



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: 14 August 2024

Appeal Ref: APP/P1560/W/23/3335596

Adens, Wignall Street, Lawford, Essex CO11 2JG

- 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 V Gkioka (Arkle Vass Limited) against the decision of Tendring District Council.
 - The application Ref is 23/00925/FUL.
 - The development is the demolition of existing garage and the erection of two storey, three bedroom detached dwelling with associated landscape works with new shared driveway, patio paving, bin enclosures, and cycle storage sheds.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and the erection of two storey, three bedroom detached dwelling with associated landscape works with new shared driveway, patio paving, bin enclosures, and cycle storage sheds at Adens, Wignall Street, Lawford, Essex CO11 2JG in accordance with the terms of the application, Ref 23/00925/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing no 2315 01A.
 - 2) No unbound material shall be used in the surface treatment of the vehicular access hereby approved.
 - 3) Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay, and retained free of obstruction above 600mm at all times.
 - 4) The building hereby permitted shall not be occupied until the windows on the side elevations have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

Preliminary Matter

2. The application was submitted retrospectively, and I saw during my site visit that the construction of the dwelling had begun. I have therefore considered the appeal on a part retrospective basis.

Main Issue

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

Reasons

4. The appeal site is located between an existing pair of semi-detached dwellings and a public footpath on the junction between Wignall Street and School Lane. A two-storey detached dwelling has been constructed on the appeal site, although this is incomplete and the dwelling is unoccupied. However, the Council indicate that the design of this differs from the design of the dwelling approved under a previous planning permission¹ and therefore planning permission is sought for the dwelling as constructed. I have no details of the previous permission before me. Nevertheless, the current scheme will be assessed purely on its own merit.
5. The surrounding area is residential in nature, with dwellings on this side of Wignall Street largely comprised of two-storey semi-detached properties of a traditional design. However, the dwellings on School Lane are more varied in design with both detached and semi-detached bungalows and two-storey properties. Dwellings in the area generally face the road in a linear fashion with minimal separation in between and are set back to provide off-road parking to the front.
6. The dwelling, subject of this appeal, has a tapered side elevation following the irregular shape of the site. This side elevation is a large flat flank wall alongside the public footpath, thereby visible from the public realm. However, it is sufficiently broken up by a small first floor window and differing materials on the ground and first floor. It is also partially obscured by the existing trees on the appeal site which are to be mostly retained. Therefore, this side elevation does not appear as an overly bulky or dominant addition within the streetscene.
7. The appeal dwelling extends nearly the full width of the plot with an extremely small gap between it and the neighbouring dwelling, Adens. However, there is sufficient space on the other side of the property, ensuring that it does not appear overly cramped on the site. Furthermore, dwellings in close proximity to one another forms part of the prevailing pattern of development in the area and, as such, the dwelling does not appear incongruous in its surroundings.
8. The appeal dwelling is greater in height than the neighbouring dwelling, Adens, with the front facing gable roof being a more prominent addition in the streetscene. However, from the front, the height difference appears nominal and the front facing gable is in keeping with the neighbouring dwelling at No.2 School Lane. Therefore, the height of the dwelling does not result in an intrusive form of development when compared to other properties in the area.
9. Therefore, for the reasons above, the development does not harm the character and appearance of the surrounding area and does not conflict with Policy LP4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (2022). This Policy seeks to ensure that new dwellings are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place. It also complies with the general design objectives of the National Planning Policy Framework.

¹ 18/00851/FUL (the previous permission)

Other Matters

10. The appeal site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Zone of Influence (ZOI) for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site and the appeal development falls within the scope of RAMS as relevant development. Given that the development is for additional housing, and its proximity to the SPA, there is reasonable likelihood that it would be accessed for recreational purposes by the occupants of the development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European Site.
11. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the European Sites. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
12. The development results in an additional dwelling with a consequent increase in the number of local residents living within the ZOI for these European Sites. This would be likely to result in additional recreational activity in these areas. Therefore, the proposed development is likely to have a significant effect on these European Sites. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPA and Ramsar site.
13. The Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the measures to address direct and in-combination effects of recreational disturbance on European Sites. The RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA.
14. The application is accompanied by a unilateral undertaking to secure the necessary contribution in relation to this and given the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions towards the mitigation schemes would count as mitigation towards maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal does not have an adverse effect on the integrity of the European Sites outlined above. The development therefore complies with the Habitats Regulations.
15. Concerns have been raised by third parties in relation to the standard of construction and the deviation from the previously approved plans. However, these are not matters for my consideration in this appeal and therefore have no

bearing on my overall conclusion. Furthermore, whilst the dwelling is close to the boundaries, emergency service access to the rear of the property would be possible via the public footpath or playing fields to the rear. Therefore, this matter is not determinative in the appeal.

Conditions

16. I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. Conditions suggested by the Council in relation to the surface treatment of the vehicular access and boundary planting have also been included to ensure highway safety. However, a condition in relation to the use of porous materials for the parking areas has not been included as this is already detailed on the submitted plan.
17. I have also included a condition requiring the windows on the side elevation of the proposed dwelling to be obscure glazed to ensure that they do not result in a loss of privacy to the occupiers of neighbouring dwellings. Whilst this was not expressly detailed within the Council's list of suggested conditions, it was outlined in their Officer Report.

Conclusion

18. For the reasons given above the appeal should be allowed.

E Grierson

INSPECTOR