



Appeal Decision

Site visit made on 17 October 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2024

Appeal Ref: APP/V1505/W/23/3328440

Toledo, London Road, Crays Hill, Billericay, Essex CM11 2UP

- 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 Elegant Architectural Ltd against the decision of Basildon Borough Council.
 - The application Ref is 23/00323/FULL.
 - The development proposed is a new bungalow.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on 1) the character and appearance of the area, and 2) highway safety with regard to visibility.

Reasons

Character and appearance

3. The appeal site is part of an area of private amenity space which is located in front of three residential properties on London Road. Although the land is not physically subdivided it appears to be shared between the residential properties. The site is bounded by fencing and high hedges where it fronts London Road and contains several trees and landscape features.
 4. The appeal site, together with the remainder of the space, is positioned at a prominent corner location on London Road. The existing three properties are set back from the roadside, and this has given the immediate area a pleasant sense of verdant spaciousness which positively contributes to the character and appearance of the area.
 5. The proposed dwelling would be sited on the westernmost part of the land adjacent to Bay Tree Lodge. It would be single storey, and as such much of the dwelling would be screened by the existing hedging although its roof would be clearly visible from the street.
 6. In forming a new dwelling and a new planning unit within this area of amenity space it would result in the harmful erosion of the positivity which is currently provided in terms of spaciousness and landscaping.
-

7. Having regard to the pattern of development in the area, the proposal would upset the existing hierarchy and depart from the pleasantly established arrangement whereby the three dwellings located on the corner are set back from the roadside by the existing amenity space. Although it would continue the building line of Bay Tree Lodge, it would not reflect that of the three corner properties and would appear somewhat disjointed and incongruous when viewed in conjunction with these properties.
8. For these reasons, I conclude that the proposed development would cause harm to the character and appearance of the area. It would be contrary to Policy BAS BE12 of the Basildon Local Plan (2007) which outlines, amongst other things, that new residential development which causes harm to the character of the surrounding area will be refused.

Highway Safety

9. The proposed development would involve the creation of a new vehicular access directly from London Road. At this point, London Road, which is an A-road, forms an approximate 90-degree bend in the carriageway. There is a 30mph speed limit and I observed on my afternoon site visit that there was moderate to high levels of traffic. There is an existing grass verge separating the land to the front of the properties and the footpath. The proposed access would be required to break through the existing hedge and fence and cross to the existing verge to allow access to the roadway.
10. In order to ensure that acceptable visibility is provided so that emerging and approaching drivers have sufficient warning of each other's presence and intentions, it is outlined that for this road emerging drivers should be able to see at least 43 metres, from a point set back from the edge of the carriageway by 2.4 metres on the centreline of the access, measured to either side of the access along the channel line of the carriageway.
11. The site layout plan indicates such a visibility splay. However, when turning right, this visibility splay shows how, due to the bend in the road, drivers would be required to monitor a field of vision significantly greater than 180 degrees. Drivers, in most vehicles, would be required to look far over their left shoulder through their vehicle in order to see oncoming westbound traffic, whilst also monitoring oncoming eastbound traffic. I consider that this would provide an unsafe arrangement which would be detrimental to highway safety.
12. Even if it was shown that the visibility was acceptable, it is formed in land which is outside the appeal site and outside the appellant's ownership. Although the appellant states that they have served notice on the Highway Authority, there is limited evidence from either party to confirm an agreed arrangement or that the land would be maintained and kept free of obstruction in perpetuity. The consultation response from Essex Highways also presents doubt that the land is within the public highway.
13. The appellant states that they have previously sought to provide a new access to the existing dwelling and applied to the Council to construct a dropped kerb. The evidence which is referred to consists of a letter dated 28 August 2019 requesting a drop-kerb, and a plan showing ownership of the land in front of the dwellings. There are, however, no details of what was proposed or that this was approved. Furthermore, access to a classified road such as this would not be permissible using permitted development rights as is suggested.

14. Therefore, given the visibility I have outlined above, combined with an absence of confirmation that the visibility splays would pass entirely over highway land or land in the control of the appellant, I am not satisfied that the required safe access could be provided.
15. I therefore conclude that the appeal scheme would cause harm to highway safety, with particular regard to visibility at the proposed access onto London Road. The development would therefore be contrary to Policy BAS BE12 of the Basildon Local Plan (2007) which outlines, amongst other things, that new residential development which causes harm in terms of traffic danger will be refused.

Other Matters

16. The proposal would deliver one house resulting in a minor increase in the Council's overall housing number. It would also bring a small number of additional residents to the area who would contribute to the local economy. These are benefits that weigh in favour of the appeal.
17. I have nevertheless identified that it would conflict with the policy designed to ensure that development does not harm the character and appearance of an area and highway safety. This policy is consistent with the aims of the National Planning Policy Framework (2023) (the Framework) in terms of ensuring developments are sympathetic to local character and have safe and suitable access. This alignment increases the weight given to the policy conflict. Therefore, the conflict with this policy results in the development conflicting with the development plan when taken as a whole.
18. Paragraph 11 d) of the Framework requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, developments should be granted planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. This applies to applications involving the provision of housing in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council are unable to demonstrate a five-year supply of deliverable housing sites. It therefore follows that paragraph 11 d) of the Framework is engaged.
20. In terms of the proposed development, the starting point is therefore that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits.
21. In this case the adverse impacts of the proposal in terms of the harm to the character and appearance of the area and highway safety, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. These policies include a requirement for developments to be sympathetic to local character and have safe and suitable access.
22. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.

Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
24. The outcome of the Framework paragraph 11 d) process above indicates that the decision should be taken in accordance with the development plan.
25. The proposed development would result in a minor increase in the Council's overall housing number and would also bring a small number of additional residents to the area who would contribute to the local economy. When combined with the Council being unable to demonstrate a five-year housing land supply, collectively, I give these matters significant weight in favour of the proposed development.
26. However, the harm that I have identified that would be caused to the character and appearance of the area and highway safety attracts greater significant weight that outweighs the benefits associated with the proposed development.
27. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
28. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR