



Appeal Decision

Site visit made on 7 February 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/P1560/W/23/3323186

5 Pole Barn Lane, Frinton on Sea, Essex CO13 9NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr John Walker against the decision of Tendring District Council.
 - The application Ref is 22/00871/FUL.
 - The development proposed is demolition of existing dwelling and erection of two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of occupiers of neighbouring properties, specifically whether it would be overbearing to No 3 Pole Barn Lane, the effects on daylight and sunlight to No 7 Pole Barn Lane, and the effects on privacy to the property on Winchester Road to the rear of the appeal site;
 - ecology and biodiversity, with specific regard to bats;
 - highway safety.

Reasons

Character and appearance

4. The appeal site lies in a predominantly residential area on the south side of Pole Barn Lane between its junctions with the Esplanade and Winchester Road. This part of the street comprises a limited number of detached dwellings. The dwelling on the adjoining plot of No 3 Pole Barn Lane is a bungalow of similar scale to the current appeal property. The other adjoining plot of No 7 Pole Barn Lane is occupied by a two-storey detached dwelling.
5. The appeal site and both adjoining properties are set within spacious plots with mature vegetation fronting the street. By contrast, the north side of Pole Barn

Lane is occupied by a variety of dwellings arranged in a comparably uniform, street-facing pattern with generally open frontages.

6. The proposal would demolish the existing bungalow occupying the site, replacing it with a pair of semi-detached houses. Whilst semi-detached houses are found throughout the surrounding area, including on the opposite side of the street, the site and its immediate neighbouring plots display a disparate character via their comparably lower density and spacious nature.
7. The proposed semi-detached dwellings would not extend significantly closer to the street frontage than the existing bungalow, nor cover a significantly larger footprint. However, the overall scale and massing would increase markedly by virtue of the resulting height and projecting dual gable frontages. Moreover, the creation of two separate vehicular accesses and associated hardstanding would create an open aspect to the front of the property that would erode the sense of enclosure and seclusion currently enjoyed by the plot. Whilst the proposed arrangement would bear some similarities to several properties on the north side of Pole Barn Lane, it would be at odds with the prevailing character of the south side of the street.
8. The site lies outside but close to the boundary of the Frinton and Walton Conservation Area (the CA). Paragraph 201 of the Framework establishes the need to consider the effect of development within the setting of all designated heritage assets, including conservation areas.
9. The CA is focussed on the seafront stretching between the traditional seaside settlements of Frinton-on-Sea and Walton-on-the-Naze. Between the centres of the two settlements, the CA is largely limited to the predominantly residential areas adjacent to the seafront. Insofar as it relates to the appeal, the significance of the CA is derived from the intrinsic relationship of the settlements of Frinton and Walton, and the areas in between, to the seafront.
10. In the vicinity of the site, the CA boundary is drawn to include many of the properties facing directly out to sea and the publicly accessible areas adjacent to these properties. Although the appeal site is close to the CA boundary, it comprises an enclosed plot that appears physically and functionally separate to the CA, and this would not significantly change through the appeal proposal. Accordingly, notwithstanding my conclusions relating to the effects on the character and appearance of the wider area, I do not find the proposal would harm the setting of the CA. Its significance would therefore be preserved.
11. For the reasons given above, by virtue of its height, bulk, scale and massing, the proposed development would harm the character and appearance of the surrounding area and would conflict with Policy SP 7 of the Tendring District Local Plan 2013-2033 and Beyond, Section 1, North Essex Authorities' Shared Strategic Section 1 Plan – Adopted January 2021 (the S1 LP), and Policies SPL 3 and LP 4 of the Tendring District Local Plan 2013-2033 and Beyond, Section 2 – Adopted 25th January 2022 (the S2 LP). Together these policies seek, in respect of this issue, for new development to meet high standards of urban and architectural design, to respond positively to local character and context, to relate well to its surroundings, and to positively contribute to the district's sense of place. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Living conditions

12. Nos 3, 5 and 7 Pole Barn Lane have a staggered relationship to one another, with Nos 3 and 5 both facing diagonally on to the highway. Consequently, the rear elevation of No 5 sits to the rear of the corresponding elevation of No 3. No 3 has a detached garage, which sits in the foreground of views from the rear-facing windows of No 3. By virtue of the single-storey height of No 5 and the hipped roof, which slopes away from the boundary, the massing of No 5 is largely screened from No 3 by the garage.
13. The footprint of the proposal would not increase significantly over that of the existing dwelling. It would also be set slightly further from the shared boundary with No 3 than the existing dwelling is. Nevertheless, the proposal would extend further rearwards than the existing property and its height would increase significantly. Even acknowledging the slight inset from the side boundary, the visible massing of the proposal would be prominent in views to the rear of No 3, representing a significant and adverse increase over and above the current situation. It would therefore appear as an unduly dominant and overbearing feature to the detriment of the living conditions of the occupiers of No 3 Pole Barn Lane.
14. I am provided with no technical reports relating to the effects of the proposal on the sunlight or daylight afforded to neighbouring properties. The appeal site lies to the east of No 7 Pole Barn Lane, which features several windows at ground and first floor facing towards the appeal site. Due to the geographical orientation and the increased height and footprint of the proposed development, it seems likely that the proposal would result in some loss of sunlight to the windows of No 7. However, this would in all likelihood be limited to a brief period in early morning. I have no substantive evidence to suggest that the loss of sunlight would be to such extent that it would harm the living conditions of neighbouring occupiers.
15. No 7 features a balcony to its eastern elevation at the point closest to the appeal proposal. However, even at this closest point, the proposal would be reasonably well separated from the dwelling of No 7. Although the proposed building would be visible from some windows of No 7, due to the angle of the windows relative to the appeal proposal, it would be offset to the side of such views rather than centrally prominent. As such, in a similar manner to the case with sunlight, although the proposal may result in a small loss of daylight to some windows, I have no substantive evidence to suggest this would be to a harmful degree.
16. The property directly to the rear of the appeal site is a dormer bungalow facing on to Winchester Road. The proposal would extend closer to this property and extend higher than the existing dwelling, affording rearward views from the first floor in addition to the ground floor. Nevertheless, a reasonable separation distance between the two dwellings would be retained. Although I note the Council's reference to the Essex Design Guide, I have been provided with limited details of such guidance and can afford this only limited weight. Accordingly, based on the available evidence, I do not find the proposal would result in undue loss of privacy for the occupiers of the property on Winchester Road.
17. For the reasons given above, although I find no harm in respect of daylight, sunlight or privacy, the proposal would appear dominant and overbearing when

viewed from the rear of the adjacent property of No 3 Pole Barn Lane and would harm the living conditions of its occupiers. It would therefore conflict with Policy SP 7 of the S1 LP and Policy SPL 3 of the S2 LP, which seek, in respect of this issue, to protect the amenity of existing and future residents and users, and for development to relate well to its surroundings. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Ecology and biodiversity

18. No substantive details have been provided to determine the likelihood that bats are present on site and the extent to which they may be affected by the proposal.
19. Policy PPL 4 of the S2 LP advises that any proposed development on sites which may support protected species will require relevant surveys. I acknowledge the appellant's statement that the Council made no request for any such surveys or ecological assessment. Nevertheless, the proposal would involve the demolition of buildings and structures that, based on my observations on site and the available evidence, may have the potential to support bats. In the absence of such assessments, I am unable to conclude whether or not the proposal would be harmful to bats as a protected species, or the scope of any potential mitigation strategy.
20. For the reasons given above, in the absence of sufficient evidence to persuade me otherwise, the proposal has the potential to cause harm to bats as a protected species, which would conflict with Policy PPL 4 of the S2 LP. This seeks, in respect of this issue, to ensure development does not harm protected species. It would also conflict with the provisions of the Framework, which have similar aims.

Highway safety

21. To the west of the site approaching the junction with Winchester Road, the street is narrow. It is wider in the vicinity of the site and further eastwards, towards the Esplanade junction. There are currently few vehicular accesses on the side of Pole Barn Lane to which the appeal site is located.
22. The Council raises concern with the potential for vehicles to overhang the highway if more than two vehicles were parked on the driveway of Plot 1. I acknowledge, due to the lack of a footpath on the highway adjacent to the appeal site, that overflow vehicles parked in this area could disrupt the flow of traffic. However, the on-site parking provision would meet the Council's adopted standards and the potential for the driveway to be used for the parking of additional vehicles is a theoretical scenario to which I can attach limited weight. In any event, given that such vehicles would, in all likelihood, be visitors to the property, they could be parked safely nearby on other parts of the street or in the nearby public parking bays on the Esplanade. I acknowledge that the area can become busy at times, especially with visitors during the summer months. However, I am provided with no substantive evidence that the proposal would contribute to a growth in parking pressure that would be harmful to highway safety.
23. The proposal would introduce new vehicular access points to the highway at the front of the property. Although I am provided with limited details of proposed visibility splays, the access points would emerge on to the highway in

a similar manner to those existing, and the introduction of an additional access point would not significantly increase vehicle movements.

24. My observations on site were of a generally quiet street, with limited vehicular traffic either passing through or accessing properties, and vehicles travelling at low speeds. I acknowledge these observations were a snapshot in time and there is potential for increased vehicular activity at busy times. Nevertheless, given my observations and the details provided, I am not persuaded that the proposed access arrangements would lead to harm to highway safety.
25. For the reasons given above, the proposed development would not harm highway safety and it would accord with Policy CP 2 of the S2 LP, which advises, in respect of this issue, that proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. It would also accord with the relevant provisions of the Framework in respect of this issue, which have similar aims.

Other Matters

26. The appellant highlights that the appeal property is in poor condition and requires significant works to bring it up to modern standards. Whilst I do not dispute this, I have no compelling evidence to suggest the proposed development is critical to delivering such improvements.
27. The proposal would result in a net increase of a single residential unit in a sustainable and suitable location and would make efficient use of the land. This would make a small contribution to housing stock and accord with the Framework's objective to boost the supply of homes. Whilst these benefits carry a small amount of weight in favour of the proposal, they would not overcome the harm previously identified.
28. The site is within the zone of influence of the Colne Estuary Special Area of Conservation (SAC) and Special Protection Area (SPA) sites. Mitigation of recreational impacts on the SAC and SPA is required for all developments resulting in a net gain of residential units within the zone of influence. In this case, a unilateral undertaking has been prepared to secure the payment of the required financial contribution through a legal obligation. The Council's officer report indicates that this would be sufficient to provide mitigation of recreational impacts arising through the proposed development. In the event that I was minded to allow the appeal, it would have been necessary to consider this matter within an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, I have not done so.

Conclusion

29. For the reasons given above, although I have identified no harm in respect of highway safety, the proposal would conflict with the development plan as a whole. There are no other material considerations, including the Framework, that would lead me to a decision other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR