



Appeal Decision

Site visit made on 19 December 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/M1520/W/23/3316674

Land Rear of 3 Vaagen Road, Canvey Island SS8 9DP

- 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 GB Construction Ltd against the decision of Castle Point Borough Council.
 - The application Ref 22/0612/FUL, dated 1 August 2022, was refused by notice dated 5 January 2023.
 - The development proposed is two chalet bungalows.
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Decision

1. The appeal is allowed and planning permission is granted for two chalet bungalows at Land Rear of 3 Vaagen Road, Canvey Island SS8 9DP in accordance with the terms of the application, Ref 22/0612/FUL, dated 1 August 2022, and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. In the banner heading above, I have taken the appellant's name from the appeal form. The application form gave the company name as GG Construction. However, it has been confirmed to me that this was a typographical error and I am satisfied that the appellant is the appropriate party for proceeding with this appeal.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. The main parties have had the opportunity to comment on whether the revisions are relevant to their cases, and I have had regard to the current version of the Framework when considering the appeal.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, and
 - whether the proposed layout would provide a well-functioning environment for future occupiers, having regard to the arrangements for access, parking and refuse.

Reasons

Character and Appearance

5. The appeal site is a parcel of vacant land at the rear of an existing block of flats. The surrounding area contains a variety of existing development, including town centre uses in buildings of varied scale and appearance, a part three, part two storey building containing flats and a variety of bungalows and houses in different designs along Vaagen Road. To the west, the site adjoins a school playground and there is currently a small, wooded area to the south.
6. Views of the proposed dwellings would be limited, by virtue of their location behind the existing flats. The flank walls and roof slope would be partially visible from Vaagen Road, across the adjacent school playground to one side and the forecourt of the Royal Mail premises to the other. However, the dwellings would be modest in scale and would sit discreetly within the street scene, without appearing incongruous or visually jarring. Although the majority of the existing development faces directly onto the highway, there are some other examples of dwellings set back from the road and behind other buildings. As such, the proposed backland location would not be inherently harmful in the context of the varied development nearby.
7. Plot sizes in the surrounding area are also varied, although generally wider than those proposed. Nevertheless, the proposed dwellings would benefit from private garden land in reasonable proportion to their scale. There would be a shared parking area to one side, which would be likely to remain open given its intended use. To the other side, the site adjoins the school playground, which is similarly likely to remain substantially open, given its use for outdoor play. In that context, the Council's Residential Design Guidance¹ recognises that some flexibility can be exercised regarding the degree of separation along the site boundaries. Given these particular characteristics of the site's location and layout in relation to neighbouring development, the limited plot sizes would integrate acceptably with the pattern of development in the surrounding area.
8. Although the limited space along the west site boundary would be visible from the adjacent flats and houses, these are private views, and the Council has not suggested that there would be associated harm to living conditions for the occupiers. Therefore there would be no public harm associated with the lack of space along this particular boundary.
9. For the reasons given above, I conclude that the proposal would not have a harmful effect on the character and appearance of the area. It would not conflict with relevant requirements in Policy EC2 of the Castle Point Local Plan 1998, which requires a high standard of design, including that the scale, density, siting and layout of development should be appropriate to its setting and not harm the character of its surroundings. Neither would the proposal conflict with Residential Design Guidance RDG1 or RDG2. These require, amongst other things, that plot sizes should be proportionate to the size of the dwellings, where there is no clear pattern of plot sizes in the surrounding area, while also allowing for more limited space being provided along site boundaries, where dwellings are located adjacent to areas of open land.

¹ Castle Point Borough Council Residential Design Guidance Supplementary Planning Document, ratified November 2012, effective from January 2013

10. The proposal would also not conflict with relevant requirements in the Framework, including paragraph 135 which includes that development should be visually attractive as a result of good layout and sympathetic to local character including the surrounding built environment.

Proposed Layout: Access, Parking and Refuse

11. Access to the site would be via the existing private drive serving the flats. This area currently provides a paved car parking area, behind a security barrier. There is also an existing bin store in a fenced area set slightly back from the highway.
12. The application site, edged in red, does not include the access and parking area. However, it is shown on the plans as an area edged in blue, confirming that the vehicular access, parking spaces for the flats, and bin store are all within the appellant's ownership. This is also confirmed in the Planning Statement submitted with the planning application and the appellant's Statement of Case for this appeal.
13. The vehicular access is easily identifiable from Vaagen Road, although general public access is restricted by the security barrier. The proposed dwellings would be located at the rear, in a more inconspicuous location. However, they would be sufficiently visible from the street, as described above. The two front doors would be clearly identifiable in the elevation facing the access and parking area. If required, appropriate directional signage could be introduced to direct delivery drivers and other visitors.
14. The arrangements for parking and turning were deemed to be adequate by the Highways Authority, in their response to the application. The southernmost parking space would be somewhat constrained by the boundary fencing, but based on the dimensions given there would be sufficient space for manoeuvring a domestic vehicle with care. I therefore find that this aspect of the proposal would function sufficiently well to provide a suitable environment for future occupiers.
15. The plans indicate that the existing bin store for the flats would be enlarged to accommodate the additional refuse storage and collection requirements. This is located close to the highway access and is already in use by occupiers of the existing flats. I have not been presented with any substantive evidence indicating that its location would preclude collection by refuse operatives or would be otherwise unsuitable to serve the proposed development.
16. Little detail has been provided to show how the enlarged bin store would be designed or enclosed. However, s72(1) of the Town and Country Planning Act 1990 allows for the imposition of conditions in relation to any land under the control of the applicant, whether or not it is land in respect of which the application was made. Therefore, notwithstanding the position of the bin store outside the appeal site, further details of the refuse storage and collection arrangements can be secured by condition, to ensure that appropriate arrangements are in place prior to occupation of the dwellings.
17. For the above reasons, having had regard to the arrangements for access, parking and refuse, I conclude that the proposed layout would provide a well-functioning environment for future occupiers, subject to the imposition of appropriate conditions.

18. Since I have concluded that the parking and turning arrangements would be suitable, there is no conflict with Policy T8 of the Castle Point Local Plan 1998, which relates to compliance with parking standards. The proposed development would also be consistent with relevant requirements in Residential Design Guidance RDG12 and RDG13 which include that residential development should provide convenient access and servicing facilities for all users, with safe, adequate and suitable means of refuse and recycling storage.
19. The proposal would not conflict with relevant requirements in the Framework, notably paragraph 135(a) which requires that development should function well over its lifetime and paragraph 116(d) which requires that development allows for efficient delivery and servicing arrangements.

Other Matters

20. Should the appeal site and the flats be owned separately in future, appropriate rights of access would be required so that occupiers of the proposed dwellings could gain vehicular access and make use of the refuse store. However, that is a private matter which falls outside the scope of the planning application process. In the event that the land ownership arrangements proved to be a barrier to implementation of the development in accordance with the approved plans and conditions imposed, that would be a matter for the appellant to resolve before proceeding.
21. The appeal site lies within defined Zones of Influence for the Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site, the Blackwater Estuary SPA and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). These are among several European Sites² along the Essex Coast, which are recognised for their value as coastal habitats and support internationally important populations of breeding and non-breeding bird species. They have been identified by Natural England as being vulnerable to harm as a result of recreational disturbance, which would be exacerbated by an increase in the local population resulting from new residential development, including through the cumulative effect of small-scale developments.
22. The appeal proposal would provide two new dwellings, with an associated increase in local residents living within the Zone of Influence. This would, in turn, increase recreational pressure, which would have a likely significant effect on the qualifying features of the European Sites, in combination with other development. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on the integrity of those Sites.
23. The European Sites are covered by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). In partnership with other affected local planning authorities, the Council has adopted a RAMS SPD³, which sets out measures for the avoidance and mitigation of recreational disturbance. These comprise measures to enhance habitat and divert activity away from the most vulnerable locations, alongside education and communication with recreational users.

² As defined in the Conservation of Habitats and Species Regulations 2017

³ Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document, May 2020

24. Pursuant to the RAMS, arrangements are in place for financial contributions to be sought in connection with new residential development, to fund avoidance and mitigation measures on a strategic basis. I have been provided with evidence from both parties confirming that the required financial contribution was made while the planning application was before the Council. The Council has confirmed that arrangements are in place for such payments to be received by the Council and forwarded to a partner Local Authority which administers the RAMS scheme. On the basis that the RAMS is a well-established mitigation strategy, endorsed by Natural England and involving several local authorities working in partnership, I am satisfied that appropriate arrangements are in place to ensure that the funds are directed towards implementation of the mitigation set out in the RAMS.
25. Consequently, I conclude that, with the above mitigation measures in place, the proposal would not adversely affect the integrity of European Sites, either alone or in combination with other development.

Conditions

26. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. I have amended some of them for consistency and clarity and I have omitted others.
27. I have included conditions requiring implementation of the development in accordance with the approved plans, and using the external materials detailed thereon, in the interests of certainty.
28. I have imposed the conditions suggested by the Council in relation to surface water drainage and measures to address flood risk. The site is located within Flood Zone 3, as is the majority of Canvey Island. These conditions are required to ensure that the required measures to mitigate the risk of flooding are implemented, taking account of the recommendations in the site-specific Flood Risk Assessment⁴ and advice offered by the Environment Agency in response to the application.
29. Approval of surface water drainage details is required prior to the commencement of development, to ensure that the initial groundworks are compatible with the approved details. The appellant has confirmed agreement to imposition of this pre-commencement condition.
30. I have imposed a condition requiring approval and implementation of measures to screen views between the two dwellings. This is justified in order to provide an acceptable standard of privacy for future occupiers, in light of the elevated floor levels and the wide, flat steps to the garden, which could otherwise allow for intrusive views across the boundary.
31. Conditions are required to secure the proposed arrangements for vehicle access, parking and turning, and the approval and implementation of refuse arrangements, to ensure a well-functioning environment for future occupiers, as explained above.
32. I have not included a condition requiring electric vehicle charging facilities, since this requirement is now covered under the Building Regulations. Nor have I imposed conditions requiring provision of cycle storage or contributions to

⁴ Civil Engineering Solutions Flood Risk Assessment dated July 2022

sustainable transport measures, as recommended by the Highways Authority. These are not necessary to make the development acceptable, given its small scale and close proximity to local services and facilities within walking distance. There would in any case be space for cycle storage in the gardens, both of which would be accessible from the access road, if such storage is required by future occupiers. The Council considers that the Highways Authority's recommended condition regarding unloading of building materials is not necessary, given the space available within the car park, and I have no reason to take a different view.

33. The Council has suggested that permitted development rights for extensions to plot 2 should be removed, since this smaller plot may not provide sufficient outdoor amenity space if the dwelling is enlarged. However, I am mindful that the Framework states that planning conditions should not be used to restrict permitted development rights unless there is clear justification to do so. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) includes limitations on the extent of any such extension, including the maximum proportion of the curtilage which may be covered. That being the case, there is no clear justification for restricting the exercise of permitted development rights by future occupiers, should they choose to do so.

Conclusion

34. For the above reasons, I conclude that the proposed development is in accordance with the development plan as a whole, and that there are no other relevant material considerations that would indicate a decision otherwise would be appropriate. Therefore, the appeal should be allowed and planning permission granted subject to the conditions set out in the schedule below.

Jane Smith

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:
 - 1493 03: Existing Site Plan, Block Plan and Location Plan
 - 1493 04: Proposed Site Plan, Gravel Grid Detail
 - 1493 05: Proposed Ground & First Floor Plans, Proposed Elevations & Section, Proposed Roof Plan
- 3) The development shall be constructed in accordance with the external materials detailed on the application form and approved plans.

- 4) Prior to commencement of the development hereby permitted, details of surface water drainage shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved surface water drainage details prior to the first occupation of either dwelling.
- 5) Prior to construction of the dwellings hereby approved above foundation level, a scheme demonstrating the ability of the proposed structure to withstand the hydrostatic and hydrodynamic pressures likely to be acting on the building in a 1 in 200 year and 1 in 1000 year flood event shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 6) Prior to first occupation of the development, a Flood Response Plan shall be submitted to and approved in writing by the local planning authority. Such plan as may be approved shall be enacted upon first occupation of the development and thereafter maintained at all times that the development is occupied. Any revisions to the plan shall first be submitted to and approved in writing by the local planning authority.
- 7) Prior to the first occupation of the development hereby permitted, details of measures to reduce intervisibility between the raised platforms at the rear of the dwellings shall be submitted to and approved in writing by the local planning authority. Such measures as may be approved shall be put in place prior to occupation of the development and thereafter retained.
- 8) The vehicle access, parking and turning areas detailed on drawing number 1493 04 shall be provided, hard surfaced and made available for use prior to the first occupation of the development. Thereafter, these areas shall be retained for vehicular access and the parking and turning of vehicles.
- 9) Prior to first occupation of the development, details of refuse storage and collection arrangements shall be submitted to and approved in writing by the local planning authority. Such arrangements as may be approved shall be put in place prior to first occupation of the development and any areas and/or structures for the storage of waste thereafter retained for that purpose.

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