



Appeal Decision

Site visit made on 24 September 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2024

Appeal Ref: APP/M1595/W/23/3333119

10 Chestnut Avenue, Thurrock, Grays, Essex RM16 2UJ

- 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 I Virk against the decision of Thurrock Borough Council.
 - The application Ref is 23/01125/FUL.
 - The development proposed is described as 'Demolishing the existing outbuilding and creating a new house of 1 no. of (6 Bedrooms for 8 people), associated cycle storage, bin storage, and amenities'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also the Inspector appointed to determine a second appeal¹ on the same site. The two appeals raise similar issues but are the subject of separate decisions. Whilst there may be some duplication on matters each appeal has been addressed separately.
3. The Council has advised that the appeal site falls within the Zone of Influence (ZoI) of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. These are referred to as Habitats sites within the National Planning Policy Framework (the Framework). The appellant had agreed to address this matter through the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy² (RAMS) on the second planning application. The appellant and the Council have had the opportunity to clarify and address this on both appeals. No third parties would be prejudiced by my consideration of this matter, as it does not alter the substance of the appeal. This matter is discussed later in the decision, which I have considered as a main issue.
4. An outbuilding was under construction at the time of the site visit. Although this structure is associated with the later appeal, for the avoidance of doubt, I have considered this appeal based on the same plans that were before the Council when it made its decision on the above planning application.

¹ APP/M1595/W/24/3340998

² Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) Habitats Regulations Assessment Strategy document 2018-2038 (RAMS SPD).

Main Issues

5. The main issues are:

- the effect of the proposed development upon the character and appearance of the area; and
- the effect of the proposed development upon Habitats sites.

Reasons

Character and appearance

6. The appeal site comprises land associated with 10 Chestnut Avenue, which is a right hand side hipped roof semi-detached property. The area is characterised by well-proportioned dwellings, set back behind front gardens or parking courts. There is a range of dwelling styles including bungalows, detached and semi-detached properties. The area has a spacious character with mature trees giving it a pleasant established residential appearance.
7. The site positively contributes to this character by virtue of the spacious driveway to the side of the property, allowing a generous and relaxed setting for No 10 and the adjacent detached dwelling at 8 Chestnut Avenue. However, the proposed dwelling would be positioned within the gap between the side of Nos 8 and 10 and very close to both joint boundaries. The resultant space at either side of the development would be noticeably narrow.
8. There are properties along Chestnut Avenue which are close to their respective side boundaries. However, the overriding character is that most properties are afforded a larger gap either by its own space to the side or that of its neighbour. Even if this is not the case for every property, the proposal would virtually erode the entire gap to the side of No 10 and the resultant restricted spacing between buildings would appear uncomfortably close and result in the development appearing cramped in its plot.
9. Additionally, the resultant plot width would be significantly narrower than that of nearby dwellings. The variation between the existing generous plot widths in the street and that of the appeal proposal would be exacerbated by it clearly standing as a separate entity to No 10 as a detached dwelling.
10. The proposed two storey dwelling would be of a scale, design and external appearance in keeping with the mixed style and type of housing along Chestnut Avenue. Nevertheless, for the above reasons the proposed dwelling would appear as an incongruous feature in the street scene. It would not respect the setting and layout of other dwellings within the street and the spacious character of the area.
11. It is therefore concluded that the proposal would harm the character and appearance of the area. The proposal would be contrary to policies CSTP22, CSTP23 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted January 2015 (Core Strategy). Together these policies seek to ensure that development promotes good design, a sense of place and responds to the sensitivity of the site and its surroundings.

Habitats sites

12. The Thames Estuary and Marshes SPA and Ramsar site is classified for bird species and habitats that are rare and/or vulnerable. The Conservation of Habitat and Species Regulations 2017 (as amended) (the Regulations) imposes a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the context of an Appropriate Assessment (AA).
13. The proposed dwelling would be likely to result in additional recreational pressure locally on sensitive coastal areas and such activity could cause disturbance to birds and their habitats. The increase from the development alone would be small, but it is likely that in combination with other developments, the proposal could have a significant impact on the integrity of the Habitats sites.
14. The RAMS SPD sets out a strategic approach to mitigate such adverse impacts, and details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. These include a range of habitat-based measures, education, communication and monitoring. As set out in the RAMS SPD and the Council's Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (SPD) May 2020 Natural England has endorsed this approach.
15. In this case, the appropriate contribution has been secured through a direct payment to the Council. I have been provided with evidence of an email from the Council which identifies such payments can be recorded on their systems against the relevant permission. I have no clear reason to doubt that the Council, as a responsible public body, would not spend the money in the way as envisaged by the RAMS SPD, or within a specified timetable.
16. As I am dismissing the appeal for other reasons, I am not required to undertake an AA. However, I am satisfied that the contribution may be taken into account as mitigation to effectively mitigate the recreational impacts of the proposed development on the nature conservation interest of the Habitats sites and avoid adverse effects to their integrity and used for the intended purpose.

Other Matters

17. The Council did not find that the proposal would result in loss of light, outlook or privacy for neighbouring residents and that it would also provide suitable living conditions for future occupiers. Parking arrangements and the effect on highway safety were also found to be satisfactory to the Council and its Highway officer. Although I have found the appearance of the dwelling on its own to be acceptable, this and the above matters do not equate to additional benefits as they are matters which are required to be acceptable in any event.
18. A number of other matters have been raised by interested parties, such as in relation to the effect of the development on house values, utilities, drainage, the accuracy of information submitted and procedural matters pertaining to the Council publishing appeal documents. Other concerns relate to highway safety, the residential character of the area, and the living conditions of existing and future residents and house prices. However, given the Council's

position on some of these matters, the absence of substantive evidence and my conclusions on the main issue there is no need for me to address these in further detail in this appeal decision.

Planning Balance

19. The Council cannot demonstrate a sufficient supply of deliverable housing sites as required by the Framework. Although the overall housing figure has not been explained, by either party, paragraph 11 d) of the Framework should, because of the provisions of footnote 8, therefore be applied. This requires the granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.
20. Regardless of the extent of any shortfall, the proposed development would provide limited social and economic benefits. This includes the creation of one additional dwelling contributing to the supply, mix and range of housing in the district. Economic benefits would arise from the construction and occupation of the development. However due to the scale of the development, the weight to be given to these benefits is limited.
21. The proposal would harm the character and appearance of the area and conflict with Core Strategy policies CSTP22, CSTP23 and PMD2. The Framework within chapter 12, also expects good design, which is identified as a key aspect of sustainable development. Furthermore, it expects development that is not well designed to be refused. For the reasons set out above, I give significant weight to the harm and thus the conflict between with the identified policies.
22. Other matters pertaining to the proposal, as set out above, have been identified as being acceptable. However, these weigh neither for nor against the proposed development.
23. Consequently the adverse impacts on the character and appearance of the area would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

24. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

K Williams

INSPECTOR