



Appeal Decision

Site visit made on 16 January 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 31st January 2024

Appeal Ref: APP/C1570/W/23/3329860

Land adjoining No 1 Mount Drive, Stansted Mountfitchet, Essex CM24 8NY

- 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 Wallace-Jarvis against the decision of Uttlesford District Council.
 - The application Ref UTT/23/0134/FUL, dated 19 January 2023, was refused by notice dated 21 March 2023.
 - The development proposed is the construction of a new 1-bedroom, 2-person bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of a new 1-bedroom, 2-person bungalow on land adjoining No 1 Mount Drive, Stansted Mountfitchet, Essex CM24 8NY, in accordance with the application Ref UTT/23/0134/FUL, dated 19 January 2023, subject to the conditions in the attached schedule.

Reasons

2. I saw on my visit that the appeal site comprises a small plot of what was originally garden land, at the corner of Mount Drive and Maitland Road. Both of these streets form part of a former local authority estate, dating from the 1960s or thereabouts. The estate's predominant characteristics are the simplicity of its repeated house designs, and the regular building lines, albeit with some small variations in places. Overall, although reasonably pleasant and well-ordered, the area's character is unremarkable.
3. The proposed new single-storey dwelling would be sited in line with Nos 17 and 19 Maitland Road, and slightly behind the front of Nos 1 and 3 Mount Drive. In this position, the new building would relate well to the existing building lines of both streets, and also provide a visually acceptable transition between them. This siting would also leave a reasonably generous swathe of open garden land to the whole of the site frontage, maintaining the feeling of spaciousness around the street corner.
4. The new dwelling would have a simple rectangular plan form, a plain, dual-pitched roof, and restrained fenestration. These qualities, limited though they are, would match those of the existing buildings around the site. The ridge would be around 0.5m higher than that of the existing bungalows on the south side of Maitland Road, but this difference would be almost imperceptible in the context of the surrounding 2-storey buildings on the opposite side of that road and in Mount Drive. Despite not being particularly distinguished in architectural terms, it seems to me that the design now proposed would adequately complement the existing surroundings.

5. I note that in a previous appeal, in 2007¹, the inspector found that the dwelling then proposed would jut out prominently, eroding the spatial quality of the townscape. He also considered the hipped roof and detached built form to be incongruous. However, the present proposal differs significantly with regard to the siting and roof shape. Although there would still be some loss of openness, this would now be more limited, due to the conformity with the existing building lines. The gabled roof ends would directly mirror those around. The new building would still be detached, in an area where the other houses are mainly semi-detached or terraced, but this on its own does not seem to me likely to cause any significant harm.
6. The development would result in the loss of some existing overgrown garden shrubs and small trees, but in its present unmanaged state these do not seem to me a particularly attractive feature. In any event, as far as I am aware, there is nothing to stop the owner from either removing or cutting back this existing vegetation at any time. If planning permission is granted for development, new landscaping could be secured by condition.
7. I note the Council's comments with regard to density. The new property's rear garden would be smaller than most others in the area, but this would not be obvious from public views. In any event, it is not disputed that the development would satisfy the Council's standards for private amenity space.
8. Overall therefore, the development would be compatible with the scale, form, layout and appearance of the surrounding buildings, and would provide an environment which would meet the needs of its potential users. In these respects it would satisfy the most relevant criteria of Policy GEN2 of the Uttlesford Local Plan (the ULP), adopted in January 2005, which seeks to ensure good standards of design. The scheme would thus properly protect the character and appearance of the local area.

Other matters

Highway safety

9. The development would provide one on-site parking space. This would be sufficient to meet the Council's standard for a one-bedroom dwelling. A new vehicular access would be formed onto Maitland Avenue, and whilst this would be quite close to the bend into Mount Drive, the clearance of the existing vegetation would allow for adequate visibility splays, again meeting the relevant technical requirements. I appreciate that Mount Drive and Maitland Road are quite narrow, and are subject to a good deal of on-street parking. I am also aware that they are used by buses. At most times however, the estate is evidently a quiet residential area, and I saw nothing to suggest any serious problems with either the volume or speed of traffic. I note that it is said that traffic sometimes cuts through, to avoid roadworks elsewhere, but this seems likely to be the exception. In any event, there is no evidence of any adverse safety record. On all the evidence available, I am satisfied that the development would not pose any significant risks to highway safety.
10. The formation of a vehicular access in the position now proposed would impinge to a degree on the existing dropped kerb, which evidently serves as a

¹ APP/C1570/A/06/2032571

crossing point for wheelchair users, and for children's buggies, shopping trolleys and the like. But the new access would be equally available to these users, and would be equally able to serve their needs. To my mind there would be nothing unusual in such an arrangement, and given the low number of vehicular trips likely to be generated by the single new parking space, there seems little danger of any conflict between the various vehicle and pedestrian movements. Some minor alterations to the kerb would be needed, to incorporate the existing crossing, and ensure a tidy finish; and I intend to impose a condition to this effect. I note that the Highway Authority has withdrawn its original objection on this point, sensibly in my view, and the Council in turn has withdrawn its second refusal reason. In any event, I find no basis for any objection relating to pedestrian safety.

11. In the light of these considerations, I am satisfied that the development would provide adequately for road safety, taking account of the needs of all types of users, and indeed would incorporate reasonable measures to encourage and facilitate pedestrian movements, in accord with the most relevant provisions of ULP Policy GEN 1.

Effects on neighbouring occupiers

12. I note the concerns expressed by neighbouring residents, including No 26 Maitland Road, regarding loss of light, and the impacts on outlook and privacy. However, the proposed new dwelling would be modest in scale and height, and its effects on No 26, or other nearby properties, would thus be limited. Moreover, whilst I have given careful consideration to the photographs provided in support of this claim, in my view these do not appear to me to show otherwise. I am therefore satisfied that in no case would living conditions at any nearby property suffer any significant adverse effects. In these respects the scheme would meet the relevant requirements of Policy GEN 2 relating to impacts on neighbouring occupiers.

Ecology and biodiversity

13. I have had regard to the evidence provided regarding birds and wildlife, but there is no evidence that any protected species would be affected. In any event, any potential impact on biodiversity can be mitigated by means of a condition.

Housing supply

14. The Council acknowledges that, following the changes made to the National Planning Policy Framework (The NPPF) in December 2023, the Council cannot currently demonstrate the required 5-year supply of land for housing. The proposed development would add to the supply of deliverable sites in the district. The site is within the Stansted urban area boundary where, under ULP Policies S1 and SM2, small-scale windfall housing developments are generally acceptable in principle. The need to boost the local housing supply, and the contribution that the proposal could make to that aim, on a policy-compliant site, adds weight to the case for the appeal.

Conclusion

15. For the reasons explained above, the proposed development would cause no material harm to the area's character or appearance, nor to highway safety, residential amenity or biodiversity. The development would also help to boost

the supply of housing in an area where additional sites are needed. In these and all other respects, it seems to me that the scheme would accord with the relevant policies of the development plan.

16. NPPF paragraph 11(c) makes it clear that proposals that accord with an up-to-date development plan should be approved without delay. Although the ULP dates from 2005, and the Council have highlighted some elements that they consider to be no longer fully consistent with national policy, there is no suggestion that this affects any of the policies or provisions directly relevant to this decision.
17. It follows that the appeal is allowed, subject to consideration of matters relating to the conditions suggested by the Council.

Reasons for conditions

18. I have considered the suggested conditions against the tests set out in NPPF paragraph 56. Where necessary I have edited these in the interests of clarity and conciseness, and to avoid over-prescriptiveness.
19. A condition requiring adherence to the approved plans is necessary to ensure certainty as to the nature of the permission. Control over the external materials, and a scheme of landscaping, are necessary to ensure a satisfactory appearance. A requirement for biodiversity measures is reasonable, to offset any minor impacts in this regard, and to reflect national policy as stated in NPPF paragraph 180(d).
20. Conditions relating to access, visibility and parking are appropriate for reasons of highway safety. However, it is not necessary the splays to provide clear visibility right down to ground level, and I have therefore amended this condition to make it less onerous in this regard. A condition relating to unforeseen contamination is needed to protect the health of site workers and the eventual occupiers. A restriction on permitted development rights is, exceptionally, justified in this case, because of the small size of the site, and its position within the street scene.
21. I can fully understand why the Council should think it desirable also to include conditions relating to construction management, accessibility, lighting and a travel plan. But the test of necessity is not satisfied by merely being desirable. All of these suggested conditions, would also impose significant additional burdens or restrictions on the development. Although various ULP policies have been cited as justification, I can see no specific requirement in any of these for the particular measures or restrictions being sought. Without any such clear linkage, it seems likely that the policies in question could be adequately satisfied without the additional conditions now sought. These conditions are therefore excessively onerous in my view. Furthermore, I note that the provision of electric vehicle charging points is now covered by Building Regulations. For these reasons therefore, I have decided not to impose any of these additional conditions.
22. In granting planning permission, the ten conditions that I intend to impose are set out in full in the schedule that follows.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall be commenced not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved plans, Nos 1341/3/C, 1341/11C and 1341/12.
- 3) No construction work shall be carried out above ground floor slab level, until full details of the materials to be used on the external surfaces of the building have been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out using only these approved facing materials.
- 4) The new dwelling shall not be occupied until a scheme of hard and soft landscaping has been submitted to the local planning authority and approved in writing. The scheme shall include details of planting, seeding or turfing, paving and boundary treatments, together with an implementation programme. The landscaping works shall be carried out, in accordance with these approved details, no later than the end of the first planting season following occupation. Within the first five years after planting, any trees or plants which die or are removed, or become significantly damaged or diseased, shall be replaced within the next available planting season with others of similar size and species.
- 5) The new dwelling shall not be occupied until a scheme of biodiversity mitigation and enhancement measures has been carried out, in accordance with details to be submitted to the local planning authority and approved in writing.
- 6) The new dwelling shall not be occupied until the proposed new vehicular access onto Maitland Road has been constructed and laid out, in accordance with details to be submitted to the local planning authority and approved in writing. The details thus required shall include details of the surfacing material, which shall have a bound finish for at least the first 6 metres from the highway boundary. The submitted details shall also show how the existing pedestrian kerb crossing facility is to be incorporated, including any resulting reinstatement works. Any gates at the new access point shall be designed to be inward-opening only, and shall be set back a minimum of 6m from the edge of the carriageway.
- 7) The new access shall not be brought into use until visibility splays have been provided, of 2.4m x 43m to the east, and 2.4m x 33m to the west, measured along the nearside edge of the road carriageway. Thereafter, these splays shall be retained throughout the life of the development, and shall be kept clear of obstruction above 600mm from ground level at all times.
- 8) The new dwelling shall not be occupied until the proposed car parking space has been constructed and laid out, as shown on Plan No 1341/11/C. Thereafter, the parking space shall be retained for that use, throughout the life of the development.

- 9) If, during the course of carrying out the development, including any related site investigations or excavations, any land contamination is either identified or suspected, this shall be notified to the local planning authority. Any such contamination which is confirmed shall then be remediated, in accordance with a scheme of remediation works to be submitted to the local planning authority and approved in writing, prior to the continuation of construction work. Thereafter, the new dwelling shall not be occupied until the completion of the remediation works has been independently been verified, and the results notified to the local planning authority in writing.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that Order with or without modification), no extensions, roof alterations, outbuildings, hardstandings, boundary enclosures or other development, within Classes A-F of Part 1 of Schedule 2 or Class A of Part 2 of the said Order, shall be erected at any time, other than those expressly authorised by this permission.