



Appeal Decision

Site visit made on 1 November 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th November 2024

Appeal Ref: APP/M1520/W/24/3338048

37 Ormonde Gardens, Leigh-on-Sea, Essex SS9 3RG

- 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 Michael Meddle against the decision of Castle Point Borough Council.
 - The application Ref is 23/0558/FUL.
 - The development proposed is the erection of 2-storey, 2-bedroom dwelling and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the area, including existing trees, and
 - the living conditions of the occupiers of Number 37 Ormonde Gardens, with particular regard to privacy.

Reasons

Character and appearance

3. The appeal site is set within a residential area that consists mostly of semi-detached and detached bungalows, but also a good proportion of houses that are set back from the road on consistent building lines.
4. Whilst there is some variation in the design, forms and widths of the buildings in the area, they are mostly built to common traditional architectural styles, giving a consistency of appearance. Set in plots of comparable width, the pattern of development in the area is strongly consistent.
5. The grass verges and street trees lining the road, together with the open space and trees to the south of the appeal site, contribute to the area's verdant and mature appearance.
6. Public views of the appeal site are largely screened by the tall front boundary gates and the wall and trees growing along the side boundary. As such, it has little impact on the appearance of the street scene. The gabled fronted form of the proposed dwelling would reflect the designs of several existing buildings in the area, particularly the houses to its north, as would its height.

7. However, the proposed dwelling would be considerably narrower than the existing buildings in the street scene and it would occupy a plot much narrower in width than the plots in the area. Therefore, the width of the proposed dwelling and its plot would be markedly at odds with the prevailing pattern of building widths and plots widths in the area.
8. Consequently, it would appear as an incongruously narrow and somewhat cramped building within the street scene. Its visual incongruity would be exacerbated by its position set further back from the established building line than the buildings to the north. For these reasons it would harmfully erode and disrupt the established pattern of development in the area.
9. The Council's policies and guidance do not prescribe quantitative plot sizes. Nonetheless, the proposal would be contrary to RDG1 of the Castle Point Residential Design Guidance, Supplementary Planning Document, Adopted 2013 ("the SPD"), which requires plot sizes to be informed by those within an area and for new development to avoid disrupting strong patterns of plots in an area.
10. The siting of the proposed dwelling and its private garden would necessitate the pruning of the lower branches of some sizeable mature Oak trees and a mature Ash tree that overhang the appeal site from the open space to the south. The evidence indicates that these trees are category B specimens with a life expectancy in excess of 40 years and are protected by a Tree Preservation Order (TPO).
11. These large trees are highly visible from surrounding roads and properties where they form a distinctive landscape feature. They have a high amenity value as a group and make a significant positive contribution to the area's mature and verdant character and appearance.
12. The proposed pruning would have only a modest negative effect on the appearance of these trees and their contribution to visual amenity. However, the trees are large, and their canopies overhang a sizeable proportion of the narrow plot.
13. The requirement to undertake cyclical pruning in the region of every 3-5 years to maintain physical separation between the trees and the proposed development would place a lasting maintenance burden on future occupiers. Furthermore, the trees are likely to cause shading and result in significant seasonal leaf drop, the occasional falling branch, and the deposition of detritus on the proposed dwelling's roof and outdoor spaces, including into the drainage gutters.
14. Future occupiers of the proposed dwelling are therefore likely to perceive these large trees as a potential threat to their property and a nuisance to their living conditions. As such, they are likely to be motivated to seek to undertake further works to these trees, such as thinning out the canopies to reduce shading and the amount of leaf litter, branches and detritus falling on the proposed development. They may also seek to have the trees felled to avoid any perceived or actual damage to the property and risk to its occupiers.
15. Whilst the imposing presence of these trees would be clear to any potential occupier of the proposed dwelling, there is no mechanism before me to

prevent future occupiers from seeking to carry out works to the trees that could be detrimental to their continued amenity value, and health.

16. Although the TPO affords protection to at least some of the trees overhanging the appeal site, applications for tree works would be considered on their own merits. I have not seen anything in the evidence that would give sufficient confidence that the Council would be able to resist applications for works that could harm the trees and their amenity value. In any case, an applicant would have a right of appeal in the event of an application being refused, thus taking the final decision out of the Council's control.
17. For these reasons, there is a significant risk that the proposed development would lead to pressure to carry out works to the trees. Such works could threaten their long-term future and compromise their amenity value and their positive contribution to the character and appearance of the area.
18. Even if conditions controlling the proposed dwelling's foundation design, construction method and layout of underground utilities could mitigate harm to the roots of these trees, it would not override my serious concerns over the proposal's long-term relationship with the trees. In addition to the above, the short path across the open space would erode its verdant appearance, resulting in a modest negative effect on its positive visual contribution to the area's character and appearance.
19. Given that front driveways are a characteristic of the street scene, the proposed hardsurfaced vehicle parking area would not be visually harmful or dominant. As such it would be consistent with the guidance in RDG12 of the SPD, albeit an absence of harm does not weigh in favour or against the scheme.
20. Taking all the above into account, I conclude that the proposed development would be harmful to the character and appearance of the area, including existing trees. As such, it would be contrary to Policies EC2 and EC7 of the Castle Point Borough Council Local Plan, Adopted 1998 ("the CPBCLP"), which require high quality development, appropriate to its setting and the character of its surroundings, and for the visual value of natural features such as trees to be safeguarded.

Living conditions

21. The proposed raised rear decking could be fitted with a privacy screen of an appropriate height to safeguard the privacy of the occupiers of Number 37 Ormonde Gardens. Such a privacy screen would be set off the common boundary and would not need to be especially tall. As such, it would not have an overbearing effect on the outlook of the occupiers of Number 37, and it would safeguard their privacy in accordance with the overarching objectives of RDG5 of the SPD.
22. I therefore conclude that the appeal proposal would not be harmful to the living conditions of the occupiers of Number 37 with particular regard to privacy.

Other Matters

23. The Council is unable to demonstrate a 5 year supply of housing land and therefore the boost in the supply of housing is not currently being achieved in

its area. The proposed dwelling would therefore make a small but valuable contribution to housing supply in a location close to facilities, services and transportation links. Construction and occupation of the proposed dwelling would deliver lasting economic benefits. These positive attributes of the scheme fall to be weighed in the balance.

24. The evidence indicates that the appeal site lies within the Zones of Influence of several designated habitats sites¹ of nature conservation importance that are subject to statutory protection under EU derived legislation. The signed Unilateral Undertaking would secure payment of the requisite contribution to mitigate the potential negative in-combination effects of the proposed development on the nature conservation interests of those designated habitats sites. However, as I am dismissing the appeal for other reasons, no harm would arise to the habitats sites, and I need not consider this matter any further as it would not alter the outcome of the appeal.
25. The proposed development would not harm highway safety, the habitats sites referred to above or heritage assets. Nonetheless an absence of harm, including in these respects, would be a requirement of any well-designed scheme and would not weigh in favour or against the development.

Planning Balance

26. The proposal would conflict with CBLP Policies EC2 and EC7, which are broadly consistent with the Framework's objectives in Paragraphs 135 and 136 of ensuring developments are sympathetic to local character, including the surrounding built environment and landscape setting. Therefore, I give the appeal proposal's conflict with these policies significant weight.
27. Given the Council's current housing land supply, Paragraph 11.d)ii. of the Framework applies and planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
28. The appeal scheme could be built out quickly to contribute to boosting housing supply. It would make efficient use of land within a built-up area close to services, facilities and transportation links. Construction and occupation of the proposed dwelling would deliver economic benefits and contribute to local facilities and services. It could meet the needs of those seeking a smaller dwelling, which would likely be more affordable than a larger one.
29. However, even if the shortfall in the supply of housing in the Council's area was significant and the appeal site was previously developed land (PDL), the benefits of delivering a single dwelling on such a small area of PDL, would weigh only modestly in its favour.
30. The adverse impacts of the proposal on the character and appearance of the area would significantly and demonstrably outweigh those benefits when assessed against the policies in the Framework as a whole. Consequently, the proposed development is not the sustainable development for which the Framework indicates a presumption in favour of.

¹ Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site, Blackwater Estuary SPA and Ramsar site, and the Foulness Estuary SPA and Ramsar site.

Conclusion

31. The appeal proposal would harm the character and appearance of the area and this harm brings it into conflict with CPBCLP Policies EC2 and EC7, and the development plan as a whole. The material considerations, including the benefits of the proposal and the provisions of the Framework, do not carry sufficient weight to outweigh the conflict with the development plan, or indicate that the appeal should be determined other than in accordance with it. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR