



Appeal Decision

Site visit made on 9 April 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

Appeal Ref: APP/P1560/W/23/3321296

47 St. John's Road, Clacton-on-Sea CO15 4BT

- 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 Alan Outen against the decision of Tendring District Council.
 - The application Ref is 21/01951/FUL.
 - The development proposed is demolition of existing property and erection of 5 new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) was published. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed there is no requirement for me to seek further submissions on the latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area, with particular regard to siting, design and layout;
 - Whether the proposed development would provide satisfactory living conditions for future occupiers with specific regard to privacy, outlook and garden size;
 - The effect of the proposed development upon highway safety with particular regard to visibility splays.

Reasons

Character and appearance

4. Situated in a predominantly residential area the appeal site comprises a single storey detached dwelling and its large spacious grounds. It is accessed from the busy St John's Road. The existing dwelling proposed for demolition is set well back into the site and roughly follows a building line of properties of a similar form and scale to the west. In contrast the semi-detached properties immediately to the east of the appeal site are 2-storeys and very close to the

road. There are bungalows and 2-storey dwellings fronting Ramplings Avenue which have rear gardens backing onto the eastern and southern appeal site boundary.

5. The proposed dwellings would be accessed from a widened driveway on St John's Road. This would lead to an internal access serving two dwellings positioned close to the site frontage, a central single storey detached dwelling, and a pair of semi-detached single storey properties towards the rear of the site.
6. The specific approach to the form and design for plots 3 to 5 are not matters of dispute, and I have not been presented with evidence that would lead me to a different conclusion in these respects. Plots 1 and 2 at the front of the site comprise a pair of 2 storey semi-detached properties. The steep gables of the proposed development would front the road and would appear in stark contrast to the adjacent and modest pitched roof pair of semi-detached dwellings adjacent to the site, and the lower properties to the west.
7. I acknowledge that there are individual properties in the area and there is a wide variety of house types. I also observed properties with gables fronting the road close to the site. However, plots 1 and 2 as a pair are not comparable to those in terms of overall appearance having more angular gables, combined greater bulk and height. Furthermore the setback of the dwellings to the west would offer no mitigation for their jarring appearance and as a result of being set in such close proximity to the road, they would appear particularly incongruous and dominant in the streetscene.
8. Residential properties in the area tend to have road frontages, with gardens to the rear. I did observe smaller gardens in the area, but the regular spacing and pattern of these provides a cohesive arrangement which contributes to the character of the area despite the smaller plot and garden sizes. I note comments with regards to similar developments nearby, however deliberately planned cul-de-sacs and roads which have dwellings positioned around them provide an active frontage to the street scene. The appeal site is not analogous to these surrounding roads, and although plots 1 and 2 would be consistent with this context I saw no signs of backland development, with homes set behind each other sharing an access.
9. The in depth development would be visible directly opposite the site and from the west as well as between the gaps in the dwellings fronting Ramplings Avenue which have a boundary with the site. Although the existing garden is private space, it would still be visible from public views as well as private homes. The introduction of dwellings positioned close to and at more acute angles to the site boundaries together with areas of hardstanding for the parking and manoeuvring of vehicles into an area which is largely without any built form at present would visibly and spatially erode the open and undeveloped character of the site. The inclusion of built form and the likely need for boundary treatments to subdivide the garden curtilage of the host dwelling would cause the appeal scheme to be viewed as an incongruous form of backland development which fails to reflect the well-established pattern of the surrounding residential development and would be out of character in the area and would appear as a confined and a cramped form of development in this environment.

10. I therefore conclude that overall the proposed development would harm the character and appearance of the area with particular regard to the design and external appearance of plots 1 and 2, and the overall layout of the site. The proposal would conflict with Policy SP7 of the Tendring District Local Plan Section 1 (TDLPS1) and Policies LP3, LP4, LP8 and SPL3 of the Tendring District Local Plan Section 2 (TDLPS2). Collectively these require high standards of design which should make a positive contribution to local character and surroundings.

Living conditions

11. Properties at 14 to 24 Ramplings Avenue comprise terraced homes. Given the close distance of these to the existing site boundary, it was evident from my site visit that the appeal site garden is already overlooked by these and other surrounding buildings. The accommodation at the rear of plots 4 and 5 comprise living and dining rooms, where greater levels of privacy are expected. The proximity of plots 4 and 5 to neighbouring upper floor windows at No's 14 to 24 would mean that future occupiers would be likely to experience inadequate levels of privacy into their main living space as well as in gardens. Whilst some overlooking of gardens can be anticipated in built up areas, the proposed development would not provide suitable levels of privacy within the key spaces of the homes.
12. No's 14 to 24 would also provide a continuous built up appearance at the rear of plots 4 and 5. There would be little relief afforded due to the arrangement of the neighbouring terraced homes and their short distance from the appeal site boundaries. As such the garden and living accommodation would also feel enclosed by the site boundaries, and the additional height of the two-storey terraced homes would exacerbate this enclosure. This would result in the living accommodation and garden space having a poor outlook and would be oppressive to use for future occupiers.
13. Notwithstanding the effect upon outlook for plots 4 and 5, I have no evidence before me that the size of any of the gardens would not be commensurate with the 2 bed properties they serve. The gardens would still afford future occupiers space to sit outside and be sufficient to allow for drying of washing, and for garden and waste storage. Similarly the garden to plot 3 would have a more generous amount of space than the other plots and would face the rear of single storey detached buildings which would afford gaps and a more generous and less imposing outlook. The relatively generous garden space would mitigate the siting next to parking bays.
14. The Council has not articulated which specific existing properties would be affected or how living conditions of the occupiers of neighbouring properties would be harmed. I also do not consider that the size or shape of the gardens would be unacceptable for future occupiers, and there would be no conflict with LP4 of the TDLPS2 in this respect. However, I conclude that the development would not provide satisfactory living conditions for future occupiers of plots 4 and 5 with respect to privacy and outlook.
15. The proposal would therefore be contrary to TDLPS1 Policy SP7 and Policies SPL3, of the TDLPS2. Together and insofar as they are relevant, these seek, amongst other things to protect amenity for future residents and that buildings are designed and orientated to ensure adequate outlook and privacy.

Highway safety

16. In its consultation response Essex County Council as the Highway Authority advises that St John's Road is classified as a Secondary Distributor road, the function of such routes, is to distribute traffic in the built-up area safely and efficiently. The road is subject to a 30 mph speed limit, with double yellow line parking restrictions to both sides.
17. The development would be served by the existing access which would be widened to allow two vehicles to pass. The pavement in front and to the west of the site and the curvature of the road mean that this access provides good visibility to the west. To the east, however, the appellant has identified that visibility is 23m without crossing third party land. This is well below the 45 metre Sight Stopping Distance (SSD) recommended for a 31 mph road in the Manual for Streets (MfS). Notwithstanding this, the appellant has submitted a plan with the appeal showing visibility splays that comply, in both directions, with the MfS advice. However, noting the above, part of the easterly splay is on land outside the appellant's control, a planning condition requiring its provision would be unreasonable and unenforceable.
18. Furthermore splays are achieved on basis of no obstructions between the access and carriageway. Although there are lower boundary walls to adjacent properties, I also saw a car parking space to the side of No 45. Although this concrete space was overgrown and vacant at the time of my site visit, I have no evidence that a vehicle could not be parked here at times potentially restricting views. I also noted both No's 43 and 45 had small front gardens but were filled with planting. Whilst it is beneficial that the double yellow lines prevent cars parking in the splays, there is no compelling evidence to show prevention of objects, cars or vegetation, which could obscure visibility within these splays, could be enforced or suitably controlled by planning condition. I note the appellant does not consider it likely the occupiers would obstruct their own visibility, but I observed the height of the neighbouring planting exceeded that of the low wall to No 45. Potentially this could reach or exceed 1.05m object height from the setback position of 2.4m.
19. Section 7.5 of the MfS indicate that, based on research in relation to reaction times and carriageway surfaces, there is scope for using lower SSDs than the desirable minimum SSDs. This is reiterated in the findings in paragraph 10.5.9 of the Manual for Streets 2 (MfS2). However, the starting point is that distances should be based on the recommended SSD values.
20. The factors highlighted by the appellant to warrant a reduction in the SSD such as the proximity to other junctions, only momentary visibility impairment, street geometry, the number of vehicle movements and traffic speeds are not supported by substantive evidence which explains how these elements apply individually or together to this location to fully warrant a reduction. Nor is there any definitive evidence that following the end of the coronavirus pandemic that traffic speeds have subsequently reduced. Although I appreciate that accident records, do not highlight particularly dangerous road environment, this is not borne out in third party representations. There is no 'local evidence' referred to within MfS2, to demonstrate that a shortfall of the magnitude proposed for the would be suitable for this road.
21. Although the access is already in use, and would be a widened, the increase of vehicular traffic via an additional four dwellings does increase the likelihood of

associated accidents and injuries as a result of this lack of visibility. Although the effect on the highway network would not be severe, in terms of highway safety and the aim of minimising the scope for conflicts set out within paragraph 116 of the Framework, it would not be appropriate to lower the standards set out within Manual for Streets and the Design Manual for Roads and Bridges for this secondary distributor road.

22. Parking provision appears to be suitable for the size of the dwellings proposed accommodating 2 spaces per dwelling. There is no evidence that the highway authority has concerns regarding the level of visitor parking or manoeuvring within the site. There is no evidence of parking stress in the surrounding area, and cycle parking could be accommodated within the proposed gardens. There are good road links in the area, and the appeal site is an accessible location for services and public transport links for pedestrians and cyclists. Improvements to access arrangements across the kerb and widening of the access to ensure two vehicles can access the site side by side. Trip generation would not be significant against existing peak hour flows. Notwithstanding the above, in conclusion, it has not been demonstrated within the evidence before me that the proposed access arrangements would not result in a harmful effect on highway safety.
23. The proposal would therefore be contrary to policies Policy SPL3 and Policy CP2 of the TDLPS1. Collectively these seek to ensure that access to a new development site is practicable, the highway network will be able to safely accommodate the additional traffic the proposal will generate and not have an unacceptable impact on highway safety. There would also be conflict with the Framework where it also seeks to achieve safe and suitable access.

Other Matters

24. From the evidence before me, the special interest and significance of the Grade II Listed Yew Trees¹ at number 30 St Johns Road is mainly derived from its historic and architectural interest. The Council considers that the site is surrounded by existing dwellings and therefore has not identified harm to the setting. Special regard is to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. However, I have no substantive evidence to disagree with the Council's conclusion as the surrounding area is built up of more recent housing development. The intervisibility between the appeal site and Yew Trees, and therefore the proposed development, would be partially obscured by the adjacent properties to the east of the appeal site. As such the proposal would preserve the setting of the nearby listed building.
25. The site falls within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Zone of Influence and is approximately 6000 metres from the Colne Estuary Ramsar and SPA sites and the Essex Estuaries Special Areas of Conservation. A Unilateral Undertaking (UU) has been provided to address the requirements for mitigation. If the circumstances leading to the grant of planning permission had been present, I would have considered this and the implications, in accordance with the Conservation of Habitats and Species Regulations 2017. The UU also satisfactorily deals with the mitigating the effects of increased population on local play areas. However, as I am dismissing the appeal on the main issues above, I have not found it necessary

¹ Historic England Listing: 1111527 Yew Trees 30 St John's Road

to consider such matters any further as this would not alter the outcome of the appeal.

26. The appellant has drawn my attention to other appeal decisions². I have carefully considered these examples. However, notwithstanding that most of these appeals are for singular developments, I have not been provided with the full details and they will have been determined under a different set of circumstances, planning policies and other evidence which is not before me in this appeal. There is a requirement for site specific judgements to be made and for these reasons I attach limited weight to these.
27. The proposed development would deliver new dwellings, which would support the Government's objective of boosting the supply of homes. The development is in an accessible location with excellent transport links, and there would be some economic benefits from the construction and occupation of the development and it is a site that could be built out and delivered quickly.
28. I also note the proposed development would be built to current building regulations, provide renewable energy provision and energy efficient utilities. The proposed development would adequately deal with flood risk and drainage and would not harm heritage assets. On the basis of the evidence before me I have not identified harm to surrounding occupants and consider vehicle and cycle storage to be adequate and garden sizes to be acceptable. However these are neutral matters which weigh neither for nor against the development.

Balance and Conclusion

29. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

K Williams

INSPECTOR

² Appeal Ref: APP/D3505/W/18/3214989; Appeal Ref: APP/F2605/W/21/3286719; Appeal Ref: APP/D3505/W/17/3191313; and Appeal Ref: APP/Z1510/W/21/3284667.