



Appeal Decision

Site visit made on 4 December 2024

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Appeal Ref: APP/P1560/W/24/3342600

Land east of School Road, Frinton On Sea CO13 9LA

- 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 Ed Hendry against the decision of Tendring District Council.
 - The application Ref is 23/01123/FUL.
 - The development proposed is for existing workshop to be removed and a new 2 bedroom dwelling to be constructed with a new single storey separate workspace. Dwelling will consist of 1 1/2 stories with box dormer to side elevations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework ('the Framework') on 12 December 2024. I have considered its amendments against the December 2023 version before the parties for their appeal evidence, and updated their cited paragraph numbers where necessary. However, I have not gone back to the parties for comment, as the Framework changes are not substantive or determinative to the outcome of this appeal.

Main Issues

3. The main issues are:
 - whether the proposal would provide sufficient parking;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of occupiers of neighbouring dwellings, with particular regard to privacy and outlook.

Reasons

Parking

4. The site comprises a workshop and open land enclosed by the rear gardens of surrounding dwellings. It is suitable in principle for residential development as it lies within the settlement development boundary. The proposal is for a detached dwelling and an outbuilding. No off-street parking is proposed or possible because there is only pedestrian access off School Road.
5. A material consideration in support of this lack of parking is the fallback position of the existing workshop. The Council does not refute that it has no usage restrictions. This suggests to me that the appeal proposal would have a neutral impact on the likely number of parked cars overall.

6. The Framework Paragraph 116 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. I conclude similarly to the Highway Authority, that the level of on-street parking from a single dwelling at this location would not result in such impacts, especially in light of the fallback position.
7. However, the Framework Paragraph 117(b) also requires that developments should address the needs of people with disabilities and reduced mobility in relation to all modes of transport. The Tendring District Local Plan 2013-2033 and Beyond Section 2 (LP2) Policy SPL3(b) similarly requires the design and layout of new development to provide safe and convenient access for people with mobility impairments.
8. The appellant states that they have never had any difficulty parking on School Road, and the Highway Authority considers the school related parking issues to not differ from typical school locations. However, some of the existing School Road and nearest Wittonwood Road dwellings do not have off-street parking, thereby indicating a pressure for spaces immediately adjacent to them.
9. Moreover, my site visit during the school pick-up period identified parked cars along all the surrounding streets, with parking pressure demonstrated by parking on double yellow lines and restricted areas. Therefore, the lack of dedicated provision would not address the needs of all potential occupants with relation to disabilities and reduced mobility, who would thus be likely to have to park some distance away especially during busy school periods.
10. The appellant, and indeed the Highway Authority, places much reliance on the site's sustainable location within Frinton to support its lack of parking. The Framework Paragraphs 109(e) and 110 provide policy support in requiring that opportunities to promote walking, cycling and public transport use are identified and pursued, whereby development should be focused on locations which are or can be made sustainable, through limiting the need to travel. The Essex Design Guide (EDG) Supplementary Planning Document also suggests that development within walking distance to a range of service and facilities may justify a reduction in car parking requirements.
11. However, although the proposal would be likely to incur fewer car journeys than less sustainable locations, this does not demonstrate that the occupiers would not own a car, especially for persons with disabilities and reduced mobility. Its sustainable location does not address the site specific parking matters which I have identified above.
12. Furthermore, the LP2 policies make no specific concessions for backland development in locations close to transport hubs. Policy SPL3 requires that access to the site is practicable, and that provision is made for vehicle parking. Policy LP4(g) requires proposals to accommodate residential parking provision for residents on-plot, with sufficient provision of on-street parking for use by visitors and delivery vehicles. Policy LP8 requires backland residential development to have a safe and convenient means of vehicular and pedestrian access. The appellant dismisses Policy LP8 as not relevant to a site for which it is not possible to provide vehicular access, but the policy does not specifically make such a preclusion.

13. Overall therefore, I find the proposal's lack of off-street parking would cause moderate harm to its future occupants, and would be in conflict with the LP2 Policies SPL3, LP4, and LP8, and the Framework Paragraph 117(b).

Character and Appearance

14. The Essex Design Guide paragraph 1.16 states that dormers should be a minor incident in the roof plane, and not over-dominant in their composition. The flat roof dormers proposed would have an excessive width and bulk. The southern elevation dormer windows would be larger than those at ground floor, and the very small windows in the northern elevation would highlight the large blank dormer expanse, even were it faced in a less prominent material. Rather than breaking up the roof line to provide more interest, the roof would thus be over-dominant.
15. I acknowledge that there is significant variation in the design and form of dwellings within the surrounding streets and the wider area, including a chalet bungalow on School Road with a large front dormer. The site is not within a Conservation Area nor close to any listed buildings.
16. However, as a backland site the dwelling would be viewed in conjunction with the rear elevations of the surrounding properties. These do present an eclectic mix of rear facades, but with a generally traditional character. The rear dormer of the existing chalet bungalow is very small. Other dormers are not prevalent and so do not set a strong precedent, especially where they do not make a positive contribution to the overall character. As such, I find the design of the dwelling would also be incongruous within this wider context.
17. Furthermore, while the use of the proposed outbuilding would be ancillary, its size would be physically disproportionate to the proposed dwelling. This is particularly due to its higher eaves height, and a ridge height only slightly lower. Notwithstanding that minimum internal and external space standards have been achieved within the site overall, the proposal would be cramped relative to its surroundings and the size of the plot.
18. I thus find that the proposal would cause moderate harm to the character and appearance of the area. It would conflict with the Tendring District Local Plan 2013-2033 and Beyond Section 1 (LP1) Policy SP7, and the LPS2 Policies SPL3 and LP4. Amongst other matters, these require that all new development must meet high standards of urban and architectural design, respect local character and make a positive contribution to the quality of the local environment, and relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, and form.

Living Conditions

19. The site is bordered by relatively high fencing, such that there would be no direct overlooking into other properties from the ground floor of the proposed dwelling. The School Road elevation would only contain obscure glazed windows, and the Wittonwood Road elevation windows are secondary and so could be conditioned to be obscure glazed. Overlooking would therefore not occur from these elevations. The gardens of Nos. 1 and 3 School Road are already overlooked from the site's access path such that there would be no additional harm from its use for a dwelling.

20. However, the Fifth Avenue properties would experience overlooking from the large dormer windows. Although the Council's pre-application response considered the intervening trees to prevent any significant overlooking, my site visit identified these would not provide full screening during leaf drop periods. The Essex Design Guide page 34 identifies that an elevation of a new house containing habitable room windows may not encroach any closer than 15m to an existing rear boundary. This is even if a distance of 25m to the existing houses could still be achieved with a closer encroachment, as in this instance. The Fifth Avenue properties do have long rear gardens, but existing residents are entitled to a greater degree of privacy to their rear garden boundary.
21. The only allowance for a closer spacing is if the new house is positioned at an angle of 30 degrees or more, or has no habitable room windows in that elevation, neither of which apply in this case. With upper floor windows positioned less than 3m from this boundary, harm would be caused from a lack of privacy resulting from overlooking.
22. The dwelling would be slightly further away from the boundary with Nos. 1 and 3 School Road than the existing workshop. However, it would be significantly higher, and therefore would be much more dominant and imposing at close range. Those properties only have very small rear gardens, which would thus be entirely over-dominated. The very open outlook from the gardens and from internal views would change to one experienced as oppressive and with a strong sense of enclosure. The adjacent Wittonwood Road residents would also experience a similar, albeit less pronounced, effect on outlook, due to the proximity of the new massing at height.
23. I note that the Council's pre-application response indicated there would be no undue overbearing effect on adjacent properties. However, the Council is not bound to make the same planning balance conclusion on receipt of additional information, such as the objections raised by neighbouring occupiers.
24. Overall, the proposed development would cause significant harm to the privacy and outlook of occupiers of neighbouring dwellings. It would conflict with the LP1 Policy SP7 and the LP2 Policy SPL3. Together and amongst other matters, these require that buildings are designed and orientated to ensure protection of outlook and privacy for existing residents.

Other Matters

25. The Framework seeks to significantly boost the supply of homes. Paragraph 73(d) supports the development of windfall sites and gives great weight to the benefits of using suitable sites within existing settlements for homes, and paragraph 124 supports the effective use of land. Paragraph 125 requires substantial weight to be given to the value of using suitable brownfield land within settlements for homes, proposals for which should be approved unless substantial harm would be caused. I have found above that the proposal would cumulatively cause substantial harm, and thus it is not a suitable site. I therefore only give minor weight to the use of brownfield land in this instance.
26. Nonetheless, an additional house in this sustainable location is a public benefit of the proposal. However, a single dwelling would only be a very small-scale contribution, and the Council identifies it has more than 5 years supply, undisputed by the appellant. The Government's Housing Delivery Test results published in December 2024 are broadly similar to the previous results

identified by the Council. The benefit to the housing supply therefore attracts limited weight overall. There would also be small-scale local social and economic benefits from construction, and from local expenditure by the additional residents, to which I also give limited weight.

27. The appellant identifies there has been no previous anti-social behaviour or crime, and suggests that the site's occupation and lighting would mitigate any risk and thus benefit surrounding properties. I do find it likely that neighbouring properties would gain more security from bordering a plot occupied overnight, such that I give this minor weight in favour.
28. The proposal would include an air source heat pump, a minor environmental benefit to which I give minor weight. The appellant suggests that the workshop gains support from the Framework paragraph 86(e) in allowing for new and flexible working practices, but this paragraph refers to planning policies and not decision making. There is also no information before me on the workshop use which would suggest any public economic benefit.

Special Protection Area

29. The Hamford Water Special Protection Area (SPA) and Ramsar site is afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of this, or any other protected site. The site is approximately 2.2km away from the SPA and so lies within its Zone of Influence. There are likely significant in-combination effects on this site resulting from increased recreational visitor pressure from new housing development within this zone. The Council thus requires mitigation measures to be secured for new dwellings within it, and none have been provided.
30. The Council now considers that the reason for refusal relating to the impact on this protected site can be addressed by suitably worded planning conditions. As the Competent Authority, I may only grant permission after having ascertained for myself that the proposed development would not affect the integrity of this and any other protected site. However, as I am dismissing the appeal on other grounds, the outcome of this would not be determinative, and so I do not need to consider further whether a planning condition would adequately mitigate the proposal's effect.

Planning Balance and Conclusion

31. I have found that the proposal would cause moderate harm to future occupants due to a lack of on-site parking, moderate harm to the character and appearance of the area, and significant harm to the living conditions of neighbouring occupiers. Cumulatively this would be substantial harm, to which I give substantial weight. The small-scale benefits of the proposal, to which I have given minor and limited weight, would therefore not outweigh this harm.
32. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

Inspector