



Appeal Decision

Site visit made on 12 December 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/P1560/W/24/3346402

The Old Parsonage, Makins Road, Parkeston, Essex CO12 4QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Brian Palmer against the decision of Tendring District Council.
 - The application Ref is 23/01527/OUT.
 - The development proposed is described as an "outline application with all matters reserved except access for the erection of 5no dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline form, with detailed approval sought for access only. I have dealt with the appeal on this basis and therefore treated any references to reserved matters within the appeal documentation, including the proposed site plan, as indicative only.
3. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
4. I have removed reference to the appeal scheme being a resubmission of an earlier planning application from the description of development as this is not an act of development.
5. The Council has confirmed that the public open space recreation infrastructure requirements are no longer sought for schemes of the size proposed as part of the appeal. Therefore, the Council has confirmed that it does not seek to defend its third reason for refusal.

Main Issues

6. Since there is no longer any dispute between the main parties in respect of the third reason for refusal, the main issues are:
 - the effect of the proposed development on the character and appearance of the area,

- the effect of the proposed development on the living conditions of existing occupiers of 45 and 46 Adelaide Street, with particular regard to outlook, and
- the effect of the proposed development on the integrity of designated European habitat sites.

Reasons

Character and appearance

7. The appeal site comprises the garden area and a number of outbuildings associated with The Old Parsonage, a two storey property sited in generous grounds. The built development in the area is predominately two storey, semi-detached and terraced properties sited in largely narrow, long plots, with modest front gardens. The long rear gardens, together with the siting of properties back from the highway, areas of undeveloped land and the grounds associated with the adjacent Church, collectively add to the spaciousness of the area.
8. While the grounds associated with The Old Parsonage, which includes the appeal site, are exceptionally larger than those associated with the surrounding built development they, nevertheless, contribute to the character and appearance of the area.
9. Although outline with only approval for access sought, the appeal scheme would introduce development, in the form of five residential dwellings, at the appeal site. Having regard to the size of the appeal site and the proposed quantum of development, the appeal scheme would materially erode the spacious nature of the site. This would be at odds with, and detrimental to, the prevailing character of the area.
10. While indicative, the proposed site plan shows a layout with a single detached dwelling and two pairs of semi-detached properties. Although the garden sizes proposed range between 75sqm and 159sqm, the detached property would have no front garden, a very shallow rear garden and small side gardens. The semi-detached properties, particularly plots 2 and 3, would be sited in small plots of limited depth and width.
11. While the appellant states that the location of the appeal site could support fewer parking spaces, the indicative proposed site plan locates parking areas largely to the front of the plots, with the exception of plot 1. Given the depth of the plots, such a layout would result with the proposed properties being left with no front gardens.
12. As such, the plot sizes and layout of the proposed development would be markedly at odds with the surrounding built form and would result in an over-intensive and cramped form of development. Therefore, the indicative plans show the proposed scheme is likely to have an inherently harmful effect on the garden space and its sense of spaciousness and therefore reinforces my findings in respect of this main issue.
13. For these reasons, the appeal scheme would result in harm to the character and appearance of the area, contrary to Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 (TDLP1) and Policies SPL3 and LP4 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (TDLP2).

Collectively, these seek, among other things, that new development should respond positively to local character, context and distinctiveness.

Living conditions

14. Part B, criterion e) of TDLP2 Policy SPL3 requires that buildings and structures are designed and orientated to ensure, among other things, adequate outlook for existing residents. Similarly, Part C, criterion a) of TDLP2 Policy SPL3 requires that the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
15. The rear gardens serving 45 and 46 Adelaide Street, a single storey pair of semi-detached dwellings, adjoin the appeal site. The rear elevations of these properties are proximate to, and face directly towards, the appeal site.
16. Although indicative, the proposed site plan and site section drawings demonstrate that plot 3 would be a two storey semi-detached property, sited with its flank elevation close to the shared boundary with Nos 45 and 46. Moreover, it would extend almost the full width of No 45's plot.
17. Having regard to Plot 3's proposed height, depth, orientation and proximity to Nos 45 and 46, the proposed development would result in a visually dominant, oppressive and imposing form of development that would materially affect the outlook for the occupiers of Nos 45 and 46.
18. Noting that scale and layout are reserved, the appellant indicates that alternative proposals could improve the conditions demonstrated in the indicative proposal. However, given the parameters of the appeal site and the amount of development proposed, I am not satisfied that the proposed development could be accommodated without harming the living conditions of the occupiers of Nos 45 and 46.
19. While the appellant has sought to demonstrate that the proposed development complies with the Essex Design Guide, the guidance highlighted within the appeal documentation seeks to ensure adequate daylight in interiors is achieved. The Council have raised no concerns in respect of this issue. Having regard to the evidence before me, including the illustrated guidance and the proposed site section, I see no reason to disagree.
20. Consequently, I conclude that the proposed development would harm the living conditions of the occupiers of Nos 45 and 46 Adelaide Street, with regard to outlook, contrary to TDLP1 Policy SP7 which seeks, among other things, to protect the amenity of existing residents, and TDLP2 Policy SPL3, as set out above.

European habitat sites

21. The appeal site falls within the scope of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), with the evidence indicating it is within the Zones of Influence (ZoI) of Hamford Water Special Protection Area (SPA) and Ramsar site and Stour and Orwell Estuaries SPA and Ramsar site. The Essex Coast Sites are primarily designated for endangered or vulnerable populations of seabirds, as well as the wider coastal ecosystems and functions that support these and other populations, including plants and invertebrates.

22. New housing development within the ZoI would be likely to increase the number of recreational visitors to these sites. While the effect of the appeal scheme is likely to be limited, in combination with other developments there is, therefore, a risk of significant effects on the designated sites.
23. On this basis, if I were to conclude that I should allow the appeal, as the competent authority it would be necessary for me to carry out an appropriate assessment to determine the extent of those effects, whether they could be avoided or whether mitigation measures could remove or reduce the effects. I will return to the appropriate assessment, if necessary, once I have considered all the other matters.
24. It is noted that the RAMS sets out mitigation measures to avoid an adverse impact to the integrity of the European sites and relevant features, and includes a tariff for certain types of development, to ensure the deliverability of the mitigation measures. Such measures would ensure that the development would comply with TDLP2 Policy PPL4 which states that contributions will be secured from residential development, within the ZoI, towards mitigation measures identified in the RAMS.
25. The RAMS contribution has not been paid and no legal agreement has been submitted with this appeal. However, the appellant asserts that the Council have revised their procedure for the collection of RAMS payments and now seek to secure such measures via condition. A copy of the Council's standard condition has been provided. The appellant has confirmed their acceptance of such a condition.
26. However, the Planning Practice Guidance¹ (PPG) states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. While the PPG indicates that such an approach may, in exceptional circumstances, be appropriate, no clear evidence that the delivery of the development would otherwise be at serious risk has been provided.
27. Where consideration is given to using a negatively worded condition of this sort, the PPG advises, among other things, that the heads of terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency. No such details have been provided as part of this appeal.

Planning Balance

28. The proposed five dwellings would contribute towards local housing supply. The appeal site lies within the Settlement Development Boundary for Parkeston, within walking distance of rail services at Harwich International, buses and shops. The appeal scheme would make efficient use of the land, which the appellant asserts is previously developed land. Having regard to the amount of development proposed, these benefits carry limited weight in favour of the scheme.
29. It is noted that the parking for the existing dwelling is maintained. However, this carries neutral weight in the planning balance.

¹ Planning Practice Guidance Paragraph: 010 Reference ID: 21a-010-20190723

30. While the appeal scheme is a resubmission of an earlier proposal for six dwellings, nevertheless, it would harm the character and appearance of the area and the living conditions of existing occupiers.
31. While there are benefits associated with the appeal scheme, these do not carry sufficient weight to overcome the harm identified in respect of the character and appearance of the area and living conditions of existing occupiers. Therefore, given that I am dismissing this appeal on other grounds it is not necessary for me to consider the integrity of protected sites any further, nor undertake the appropriate assessment.

Conclusion

32. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR