



Appeal Decision

Site visit made on 30 July 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/P1560/W/24/3338877

Land next to 21 Stratford Road, Holland-On-Sea, Essex CO15 5DX

- 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 Piotr Slomczynski against the decision of Tendring District Council.
 - The application Ref is 23/01332/FUL.
 - The development proposed is a new one bedroom dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring dwellings with regard to outlook and loss of light; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Living Conditions

3. The appeal site is a parcel of land between No.21 Stratford Road and No.87 Chelmsford Road. It is currently occupied by a small outbuilding with fencing on the boundaries and a gate providing access onto Chelmsford Road. The proposed development includes the removal of this outbuilding and replacement with a single storey detached dwelling with a garden to the side and parking for one vehicle to the front.
4. The proposed dwelling would be located in close proximity to the shared boundaries with No.21 and No.23 Stratford Road, with less than a 1 metre gap between the proposed building and the boundary fence. Furthermore, whilst single storey in nature, the proposal includes a steeply pitched hipped roof, intended to reflect the roof forms of existing dwellings in the surrounding area.
5. Due to the close proximity of the proposed dwelling to the boundaries and its substantial roof height, the outlook from the gardens and rear windows of No.21 and No.23 would be significantly impeded and would result in a harmful sense of enclosure to the occupiers of these properties when in their respective gardens or the rooms served by these windows. This would be particularly

- pertinent for No.21 due to the modest size of the garden and incidentally, the close proximity of the dwelling to this shared boundary.
6. The appellant has indicated that a short shadow only covers a small part of the rear garden of No.21 and No.23 and there is no impact on daylight at midday or in the early hours of the afternoon. However, no evidence has been provided to demonstrate that this is the case. Due to its roof height, its proximity to the boundaries and the relationship between the dwellings, the proposed dwelling would be highly likely to result in a loss of light to the gardens of these properties to the detriment of the neighbouring occupiers when using these outdoor areas.
 7. It is noted that in a built up area, such as that surrounding the appeal site, dwellings are in close proximity to one another resulting in some level of overshadowing. However, this does not make the loss of light and outlook acceptable in this location.
 8. Therefore, for the reasons above, the proposed development would harm the living conditions of the occupiers of the neighbouring dwellings in relation to outlook and loss of light and would conflict with the relevant sections of Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan (the LP Section 1) 2021 and Policy SPL3(c) of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (the LP Section 2) 2022. The relevant sections of these policies collectively seek to ensure that all new development protects and does not have a materially damaging impact on the amenity of existing residents and the occupiers of nearby properties.
 9. The proposed development also conflicts with the relevant section of the National Planning Policy Framework which states that planning decisions should ensure that developments create places with a high standard of amenity for existing users.

Character and Appearance

10. The Council's concerns relate to the proposed 1.8 meter high fence extending the full front boundary of the appeal site alongside Chelmsford Road. Whilst many of the surrounding properties have open frontages, the appeal site is currently enclosed with a close-boarded, timber fence. This is similar in scale and design to the proposed boundary fence detailed within the submitted plans. Therefore, although it may be out of keeping with the prevailing character of the area, the proposed front boundary fencing would appear much the same as the current boundary treatment.
11. Nevertheless, a condition could be included, should planning permission be granted, to require the proposed boundary treatments to be approved by the Council prior to the occupation of the proposed dwelling. No other concerns have been raised by the Council in relation to the impact of the proposed development on the character and appearance of the area.
12. As such, the proposed development would not harm the character and appearance of the surrounding area and would not conflict with the relevant sections of Policy SP7 of the LP Section 1 and Policy SPL3(A)(b) of the LP Section 2. The relevant sections of these policies collectively seek to ensure that new development responds positively to local character and context to preserve the quality of existing places and their environs, relating well to its

site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials. It would also be consistent with the general design objectives of the National Planning Policy Framework.

Other Matters

13. The appellant makes reference to a number of similar or larger developments which were granted planning permission on smaller plots than the appeal site. However, no specific examples have been brought to my attention and therefore this has no bearing on my consideration of the appeal. It is also noted that a number of amendments have been made to the scheme, in consultation with the Council, prior to the submission of this planning application. However, I can only consider the proposed development before me and therefore this also does not alter my overall conclusions on the appeal.
14. Although referring to the scheme incorrectly, the Council indicate that the appeal site lies within the Zone of Influence (ZoI) for the Hamford Water Special Protection Area (SPA) and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). Given that the proposal is for additional housing, there is a reasonable likelihood that these European Sites would be accessed for recreational purposes by future occupants of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. The Council outline that a financial contribution in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Scheme (RAMS) is required in relation to this.
15. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

16. Whilst the proposed development would not harm the character and appearance of the surrounding area, it would result in harm to the living conditions of the occupiers of the neighbouring dwellings in relation to outlook and loss of light. Therefore, for the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR