



Appeal Decision

Site visit made on 13 February 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 May 2024

Appeal Ref: APP/W1525/W/23/3317996

19 Church End Avenue, Runwell, Wickford, Essex SS11 7HZ

- 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 Maria and Mark Carrasco and Edwards against the decision of Chelmsford City Council.
 - The application Ref is 22/01400/FUL.
 - The development proposed is proposed 3 bedroom detached bungalow with access bridge (revised scheme).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. While I was not able to get access to the site, I was able to view it from Regency Close, the crossing over Runwell Brook as well as from the neighbouring properties. I was able to sufficiently view the appeal site, the location for the formation of the access bridge, and surrounding site context to determine the appeal.
3. Since the council issued its decision the National Planning Policy Framework (the Framework) was updated. The parties were given the opportunity to provide comments on the updates to the Framework and I have taken them into account. The numbering below reflects the new Framework.

Main Issues

4. The main issues are: the effect of the proposal upon the character and appearance of the area; and the effect of the proposal upon the living conditions of the occupiers of Nos 15 and 17 Viking Way with regard to outlook and light.

Reasons

Character and Appearance

5. The dwelling is proposed on land to the rear of 19 Church End Avenue. Along Church End Avenue the dwellings generally have deep gardens and to the rear of these gardens is Runwell Brook. Either side of the brook there is dense vegetation, providing a clear visual and physical boundary between the development either side of it. Whilst the brook appears to be culverted under a few main roads, generally houses and the roads they take their access from are located either side of it. Therefore, much of the brook corridor, including within the vicinity of the appeal site, has a verdant landscaped character.

6. The site is located within a built-up area with limited open green spaces, so the vegetated brook corridor and immediately adjacent garden spaces including the appeal site make a positive contribution to the character and appearance of the wider area. This is clearly visible from Regency Close in front of the appeal site.
7. Regency Close is a cul-de-sac and the houses are generally two storey buildings that are similarly designed with gable fronted roofs, distinctive porches and bow windows. Though there is some variety in terms of the materials used and minor alterations, the general consistency in terms of the scale, siting and design of the dwellings creates an attractive street scene with a recognisable and distinctive character and appearance. Dwellings to the north of Viking Way exhibit some variance, but have a degree of consistency in their proportions, materials and gable roof forms.
8. While the proposed house would be located on land to the rear of No 19, the proposal would involve a new vehicular access over the brook via Regency Close. The proposed development would be viewed most closely in the context of the closer Regency Close dwellings and some adjoining on Viking Way.
9. The dwellings along Canewdon Gardens are generally a mix of bungalows and again there is some variety in the design of these dwellings. The houses along Regency Close are located either side of the road and houses on Canewdon Gardens is visually separate to it given the change in the design of the properties. This can be said to be the case for the relationship with the appeal site given the distance and intervening dwellings. The development would have a closer proximity relationship with some dwellings on Church End Avenue. However, due to their position much to the rear of the street scene on Regency Close, and the brook corridor, their visibility would be much more limited.
10. The house would take its access via Regency Close over the brook but because it would be located on the opposite side of the brook, it would have some appearance of visual and physical separation. The proposed access and siting of the house would also make it appear disconnected from the development on Church End Avenue and Viking Way. By virtue of this, it would not follow the existing pattern of development and lack some coherency with the surrounding built form.
11. The proposed access would require the removal of vegetation along both sides of the brook. Whilst the access road would be relatively narrow, it would introduce a more manicured and managed treatment compared to the existing and surrounding vegetation along the brook. The reduction of this existing vegetation buffer as proposed would erode the positive effect this makes to the character and appearance of the area. Whilst some of it would be retained and no trees would be removed, its effect would be visible from Regency Close.
12. The proposal would detract from the effectiveness of this area in breaking up the built form and would harm the verdant appearance of the brook. Whilst other houses have been built close to the brook, they do not take vehicular access over the brook and generally the vegetation buffer has been maintained to a modest density to retain its verdant character.
13. The design of the dwelling would break up the flank walls which would reduce the appreciated bulk of the bungalow. Additionally, given the variety in terms of the design of houses in the wider area, there is scope within the wider area for some variety in the design of houses.

14. However, the design of the house would have little in common with the development on Regency Close. It would have a single storey stepped front façade and the large and somewhat bulky multiple hipped gable roof form would dominate the proportions of the house. It would significantly contrast with the two storey facades and lighter gable roofs of the houses on Regency Close where the elevations of those houses are a distinctive aspect of them. The proposed dwelling would also not include a bow window or seek to replicate the distinctive porches features. The design of the dwelling would appear discordant with the surrounding houses that the proposal would be viewed alongside.
15. Even were I to be of the view a single storey dwelling could be appropriately introduced into this street scene, the discordant design, scale proportions and form of the proposal would further emphasise the isolation of the dwelling from the surrounding built form. Given my concerns with some of the fundamental design principles of the scheme, I am not satisfied planning conditions, including those in respect of materials and landscaping could mitigate the harm.
16. Therefore, the proposed development would be at odds with and harmful to the character and appearance of the area. This would be in conflict with Policy DM23 of the Chelmsford Local Plan (LP). This seeks, amongst other matters, to ensure development must be compatible with its surroundings having regard to scale, siting, form, architecture, materials, boundary treatments and landscape. It would also not accord with the Framework insofar as it seeks to ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living Conditions

17. Whilst the term 'outlook' is not referenced in LP Policy DM29, the policy does seek to ensure development is not overbearing. Whilst there is no right to a view within the planning system, the outlook from a room or garden can be enclosed and development can appear overbearing from neighbouring properties which could harm the occupier's outlook. As such, this term has been correctly used by the council in this context.
18. Next to the proposed dwelling are three houses and the dwelling would be sited to the rear of two of them. These dwellings have relatively shallow gardens but the houses themselves have a floor level that is higher than the associated gardens and the appeal site. To the rear of these houses are the rear gardens for the houses along Church End Avenue and as such, presently there is a clear and open outlook from the rear of these properties.
19. The proposed dwelling would be built with its flank wall very close to the rear boundary fences of Nos 15 and 17 Viking Way. Whilst the proposal would be a single storey building it would have a relatively steep and sizeable roof form, extending above the fences by a considerable distance. The combination of the garden depths of Nos 15 and 17, and the siting, height and depth of the dwellings and the roof forms, would result in a significant degree and sense of enclosure. The limited width of No 15's garden would exacerbate this. Even with the set back of the flank wall to the rear of the proposed bungalow, the dwelling due to its height, scale and siting would appear oppressive and overbearing when using most of the gardens.

20. The proposed development would also enclose the outlook from the rear ground floor rooms. The separation distance from the flank wall of the proposed dwelling and the habitable rear rooms would be greater than much of the garden spaces. Having regard to this and the higher finished floor levels at Nos 15 and 17 compared to the appeal site, the proposed dwelling would not result in such a degree of enclosure that it would result in harmful living conditions of the occupiers of Nos 15 and 17 when viewed from internal habitable rooms. However, this would not mitigate the other harm I have found.
21. A Daylight and Sunlight Report was prepared in support of this proposal. The approximate location of the sun can be identified through computer modelling which can consider the effect of a scheme throughout the year. The Report states that the Building Research Establishment guide objective overshadowing test recommends that at least 50% of the area of each amenity space should receive at least two hours of sunlight on 21 March.
22. The modelling within the report identifies that the proposed dwelling would not result in at least 50% of the gardens receiving less than two hours sunlight on 21 March. It also identified that the amount of sunlight and daylight the windows would receive would be sufficiently safeguarded. While the consultants who prepared the Report did not enter the affected properties, modelling can often provide a good indication of future conditions.
23. Having visited the properties myself and given the scale and siting of the dwelling, there would be some loss of sunlight that would reach the rear of the gardens closest to the boundary fence. However, given the direction, height and form of the roof, sunlight would still reach most of the gardens throughout most of the day. As such, the gardens would not become harmfully overshadowed. Additionally, the set back from the houses would ensure that the light that could reach the rear rooms would not be significantly diminished by the proposed dwelling.
24. Therefore, for the reasons set out above, notwithstanding my findings in respect of light, the proposed development would result in harmful living conditions for the occupiers of Nos 15 and 17 Viking Way in respect of outlook. Consequently, the proposal would not comply with Policy DM29 of the LP insofar as it expects development to ensure it is not overbearing.

Other Matters

25. An outbuilding could be erected under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) on the site in a similar location. However, no plans have been provided to establish what could be built to compare the effect of an outbuilding. I also do not have substantive details and plans of a scheme that could be readily implemented and built out, or an expressed intention to implement such a scheme, were this appeal to be dismissed. Therefore, this suggested fallback position attracts limited weight.
26. The Essex Design Guide identifies that houses can be positioned closely together if one of the houses is designed not to overlook the other one. It was determined that the proposed dwelling would not result in overlooking, in this instance. However, this is only one consideration when determining the siting of a dwelling in relation to neighbouring occupiers' living condition.

27. The appeal site lies within the zone of influence of Essex Recreational disturbance Avoidance Mitigation Strategy. The Conservation of Habitats and Species Regulations 2017 requires that a competent authority makes an Appropriate Assessment (AA) of the implications of the plan or project on the integrity of the sites in view of their conservation objectives. The appellant has sought to make a financial contribution under the Council's mitigation scheme. Given my findings on the main issues in this appeal, the RAMS contribution is aimed at mitigating the adverse effects of the scheme, and is not an overall benefit of the proposal, I have not carried out an AA or considered the matter in detail.

Planning Balance and Conclusion

28. The proposed development would deliver a single dwelling in a settlement which is a focus for residential development. This would boost the supply of housing and would result in economic, social and environmental benefits both during and after construction, compliant with some Framework objectives. This would also include the delivery of additional planting and nesting boxes, with the potential to result in an overall modest biodiversity net gain. Given the modest scale of the proposal and possible scope of planting conditions, I attach modest weight to the cumulative benefits of the scheme.
29. Were I to agree the proposed development would be, or subject to the imposition of suitably worded planning conditions could be made compliant with policies such as those in respect of the living conditions of neighbouring occupiers not referred to in the main issue above, accessibility, flood risk and pollution, these would be neutral matters in the balance.
30. The proposal would harm the character and appearance of the area as well as harm the living conditions of the neighbouring occupiers and as a result, the proposal would conflict with the development plan and the Framework. Overall, I give these considerations and the conflict with the development plan and the Framework significant weight.
31. Accordingly, the policy conflicts and the related harm would not be outweighed by the benefits of the scheme. Therefore, the proposed development would conflict with the development plan as a whole and the Framework and the other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

G Sibley

INSPECTOR