



Appeal Decision

Site visit made on 20 November 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th January 2024

Appeal Ref: APP/P1560/W/23/3321011

Land at 9 Dumont Avenue, Point Clear CO16 8JP

- 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 South East Developments Ltd and Mr and Mrs Mockford against the decision of Tendring District Council.
 - The application Ref 22/01422/FUL, dated 19 August 2022, was refused by notice dated 28 October 2022.
 - The development proposed is alterations to existing house and erection of seven bespoke dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development refers to bespoke dwellings. Nevertheless, the appellant's Design and Access Statement refers to self-build and custom-built homes. The Council considered the proposal on this basis and so shall I.
3. The third reason for refusal states that the development is likely to have a significant effect or an adverse effect (alone or in combination) on the integrity of a Special Protection Area (SPA) and Ramsar site. The appellant has submitted a Unilateral Undertaking (UU) in this respect, and I will return to the SPA and Ramsar site issue later.
4. The National Planning Policy Framework (the Framework) was revised in December 2023, and the Council and the appellants were invited to make further comments. My decision reflects the revised Framework.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether this is an appropriate location for the proposal, having regard to Local Plan policies.

Reasons

Character and appearance

6. The appeal site comprises a detached house and large area of garden and paddock to the rear in a predominantly residential area. It lies adjacent to existing built development, behind properties on Dumont Avenue and Point

Clear Road. The rear area has an open, rural character with wide views over agricultural land in the countryside to the south. Development in the vicinity largely comprises detached dwellings facing the roads in a relatively regular pattern, with some properties having long rear gardens.

7. The proposal would reduce the width of the existing house to provide an access road to a development of seven dwellings to the rear. The retention of the existing property would preserve the street frontage, thereby addressing one of concerns raised by an Inspector in dismissing a previous appeal for part of the site¹. However, although there would be fewer dwellings than the previous proposal, it would introduce a substantial amount of backland development on a large site behind the existing building line along Dumont Avenue. Therefore, it would fail to reflect the established pattern of nearby development of properties lined along the nearby roads.
8. The proposed development layout would reflect that at the far end of Beacon Heights, which has a less linear layout than other streets in the area, with houses fronting and encircling the small cul de sac. However, this is some distance from the appeal site and appears as an extension of the street rather than a backland development accessed beside an existing dwelling, so this does not justify the pattern and location of the proposed development.
9. The appeal site is not within any area designated for its special character or appearance and the proposed development would not be readily visible from the countryside to the south. Nevertheless, due to the amount of built development and its location on a large flat open area forming a transition between the existing settlement and the countryside, the proposal would harm the sense of openness and encroach on the rural landscape setting of this part of Point Clear. Although the proposed development would be less prominent in the public realm than the previous proposal due to the retained dwelling, there would be glimpsed views of parts of it from the street through the new access drive and gaps between the existing dwellings.
10. The southern boundary would follow the existing one between the open land and the agricultural land to the south. However, as the eastern boundary would bisect the existing rear open area, similar to the Inspector's findings on the previous appeal, it would appear contrived to accommodate the proposal.
11. The plot sizes would vary, with the overall density being below that suggested for Arcadian development in the Essex Design Guide, a density which would allow landscaping to dominate the setting and be considerably lower than the previous proposal for the site. Whilst many houses in the locality are on larger plots, those adjacent to the site at 15-23 Dumont Avenue are smaller. Therefore, although plots 1, 2 and 3 would also be smaller than some others in the area, their sizes would not be out of character with the surrounding development. However, this does not outweigh the harm I have already found.
12. Overall, I conclude that the proposed development would harm the character and appearance of the area. This would be contrary to Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan 2021 (SSP) and Policies SPL3, LP4, PPL3 and LP8(f) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 2022 (TLP). Together, these require residential development, including that on backland sites, to protect local character and the rural

¹ Appeal Ref: APP/P1560/W/20/3258337

landscape, relate well to its surroundings and have a well-considered site layout, amongst other things. It would also conflict with the National Planning Policy Framework (the Framework) which requires developments to be sympathetic to local character and maintain a strong sense of place.

Location

13. Policy SP3 of the SSP focuses additional growth within or adjoining existing settlements according to their scale and role. In Tendring's case, the spatial hierarchy promotes growth in settlements that are the most accessible to the strategic road network, public transport and offer a range of services.
14. Point Clear is a relatively large settlement and the Local Plan Settlement Hierarchy Report, forming part of the evidence base for the TLP, finds that it has some access to shops, services, and public transport. However, it was excluded from the TLP settlement hierarchy due to the need to access it via congested and narrow roads, including a tight crossroads, at St Osyth. Therefore, Point Clear and the appeal site are outside a defined settlement boundary identified in the TLP. The nearest settlement with a defined boundary is around 2km away at St Osyth, a Rural Service Centre.
15. There is a sizeable permanent population at Point Clear which expands during the summertime, a convenience store, post office and a children's play facility within a short walking distance of the site. There are also nearby bus stops with regular bus services to St Osyth and Clacton-on-Sea and one serving a local secondary school. Although there are clearly some facilities and public transport close to the appeal site, the settlement hierarchy set out in the TLP indicates that there are other locations within the district where the Council seeks to focus development.
16. Policy LP7 of the TLP allows small developments of self-build and custom-built homes on land outside settlement development boundaries in certain circumstances. As it would be located considerably further than 400 metres from the boundary of the St Osyth rural service centre, not close to any strategic or smaller urban settlements, nor involve the redevelopment of redundant previously developed land that is unviable for employment use, the proposal would fail to meet the requirements of Policy LP7.
17. There are references to single dwellings recently approved by the Council at 225 Point Clear Road² and allowed by an Inspector on appeal at 172 Point Clear Road³. Although also outside the settlement development boundaries, it was found that services and facilities are located within walking distance of these sites. Whilst the current appeal site is also close to a shop and bus stops, the proposal is for significantly more dwellings which would generate more traffic movements than the individual dwellings previously approved at Nos 172 and 225 Point Clear Road so its scale and impact is not comparable to them.
18. Consequently, I conclude that the site is an inappropriate location for the proposal, having regard to Local Plan policies. It would be contrary to Policy SP3 of the SSP and Policy LP7 of the TLP. It would also conflict with the Framework where it requires decisions to ensure an integrated approach to considering the location of housing and community facilities and services.

² Application Refs: 21/02082/OUT and 23/00547/FUL

³ Appeal Ref: APP/P1560/W/22/3311836

Other Matters

19. The Council accepts that there is an unmet need for self-build and custom-built dwellings in the area but there is limited evidence on the level of this unmet need. There is some information from the Council on permissions granted for self-build dwellings, including their implementation, but the appellant questions whether these are genuinely for this purpose and states that there is no mechanism for ensuring their provision. The Council has a housing land supply exceeding six and a half years which does not include any self-build schemes, and this should not be viewed as a ceiling on housing development. However, whilst the proposal would help to meet the Council's unmet need for self-build and custom-built dwellings, this benefit would not outweigh the harm to the character and appearance of the area and its inappropriate location having regard to Local Plan policies.
20. The proposal would not be closer to the coast than neighbouring development and the Council does not raise concerns in terms of its impact on the undeveloped coastline. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on this matter. Nevertheless, compliance with the development plan in relation to this issue is a neutral factor.
21. I note that the parish council has not commented on the proposal but two members of the public object to it.
22. The proposal would be likely to have a significant effect, either alone or in combination, on the integrity of the Colne Estuary SPA and Ramsar site due to its location approximately 475 metres from them, within the 9.7km zone of influence. However, notwithstanding the UU, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Conclusion

23. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

A Wright

INSPECTOR