair of two-storey, semi-detached houses located at the corner of St Osyth Road and Beaumont Avenue. The proposal involves demolition of an existing garage and the erection of a two-storey detached dwelling at the end of the rear garden, fronting onto Beaumont Avenue.
4. The street scene in Beaumont Avenue has a very consistent character with houses mostly of similar scale and style, arranged in regularly spaced pairs, set back similar distances from the street, and within rectilinear plots with larger gardens at the rear and parking at the front. The rear gardens at corner plots, including the appeal site, provide a pleasing sense of openness in an otherwise closely-developed linear street pattern.

5. The scale and orientation of the proposed dwelling would broadly reflect the houses in Beaumont Avenue, albeit in a detached form. I have noted the Council's concerns over the proportions of the dwelling, but this is not critical given that the gable ends would not face the street. However, the degree to which the dwelling would project beyond the front of 2 Beaumont Avenue would notably disrupt the well-defined building frontage along this part of the road. Moreover, as a result of its footprint-to-plot ratio and the limited space between the building and its roadside, south, and east boundaries, the development would appear uncharacteristically cramped and squeezed into its plot, also reducing the sense of openness which currently exists at the site. As such, the proposal would not relate appropriately to the existing pattern of development and character of the street scene.
6. The harm would be further compounded by the poor design of the rear elevation, which would present a bland expanse of wall with just one narrow high-level window. Although this elevation would not be visible from the street, the upper part would be seen from neighbouring properties and gardens. I recognise that the design of this elevation has been influenced by an attempt to mitigate any impact on the neighbouring occupiers. However, the result is a design that appears highly contrived and at odds with the character of surrounding development.
7. I therefore conclude, on this issue, that the development would harm the character and appearance of the surrounding area. This is contrary to Policy SP7 of the Tendring District Local Plan North Essex Authorities' Shared Strategic Section 1 Plan 2021 (LP1), which requires all development to meet high standards of urban design and respond positively to local character and context. In addition, the proposal would be contrary to Policies SPL3 and LP4 of the Tendring District Local Plan Section 2 2022 (LP2) which together require development proposals to maintain or enhance local character and distinctiveness, relate well to its site and surroundings, ensure a positive contribution towards the district's sense of place and deliver new dwellings with a well-considered site layout. It is also contrary to paragraph 130 of the National Planning Policy Framework (the Framework) which seeks developments that are visually attractive as a result of good architecture and layout; sympathetic to local character; and add to the overall quality of the area.

Living conditions of neighbours

8. The blank two-storey gable end of the new dwelling would be sited directly behind and close to the rear garden and windows of 164 St Osyth Road, while its mostly blank rear wall would extend notably along and at very close proximity to the rear garden of No 162.
9. Due to its height and the close separation distances involved, the proposed dwelling would appear visually dominant and overbearing from the rear windows and gardens of 162 and 164 St Osyth Road, and would therefore harm outlook for occupants of those dwellings. It may be that the current occupants are prepared to accept the close relationship, but this is not justification for harmful development, and I am mindful that occupants can change whereas the effects of the development would be permanent.

10. I do not however share the Council's concerns over loss of privacy, as the only window facing these neighbouring properties would be the small high level and obscurely glazed bathroom window at the rear.
11. I therefore conclude, on this issue, that the development would harm the living conditions of the occupiers of 162 and 164 St Osyth Road in respect of outlook. This is contrary to LP1 Policy SP7 and LP2 Policy SPL3 where they require development to protect and not have a materially damaging impact on the amenity of existing and future occupiers of nearby properties.

Highway safety

12. The development would remove the off-street parking provision for No 164 and would not provide any off-street parking for the new dwelling either.
13. The appellant states that there is ample space for parking on Beaumont Road, but no substantive evidence, such as a parking survey, is before me. I also saw that parking opportunities on Beaumont Road are very limited due to the need to keep existing driveways clear. This is less of an issue immediately outside the appeal site where associated vehicles are most likely to be parked. However, on-street parking in this location would likely cause an obstruction to vehicles approaching the junction. Indeed, this was evident at my site visit where I observed vehicles having to go around a parked car and into the direction of potential oncoming traffic at the junction. I note that similar concerns were expressed by the local highway authority.
14. Consequently, without suitable provision being made for off-street parking for both the new and existing dwellings, the proposal would likely lead to further obstructive on-street parking to the detriment of the free and safe movement of road users.
15. I therefore conclude, on this issue, that the development would have an unacceptable adverse effect on highway safety in this location. This is contrary to the parking and highway safety aims of LP1 Policy SP7, as well as LP2 Policies LP4 and SPL3. It is also contrary to the National Planning Policy Framework in terms of preventing unacceptable impacts on highway safety.

Integrity of designated nature conservation sites

16. I am advised that the appeal site is within the zone of influence of the Colne Estuary Special Protection Area (SPA) and Ramsar site which is a European Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
17. The increase in population arising from even a single dwelling, but also in combination with other development projects, can place extra recreational pressure upon the designated coastal site and result in potential disturbance to the features of interest for which the habitat site is designated.
18. From the evidence before me, it appears that the Council has a coastal mitigation service 'The Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS). As set out in LP1 Policy SP2 and LP2 Policy PPL4, a potential mitigation strategy for the proposal would be a financial contribution towards the RAMS, but this would need to be secured through a completed legal agreement. In their appeal statement, the appellant indicated that a Unilateral Undertaking would be submitted that delivers the requisite RAMS

contributions. However, there is no such legal agreement before me, and it is not a matter which can be left to a later stage.

19. In these circumstances, I must take a precautionary approach and conclude that the development would adversely affect the integrity of the designated site of nature conservation, contrary to the requirements of the Habitats Regulations. It would also conflict with LP1 Policy SP2 and LP2 Policy PPL4 which require that RAMS contributions are secured to protect the integrity of designated sites. There is also conflict with the Framework in respect of conserving and enhancing the natural environment.

Garden space

20. The proposal would provide the new dwelling and No 164 with similarly sized gardens of around 50m² each. In the case of No 164 this represents a reduction of nearly half of its existing provision. Nevertheless, this would still provide a useable area for both properties, and in the absence of being referred to any minimum garden size standards, there are not sufficient grounds for me to find the garden sizes insufficient for the existing and future occupiers.
21. In addition, although the garden for the new dwelling would be located entirely at the side of the house, retention of the existing roadside hedge, or other appropriate boundary treatment, would ensure a reasonable level of privacy from passers-by, and this could be secured through an appropriately worded planning condition if the appeal were to be allowed. Further, I do not consider that the presence of a landing window in the gable wall of 2 Beaumont Avenue would have any serious privacy implications for the garden of the new dwelling.
22. I therefore conclude, on this issue, that the garden provision for both the new dwelling and No 164 would be satisfactory, and so, I find no conflict with the private amenity space expectations of LP2 Policy SPL3. However, this absence of harm is a neutral matter.

Other Matters

23. The development would add to the supply and choice of housing in the area and thus represents a benefit in favour of the scheme. Nonetheless, this would be at a very small scale so does not outweigh the significant harm identified and the proposal's failure to comply with the development plan as a whole.

Conclusion

24. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, which indicate that the decision should be made otherwise. Therefore, for the reasons given, the appeal should be dismissed.

A Caines

INSPECTOR