



Appeal Decision

Site visit made on 10 January 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/B1550/W/23/3325396

96 Victoria Avenue, Rayleigh, Essex SS6 9DB

- 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 & Mrs Mason against the decision of Rochford District Council.
 - The application Ref 22/00713/FUL, dated 19 July 2022, was refused by notice dated 13 April 2023.
 - The development proposed is the demolition of existing bungalow and replacement with 2 No detached 4 bedroom houses and one Number 3 bedroom chalet.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing bungalow and replacement with 2 No detached 4 bedroom houses and one Number 3 bedroom chalet at 96 Victoria Avenue, Rayleigh, Essex SS6 9DB in accordance with the terms of the application, Ref 22/00713/FUL, dated 19 July 2022, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. The main parties have been given the opportunity to comment on this version and in reaching my decision I have taken account of the comments that were received. For the avoidance of doubt, where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.
3. A Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 has been provided by the appellant. Its terms were updated during the consideration of the appeal. The updated, signed Deed is dated 23 January 2024 and I have had regard to this completed Planning Obligation 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
 - the integrity of Essex Coastal Habitats Sites.

Reasons

Character and appearance

5. The appeal site is within a residential street comprising detached properties, which are predominantly of two storey height, sited close together and set back from the road. A large proportion of the frontages are covered in hard surfaces. On one side of the appeal site is a densely planted belt which forms part of a large area of open space. The gap created by the open space, together with the trees, hedges and other planting adjoining Victoria Avenue, offers visual relief from the otherwise built-up surroundings and positively contributes to the character of the area.
6. The appeal site contains a bungalow within a large plot, with a dense hedge and trees along much of the frontage. It is markedly different to the prevailing character.
7. The proposed houses would be sited closer to the road than those adjacent to the appeal site. Even so, they would extend forward of a large garage building within the adjoining plot which is positioned very close to the pavement and is a prominent feature in the street scene. Furthermore, properties to the south of the site along Victoria Avenue do not follow a rigid building line. In such a context, the position of the proposed houses relative to the highway would not appear incongruous.
8. The proposed dwellings would have narrower frontages than the existing properties in the immediate surroundings. Nonetheless, the positioning of properties close together is commonplace on Victoria Avenue. In addition, not all properties have wide frontages, including a row of bungalows on Victoria Avenue starting at its junction with Cheapside West. Consequently, the proposed plot widths would not be out of keeping with the established pattern of development in the area.
9. Within the variety of architectural styles along Victoria Avenue there are buildings with full and half hipped roofs and some with flat roofed front projections. In this context, the varying roof features and projections incorporated into the design of the proposed chalet would be appropriate and would not appear as an awkward juxtaposition of styles. In any event, it is set to the rear of the proposed two frontage properties and would only be glimpsed along the access drive. It would not, therefore, be prominent in the street scene.
10. Whilst the front boundary hedge would be removed, some trees would be retained within the site, and additional trees would be planted within the front gardens of the proposed dwellings. Together with the wide and densely planted belt of trees, such planting would provide a suitable transition to the open space. Accordingly, whilst the proposal would result in an increase in the density of development on the appeal site, this would not result in an unacceptable erosion of the open space. The open space would continue to provide visual relief to the built form.
11. Overall, I consider that the proposal would assimilate into its surrounds and would be an acceptable form of development.
12. Accordingly, I conclude that the proposed development would not harm the character and appearance of the area. As such, it would accord with Policies

DM1, DM2 and DM3 of the Development Management Plan and Policy CP1 of the Local Development Framework Core Strategy (CS) which seek to ensure that new development positively contributes to the natural and built environment, is of a appropriate density and which is compatible with the surrounding area and existing street pattern. It would also achieve the design aims set out in the Framework.

Essex Coastal Habitats Sites

13. The appeal site lies within a defined Zone of Influence for Essex Coastal Habitats Sites (ECHS), as defined in the Conservation of Habitats and Species Regulations 2017. These are recognised for their value as coastal habitats and support internationally important populations of breeding and non-breeding bird.
14. The ECHS have been identified by Natural England (NE) as being vulnerable to harm as a result of recreational disturbance. Such disturbance would be exacerbated by an increase in the local population resulting from new residential development, including through the cumulative effect of small-scale developments.
15. The appeal proposal would result in a net gain of two dwellings, with an associated increase in residents living within the Zones of Influence. This would be likely, in turn, to increase recreational pressure. It is therefore likely that the proposal, alone and in combination with other development, would adversely affect the integrity of ECHS. 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 their integrity.
16. The ECHS are covered by the Essex Coastal Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). In partnership with other affected local planning authorities, the Council has adopted a RAMS Supplementary Planning Document, 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, as well as education and communication with recreational users.
17. Arrangements are in place through the RAMS for financial contributions to be sought in connection with new residential development, to fund avoidance and mitigation measures on a strategic basis. The appellant has provided a Unilateral Undertaking (UU) dated 23 January 2024, which undertakes to make the required RAMS payment based on the fee payable in the 2023/24 financial year, with index linking to take account of inflationary increases.
18. NE has been consulted as part of this appropriate assessment and has confirmed that the above financial contribution would be sufficient to avoid an adverse effect on the integrity of the ECHS and their relevant features. Consequently, I am satisfied that, with the mitigation measures in place, the proposal would not adversely affect the integrity of the ECHS, either alone or in combination with other development.
19. Having regard to the views of NE and taking into account the planning obligations set out in the UU, on which I place weight, I am satisfied that the development would not cause harm to the ecological value of the ECHS.

20. In conclusion, the proposal would not harm the integrity of the ECHS and would, therefore, accord with CS Policy ENV1 which seeks to maintain, restore, and enhance sites of international, national and local nature conservation importance. In addition, there would be no conflict with paragraph 186 of the Framework which states that planning permission should be refused where significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated.

Other Matters

21. I have had regard to the other matters raised by interested parties, including noise, impact on the environment, on-street parking, and risk of flooding. However, I have been presented with no substantive evidence that would lead me to disagree with the Council's conclusions on these matters and determine that the proposal would result in material harm sufficient to justify dismissing this appeal.

Conditions

22. The Council has not suggested any conditions, and I have therefore taken those recommended by consultees during the planning application process into consideration.
23. In addition to the standard time limit condition, I have also, in the interests of certainty, attached conditions specifying that the development is carried out in accordance with approved plans.
24. I include a condition which requires Construction Management Plan so that the construction process is suitably controlled in the interests of highway safety. This is a pre-commencement condition to ensure that appropriate controls are in place before development commences.
25. To ensure the satisfactory appearance of the proposed development, I have considered it necessary to attach conditions relating to facing materials and hard and soft landscaping. In the interests of the character and appearance of the area I have included a condition requiring tree protection measures to be implemented. To protect priority species and diversity it is necessary and reasonable to secure the recommendations of the submitted Preliminary Ecological Appraisal.
26. The Highway Authority has suggested a condition specifying that the vehicular accesses are provided at a width of 3.6 metres. However, there is no evidence before me that demonstrates that the proposed width of the accesses are inadequate. I have therefore not included a condition that specifies such a requirement. I have, however, considered it necessary, in the interests of highway safety, to impose conditions that require the provision and surfacing of the accesses and the provision of parking prior to occupation; the reinstatement of the redundant access as footway; and the protection of the visibility on the frontage. In addition, I have included conditions requiring that the developer provides a Residential Travel Information Pack and cycle parking in the interests of sustainable travel.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

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:
 - 1684/ES1/B Existing Site + Location Plan
 - 1684/1/300/F Proposed General Arrangement Plot 1
 - 1684/2/300/F Proposed General Arrangement Plot 2
 - 1684/3/300/B Proposed General Arrangement Plot 3
 - 1684/PS/100/E Proposed Site Plan
 - Tree Protection Plan Rev 1 dated 21 March 2023
- 3) No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for:
 - i) The parking of vehicles of site operatives and visitors.
 - ii) Loading and unloading of plant and materials.
 - iii) Storage of plant and materials used in constructing the development.
 - iv) Wheel and underbody washing facilities.
- 4) Prior to the commencement of above ground works, details of the external facing materials of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved details.
- 5) Prior to the commencement of above ground works, details of both hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.
- 6) No dwelling hereby permitted shall be occupied until its vehicular access has been provided in accordance with the approved plans.
- 7) No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.
- 8) Any new boundary planting along the frontage shall be planted a minimum of 1 metre back from the highway boundary.

- 9) Prior to the occupation of any dwelling hereby permitted, its garage and external parking space for one vehicle shall be provided and kept available at all times for the parking of motor vehicles.
- 10) Prior to first occupation of the development, the existing, redundant access on the frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway footway and kerbing in accordance with details that shall have been submitted to and approved in writing by the local planning authority.
- 11) No dwelling shall be occupied until space has been laid out within its plot for two bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 12) Prior to first occupation of each of the dwellings hereby permitted, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, which shall have been submitted to and approved in writing by the local planning authority, to include six one day travel vouchers for use with the relevant local public transport operator.
- 13) Tree protection measures, including fencing, shall be carried out in strict accordance with the Method Statement for Tree Protection Measures set out in the Andrew Day Arboricultural Consultancy Arboricultural Report Rev 1 dated 21 March 2023. The approved tree protection measures shall be erected prior to any site activity commencing and maintained in place until completion of the development. No development or other operations shall take place other than in complete accordance with the approved Tree Protection Plan.
- 14) No development shall take place, unless in accordance with the recommendations within the ACJ Preliminary Ecological Assessment including, but not restricted to, the recommendation that site clearance is carried out cautiously under ecological supervision to prevent damage to previously undiscovered badger sets and that walkover surveys are carried out following site clearance to ensure badgers have not occupied the site before the completion of development.