



Appeal Decisions

Site visit made on 15 November 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/B1550/W/22/3310619

Land rear of 24-26 Stambridge Road, Rochford, Essex SS4 1EG

- 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 Plan 3 Developments against the decision of Rochford District Council.
 - The application Ref 22/00790/FUL, dated 12 August 2022, was refused by notice dated 19 October 2022.
 - The development proposed is demolition of existing garage, with proposed new dwelling and associated development.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage, with proposed new dwelling and associated development at land rear of 24-26 Stambridge Road, Rochford, Essex SS4 1EG in accordance with the terms of the application Ref 22/00790/FUL, dated 12 August 2022, and subject to the Schedule of Conditions to this Decision.

Preliminary Matter

2. Although the appeal was made in the name of Mr Gary Fardell, subsequently it has been confirmed that the appeal is made by the applicant 'Plan 3 Developments'. I have proceeded with the appeal on this basis.
3. Since the Council determined the application, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. I have consulted the main parties on this and had regard to any representations received.

Main Issues

4. The main issues are the effect of the proposal on: the character and appearance of the area; and the integrity of designated European Sites.

Reasons

Character and appearance

5. The prevailing pattern of development along Stambridge Road and nearby area comprises a linear arrangement of dwellings which face the highway with modest frontages and long rear gardens.
6. The appeal site is located to the rear of dwellings at 24 and 26 Stambridge Road and is served by an existing access along the side of 26 Stambridge Road. With the exception of its access, the appeal site is also enclosed and features a sizeable detached garage. Therefore, the appeal site is already

different from the prevailing pattern of development. Even so, this forms part of the established urban grain of the locality.

7. Consequently, redevelopment of the appeal site in the manner proposed would introduce a form of 'backland' development, as opposed to 'infilling' development. The latter is defined as 'housing development on small vacant frontage plots' in the Council's Supplementary Planning Document 2-Housing Design ('Housing Design SPD').
8. The Housing Design SPD does not preclude backland developments. Indeed, this sets out criteria for assessing such proposals. In summary, the criteria seeks to ensure that such proposals are adequately and satisfactorily accessible, and that the access arrangements and the siting of the proposed dwelling do not harm the living conditions of neighbours. That the proposal would not result in any adverse impact upon sites of cultural and historic importance, or upon biodiversity and green spaces. Furthermore, the Housing Design SPD says that development which is out of scale and unduly obtrusive to the outlook of surrounding development will be refused. In this respect, the Housing Design SPD recommends that a bungalow may be acceptable in a backland situation.
9. The proposal was assessed by the Council with regard to the suitability of the existing access and the use of this, along with the redevelopment of the site for residential purposes, on the living conditions of neighbours. The Council found the proposal acceptable in respect of these matters, which also did not form part of its reasons for refusal. I have also considered these matters, as set out below and have no reason to disagree with the Council's findings. Also, based on the available evidence, the proposal would not result in any adverse impact on a site of cultural and historic importance, or upon biodiversity and green spaces.
10. Although the Housing Design SPD refers to Local Plan Policy HP14, this is not in the evidence before me. In any event, this Policy does not form part of the Council's reasons for refusal.
11. The extant garage is of no significant architectural merit. This, along with the wider site has an unkempt appearance, which detract from the visual amenity of the site and immediate area.
12. To facilitate the proposal, the garage would be demolished. Whilst the proposed dwelling would be larger, this would comprise a bungalow of a similar height to the garage. Furthermore, the massing and scale of the proposed dwelling would be mitigated by incorporating a hipped roof.
13. The proposed dwelling would comprise a relatively simple form. This would utilise a modern palette of materials, including facing red brickwork, plain red roof tiles and grey windows. Accordingly, the design and appearance of the proposed dwelling would be acceptable in the context of the area, which incorporates a range of property types, designs and scales, which utilise a variety of materials. The proposed dwelling would therefore contribute to local distinctiveness. This dwelling would also meet with the Council's requirements with regard to the quality and quantum of internal space, external amenity space and separation from other dwellings.

14. The proposal would make effective use of an underused site for a use which is compatible with the neighbouring residential uses. The Council has not objected to the development, in principle, or disputed the need for the type of dwelling proposed. I have no clear reason to disagree with this.
15. Overall, and subject to conditions, the proposed dwelling would achieve an acceptable standard of design. Furthermore, its siting would reference the appeal site's established grain within the locality. In this context, any visual change would be modest and compatible with its surroundings and so the character and appearance of the area would not be unacceptably harmed.
16. Accordingly, I find no conflict with Policy DM1 of the Council's Development Management Plan ('DMD') which states that the design of new developments should promote the character of the locality. I also find no conflict with Policy DM3 of the DMD, which does not preclude backland development and sets out similar requirements as the Housing Design SPD for considering such proposals.

Integrity of protected European sites

17. The appeal site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy ('Essex Coast RAMs'). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressures.
18. The European designated sites include sites designated as Special Area of Conservation, Special Protection Area and Ramsar sites. These 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 designated 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.
19. The conservation objectives of the European designated sites aim to ensure the integrity of these 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 that would disturb the protected habitats and birds within the European designated 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 European designated sites.
20. However, given that the proposal is for a single dwelling and not within or directly adjacent to one of the European designated sites, the parties have agreed a financial contribution in accordance with the Essex Coast RAMs. The financial contribution would be put towards a programme of strategic mitigation measures. In accordance with its standing advice, Natural England does not need to be consulted on this appropriate assessment.

21. On the evidence available to me¹, I am satisfied 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 European designated sites.
22. The proposal would therefore comply with the requirements of the Regulations. It would also accord with Policy ENV1 of the Council's Local Development Framework Core Strategy which seeks to maintain, restore and enhance sites of international, national and local nature conservation importance.

Other Matters

23. The proposed dwelling would be located to the rear of dwellings at 24 and 26 Stambridge Road, and the appeal site also shares boundaries with these and other properties along this road and Mornington Avenue to the east. Despite this, because of the careful orientation of the proposed dwelling within its plot and intervening boundary treatments, there would be no unacceptable overlooking and loss of privacy to neighbours. For similar reasons and because of its acceptable scale, the proposed dwelling would not be unduly dominant so as to unacceptably harm outlook from any adjoining property.
24. Any additional activity arising from the proposed modest single dwelling, including vehicles using the existing access would be limited. As such, any disturbance arising from the proposal in the context of an established residential area would not be significant.
25. The existing access is served by a dropped kerb and can be used in association with the extant garage at the appeal site. Consequently, I see no technical reason why this cannot be used for the proposed dwelling. Furthermore, the use of this access for a modest single dwelling would not result in any significant increase in trip generation to the detriment of highway safety or congestion.
26. The proposed scheme would provide sufficient parking to meet the needs of the development and therefore would not exacerbate any existing parking problems in the area.
27. For the above reasons, the existing access is adequate for the proposal. Therefore, the use of this and the redevelopment of the appeal site for a single dwelling, would not unacceptably harm the living conditions of neighbours.
28. The Council advises that a similar application for the subdivision of plots and the construction of one three bedroomed bungalow, with access to the side of 26 Stambridge Road was refused planning permission and the subsequent appeal was dismissed. However, as I do not have the full details of this scheme or others that have been refused prior to the scheme before me, I am unable to draw any comparisons. Therefore, I attach limited weight to the previously refused schemes. Irrespective of this, I have determined the scheme before me on its merits and have found this to be acceptable for the reasons set out above. Furthermore, any other application for backland development would be determined on its merits and therefore my Decision does not set a precedent.

¹ RAMS payment receipt – Transaction date 13 September 2022

29. Whilst third parties assert that the extant garage is unauthorised and that the proposal would result in additional pressure on existing utilities and services, I have no substantive evidence to support these assertions.
30. The previous loss of a protected tree at the appeal site and the arrangements for notifying neighbours on the planning application to which this appeal relates to are for the Council.
31. Construction activity 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. Any damage arising from construction activity in relation to the proposal would be a matter for the relevant parties.

Conditions

32. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved plans in the interests of certainty.
33. Because the details of facing materials have already been provided it is not necessary to require these by a condition. However, in the interests of certainty I have imposed a condition requiring that the development is undertaken in accordance with the materials specified within the application submissions, unless otherwise agreed with the local planning authority. To ensure the satisfactory appearance of the development and area, and to safeguard the living conditions of neighbours, a condition requiring details and the provision of boundary treatments is reasonable and necessary.
34. To ensure that the works associated with the redevelopment of the site do not prejudice highway safety or the living conditions of neighbours, it is necessary and reasonable to secure a Construction Management Plan.
35. In the interests of improving the appearance of the site and area, I have imposed a condition requiring a scheme for hard and soft landscaping. A condition requiring details of surface water drainage is necessary in the interests of securing satisfactory drainage of the site.
36. Conditions relating to the surfacing of the access to the site and the provision of on-site vehicle parking and turning areas are necessary in the interest of highway safety.
37. To encourage the uptake of ultra-low emission vehicles and promote sustainable modes of travel such as cycling, it is reasonable to impose conditions requiring the provision of Electric Vehicle Charging Point and cycle storage facilities.
38. A condition removing permitted development rights for external alterations and extensions to the proposed dwelling is justified in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours.
39. To safeguard nesting birds, a condition is necessary to ensure that if any removal of vegetation or the demolition of a building is undertaken during bird

nesting season, this is carried out following a detailed survey to check for nesting birds.

40. The Council has suggested a condition requiring a Residential Travel Information Pack for sustainable transport. Given that the proposal is for a single dwelling which includes some provision for supporting sustainable modes of travel, this requirement is disproportionate. Also, no mechanism to monitor and enforce this condition has been identified. As such, I do not consider this to be necessary or reasonable.
41. Conditions 4 and 5 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of flexibility, clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

42. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be undertaken in accordance with the following approved drawings: 200-Rev 00 (Existing and proposed site plans, including site location plan), 201-Rev 00 (Existing garage plans and elevations), 202-Rev 00 (Proposed new dwelling details), 203-Rev 00 (Site sections) and 204-Rev 00 (Existing and proposed block plans).
- 3) Unless otherwise agreed in writing with the local planning authority, the materials to be used in the construction of the dwelling hereby permitted shall be in accordance with the details provided on Drawing 202 Rev 00.
- 4) The development hereby permitted (including any demolition works) shall not commence until a Construction Management Plan ('CMP') has been submitted to and approved in writing by the local planning authority. Thereafter, the development hereby permitted shall be undertaken in accordance with the approved CMP.
- 5) The development hereby permitted (including any demolition works) shall not commence until details of hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. The details shall include: proposed finished floor levels, hard surfacing materials; details of all existing landscaping within and around the site, including details of any to be retained together with measures for their protection during the course of development, proposed planting plans (including details of the quantity, size, species, position) and proposed planting programme, together with a timetable for implementation and details for the maintenance of the proposed soft landscaping. Thereafter, the hard and soft landscaping shall be carried out in accordance with the approved details and timetable.

Any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.

- 6) The dwelling hereby permitted shall not be occupied until an electric vehicle charging point ('EVCP') has been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The approved EVCP shall be provided prior to the first occupation of the dwelling hereby permitted and retained for the life of the development.
- 7) Prior to the first occupation of the dwelling hereby permitted, details of the positions, design, and materials of all boundary treatments shall be submitted to and approved in writing by the local planning authority. Thereafter, the approved boundary treatments shall be implemented prior to the first occupation of the dwelling hereby permitted and retained for the life of the development.

- 8) Prior to first occupation of the dwelling hereby permitted, a surface water drainage scheme based on sustainable drainage principles shall be submitted to and approved in writing by the local planning authority. The approved drainage scheme shall be implemented prior to the first occupation of the dwelling hereby permitted.
- 9) Prior to first occupation of the dwelling hereby permitted, the parking and turning area for the proposed dwelling shall be provided as shown on approved drawing: 200 Rev 00. Thereafter, these areas shall be retained for the use of the dwelling hereby permitted.
- 10) Prior to first occupation of the dwelling hereby permitted, secure and covered cycle parking shall be provided in accordance with the Council's Parking Standards Design and Good Practice Supplementary Planning Document, Adopted December 2010. Thereafter, the cycle parking shall be retained for the life of the development.
- 11) Prior to the removal of any vegetation or the demolition of a building between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or demolished in the case of buildings), a 4-metre exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone are undertaken.
- 12) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no development included within Schedule 2, Part 1, Classes A, B, C, D and E shall be carried out without express planning permission first being obtained from the local planning authority.