



Appeal Decision

Site visit made on 9 April 2024

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2024

Appeal Ref: APP/D1590/W/23/3328403

9 Rylands Road, Southend-on-sea, Essex SS2 4LW

- 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 Kostas Povilaitis against the decision of Southend-on-Sea City Council.
 - The application Ref is 23/00617/FUL.
 - The development proposed is 'demolition of garage and erection of detached bungalow to rear of existing bungalow alongside all associated works including changes to access, driveway, parking, plot separation and landscaping.'
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Decision

1. The appeal is allowed and planning permission is granted for 'demolition of garage and erection of detached bungalow to rear of existing bungalow alongside all associated works including changes to access, driveway, parking, plot separation and landscaping' at 9 Rylands Road, Southend-on-Sea, Essex SS2 4LW in accordance with the terms of the application, Ref 23/00617/FUL, subject to the conditions in the attached schedule.

Preliminary Matter

2. The description of development in the banner heading above is taken from the planning application form. The Council's decision notice gives a different description of 'demolish existing garage and erect a single storey detached dwellinghouse to rear with associated amenity space and parking'. However, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. Dwellings on Rylands Road vary in type, size and design, but are generally arranged on reasonably consistent building lines fronting the street. Many have outbuildings and garages to their rear, but these are typically of fairly modest scale within reasonably generous gardens which affords a sense of spaciousness to the rear of the dwellings.
5. The proposed dwelling would occupy part of the garden to 9 Rylands Road which currently accommodates a detached garage as well as an area of hardstanding that wraps around to the rear of the garden to 15 Rylands Road.

A garden would be provided to the side of the dwelling, and there would be three parking spaces accessed by an existing driveway that runs along the boundary of the site with No 15, as well as a further parking space to the front of No 9.

6. I am satisfied that the form and architectural design of the dwelling would sit comfortably against the varied appearance of built form nearby. However, the dwelling's position sitting to the rear of No 9 and lacking a street frontage would be unusual on this part of Rylands Road and the provision of the garden to the side of the dwelling would further contrast with the typical layout on this part of the street. The plots for both the existing and proposed dwellings on the site would also be smaller than is typical within this area. At the same time, the footprint of the dwelling and its overall scale would be larger than the garage on the site and an outbuilding for which a certificate of lawfulness has been granted¹, as well as other outbuildings in nearby rear gardens. In combination, these factors would cause the development to stand out against the established pattern of its surroundings and it would erode the current reasonably spacious setting to the rear of the appeal site.
7. That said, I note examples of other dwellings located to the rear of frontage buildings in the local area referred to by the appellant. The Council's evidence indicates that some examples relate to annexe buildings, that development at 66 Rylands Road replaced a block of garages and that development at 108 Trinity Road replaced an MOT garage. Accordingly, their circumstances are not directly comparable to the appeal before me. Nevertheless, while not part of the immediate street scene around the appeal site, the presence of dwellings to the rear of 66 Rylands Road in particular is appreciable reasonably close by and the local character is not entirely uniform. Although the Council's Design and Townscape Guide 2009 ('the DTG') advises that piecemeal development of gardens in areas of strong uniform character would disrupt the grain of development and will be considered unacceptable, I find that the location of the development would not therefore be wholly incongruous in the wider context.
8. Furthermore, No 9 currently has a larger plot than most dwellings nearby which reduces slightly the degree of contrast in the size of the plots proposed from subdivision of the site against those of neighbouring dwellings. The dwelling would be fairly close to boundaries to its side and rear but the single-storey scale of the building means that the relationship would not appear unduly cramped and would temper the effect of the development on openness. In addition, the vehicular access to the rear part of the site would not be a new feature in the street scene. The single-storey height of the dwelling and screening by existing buildings also means that it would not be prominent with public views largely restricted to glimpses along the access from Rylands Road. The visual impact of the development would therefore be limited and where it would be seen, the form and design of the dwelling would not in itself be conspicuous against the mixed development already present nearby. These factors would moderate the overall effect of the proposal on the character and appearance of the area.
9. The Council has also raised concern about the relocation of a parking space to the front of No 9, albeit commenting that this would not merit refusal in isolation. However, I saw that the frontage to No 9 already comprises

¹ Application ref 23/00236/CLP

hardstanding and many of the dwellings on Rylands Road have parking to their frontages. In this context, I am satisfied that the parking to the front of No 9 would not appear prominent or out of keeping in the street scene.

10. Nevertheless, I conclude for the above reasons that the proposal would cause some harm to the character and appearance of the area. The harm would be modest, but the proposal would conflict with Policies KP2 and CP4 of the Core Strategy 2007 ('the CS') and Policies DM1 and DM3 of the Development Management Document 2015 ('The DMD'). Amongst other things, these policies resist backland and infill development that would conflict with local character and grain, and broadly seek high quality development that adds to the overall quality of the area and that respects character and local context. For the same reasons, it would be contrary to similar objectives in the DTG and National Design Guide and to requirements within the National Planning Policy Framework ('the Framework') seeking high quality design and development that is sympathetic to local character.

Other Matters

11. The proposal includes one parking space to the front of No 9 and three further parking spaces to the rear part of the site. Although interested parties have referred to existing parking problems, the Council indicates that the level of parking proposed would meet standards outlined by Policy DM15 of the DMD. I have no firm reason to find that there would be inadequate parking provision for the development resulting in additional pressure for parking on street. Furthermore, any increase in traffic would be small given the scale of the proposal and there is no substantive evidence before me to indicate that the existing access is unsafe to accommodate flows nor that there would be harm to highway safety or convenience.
12. Having regard to the scale and single-storey height of the dwelling, I am satisfied that it would not cause a harmful loss of light or outlook for neighbouring occupiers and subject to suitable boundary treatment which could be secured by a planning condition, it would not cause harmful overlooking. Noting that the site would remain in residential use and the small size of the proposed dwelling, I consider a meaningful increase in noise or disturbance to neighbouring occupiers, including through use of the access, would be unlikely.

European Sites

13. The Council advises that the appeal site is within the Zone of Influence of the Southend and Benfleet Marshes Special Protection Area ('SPA') and Ramsar, the Foulness Estuary SPA and Ramsar, The Crouch and Roach Estuaries SPA and Ramsar, the Dengie SPA and Ramsar and the Blackwater Estuary SPA and Ramsar which are scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy ('RAMS'). SPA sites are European Sites designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'). In circumstances where a proposal is likely to have a significant effect on a European Site, the Habitats Regulations impose a duty on the competent authority to consider implications for the conservation objectives of the Site within the framework of an Appropriate Assessment ('AA'). In accordance with the Framework, the Ramsar sites should be given the same protection as European Sites.

14. The information before me indicates that the RAMS sites are vulnerable to the effects of recreation and that the development is located within an area that could contribute additional visitors to these areas. In combination with other plans and projects, the consequent increase in recreational pressure would be likely to have a significant effect on the designated sites and could lead to an adverse effect on their integrity.
15. In order to mitigate potential recreational effects of development, the RAMS seeks financial contributions towards a programme of strategic mitigation measures to be delivered by the Essex Coast RAMS Partnership, including provision of information and education, access management, enforcement and monitoring. The strategic solution outlined in the RAMS has been endorsed by Natural England. Provided mitigation measures identified in the strategic solution are appropriately secured, Natural England indicates that the proposal would not result in adverse effects on the integrity of European Sites from recreational disturbance.
16. The Council confirms that the appellant has made payment which would be used towards mitigation under the RAMS. Given the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose, and that the intended mitigation would be effective to adequately overcome any adverse effects of the proposal.
17. In light of the above, I find within the Framework of an AA that the proposal would not adversely affect the integrity of the designated sites, either alone or in combination with other plans and projects.

Planning Balance

18. The Council's appeal evidence references an assessment published in July 2023 indicating that it has a 4.18 year housing land supply against the requirement based on the standard methodology with a 20% buffer. This assessment has not been challenged by the appellant. The Council further suggests that it would be able to demonstrate a 5 year supply when measured against the requirement excluding the 20% buffer. That may be, but the Framework requires such a buffer to be applied where there has been significant under delivery of housing as measured by the results of the Housing Delivery Test which is the case here. I have therefore determined the appeal on the basis that the Council has a 4.18 year supply; a shortfall against the required 5 years.
19. Accordingly, paragraph 11 d) of the Framework is relevant. There are no policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development in this case. The Framework therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
20. The proposal would cause some harm to the character and appearance of the area and would be contrary to requirements within the Framework seeking high quality design and development that is sympathetic to local character. However, I have found having regard to the specific circumstances of the proposal that the harm in this case would be modest.

21. Set against this harm, the proposal would make effective use of the site to provide an additional one-bedroom dwelling. The Council identifies that the existing housing stock comprises a greater proportion of 1-bedroom units and smaller properties with a lower percentage of accommodation suitable for families, but that is not evidence of an absence of need for further small dwellings. The contribution to the supply of housing made by one dwelling would be small, but still useful. Indeed, the Framework recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. In the context of the shortfalls in the levels of past delivery and future supply of housing and with regard to the Framework which includes objectives seeking to significantly boost the supply of housing and the effective use of land, I afford significant weight to the benefit of additional housing delivery.
22. The adverse impacts of the development would be modest, and in the context of paragraph 11 d) of the Framework, I find that these adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies and is a material consideration that weighs significantly in favour of the proposal. While the development would result in conflict with Policies KP2 and CP4 of the CS and Policies CM1 and DM3 of the DMP, I conclude that there are material considerations of sufficient weight to indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Conditions

23. I have considered suggested conditions against the tests within the Framework. Where necessary, I have made minor amendments for clarity, brevity, consistency or to ensure compliance with the relevant tests.
24. I have imposed the standard time limit (1), and a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty.
25. Details of how demolition and construction will be managed (3) are necessary in the interests of highway safety and the living conditions of nearby occupiers while details of drainage (4) are necessary in the interests of flood risk. These are pre commencement conditions as details need to be agreed before any works take place to ensure that they are satisfactory given that they will either inform the construction process or relate to works below ground level, and the appellant has agreed to them within their final comments.
26. Details of external materials (5) and landscaping (6) are necessary to secure a satisfactory appearance. Conditions relating to energy efficiency, sustainability measures and renewable energy (7) water efficiency (8) and accessible dwellings standards (9) are necessary in the interests of environmental sustainability and to comply with requirements of the development plan. Provision for cycle parking (10), refuse and recycling (11) and parking (12) are necessary in the interests of supporting sustainable travel choices, highway safety and convenience and to ensure a satisfactory appearance and suitable living conditions. However, I have omitted suggested references in condition 12 to requirements for electric vehicle charging and access to the highway which I consider to be unnecessary given that the access is existing and provision in Building Regulations for electric vehicle charging.

27. A condition relating to the provision of obscure glazing to the bathroom (13) is necessary in the interests of living conditions. Having regard to the size of the plot for the proposed dwelling and its relationship with neighbouring boundaries, I consider that a condition to restrict certain permitted development rights for extensions and alterations that could otherwise apply (14) is necessary and clearly justified in this case in the interests of the character and appearance of the area and the living conditions of future and neighbouring occupiers. However, it is not necessary to remove rights under Class AA of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as such development is not permitted where a dwellinghouse is constructed after 28 October 2018 and so would not in any event apply here.
28. The Council has also suggested a condition relating to construction hours, but I am not persuaded that this would be necessary in addition to the requirement under condition 3 for a Construction Method Statement including details of measures to limit noise and disturbance and powers under other legislation. I have not therefore imposed it.

Conclusion

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

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Existing Site Plan 1:200, 003 Block Plan and 003 Proposed Building on Site Plan, Elevations and Plans.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include details of:
 - 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) the erection and maintenance of security hoarding;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works that does not allow for the burning of waste on site; and
 - vii) measures to limit noise and disturbance.The approved Statement shall be adhered to throughout the construction period.

- 4) Notwithstanding any demolition works, no construction works shall take place until details of surface water attenuation for the site, based on Sustainable Drainage System (SuDS) principles, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before it is first occupied, and any systems put in place shall thereafter be maintained for the lifetime of the development.
- 5) Notwithstanding the details shown on the submitted plans, no development shall take place, other than for demolition works and the construction up to ground floor slab level, until details of the materials to be used in the construction of the external elevations of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details before it is first occupied.
- 6) The dwelling hereby permitted shall not be occupied until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include, but are not limited to:
 - i) hard surfacing materials;
 - ii) details of the number, size and location of trees, shrubs and plants to be planted together with a planting specification;
 - iii) details of any permeable paving or other sustainable drainage measures to be implemented; and
 - iv) any boundary treatment of the site including boundary treatments to subdivide the site from 9 Rylands Road.

The approved hard landscaping works shall be completed prior to first occupation of the development and the soft landscaping works no later than within the first planting season following first occupation of the development. Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

- 7) The dwelling hereby permitted shall not be occupied until secure and covered cycle parking for 1 no. cycle has been provided and made available for use by occupiers of the dwelling and their visitors in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be retained for the lifetime of the development.
- 8) The dwelling hereby permitted shall not be occupied until refuse and recycling bin storage facilities have been provided and made available for use on site in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling facilities shall thereafter be retained for the lifetime of the development.
- 9) The dwelling hereby permitted shall not be occupied until details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development being provided from onsite renewable sources, have been submitted to and approved in writing by the Local Planning Authority. The development shall be

carried out in full accordance with the approved details before it is first occupied.

- 10) The dwelling hereby permitted shall not be occupied until it incorporates water efficient design measures to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption) including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 11) The dwelling hereby permitted shall not be occupied until the Building Regulation Standard M4(2) 'accessible and adaptable dwellings' has been complied with.
- 12) The dwelling hereby permitted shall not be occupied until 4.no off-street car parking spaces have been provided on site in accordance with the details shown on approved plans 'Existing Site Plan 1:200' and '003 Proposed Building on Site Plan, Elevations and Plans' and the spaces shall thereafter be retained for the parking of vehicles for the lifetime of the development.
- 13) The dwelling hereby permitted shall not be occupied until the bathroom flank windows in the eastern elevation have been glazed permanently in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent) and permanently fixed shut, except for any top hung fan light which shall be a minimum of 1.7 metres above finished internal floor level of the relevant room. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4. The windows shall be retained as such thereafter.
- 14) Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any statutory amendment, modification or re-enactment or replacement thereof (as the case may be) for the time being in force), no extensions, roof extensions or outbuildings shall be carried out at the dwelling hereby permitted without the receipt of express planning permission.