



Appeal Decision

Site visit made on 3 December 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2025

Appeal Ref: APP/M1595/W/24/3340085

2 Rayleigh Road, Stanford Le Hope, Essex SS17 0NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Ricky Jeffs against Thurrock Borough Council.
 - The application Ref is 23/01280/FUL.
 - The development proposed is 2 new flats with minor alterations and improvements to existing flat at first floor.
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Decision

1. The appeal is dismissed and planning permission for 2 new flats with minor alterations and improvements to existing flat at first floor is refused.

Preliminary Matters

2. Thurrock Council did not determine the planning application within the appropriate period. The Council has provided a delegated officer report with the appeal which provides clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so. These reasons have formed the basis of the main issues below.
3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. My decision is based on the revised Framework.
4. The appellant was asked to clarify whether a costs application had been submitted. Although I may initiate an award of costs, the appellant's response confirms no formal costs application was made when the appeal was submitted and I have proceeded on that basis.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of existing and future occupiers with particular regard to private outdoor space; and
 - the effect of the proposal on highway safety with particular regard to the adequacy of parking provision; and
 - the effect of the proposal upon of the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site.

Reasons

Character and appearance

6. The appeal site comprises an end of terrace property located on the corner of Rayleigh Road and London Road. It is located within a Neighbourhood Parade. The site itself comprises a ground floor commercial unit. There are other commercial services and shops within the area, but it is predominantly residential. Properties are regularly spaced and have a consistent building line, which makes a positive contribution to the area. However, the rear of the property and commercial units and servicing are highly visible from London Road, and thus present a slightly differing character than the spaces between homes facing each other and back to back residential gardens.
7. Although recently closed, the proposal seeks to retain the commercial use of the café at ground floor. The existing accommodation comprises a three-bed flat at first floor and a one-bed flat at second floor. There would be amendments to these to improve their quality. A new one-bed unit would be provided at ground floor and a new two-bed duplex apartment provided at first and second floor within a proposed rear extension.
8. The rear extension would project along the boundary of the site along London Road. It would create a link extension to a two storey gable wall which would satisfactorily mirror that of the host building. Although the articulation of the fenestration and external appearance could be more balanced, part of the extension is set back to accommodate a first floor balcony, which reduces the overall massing. Although sited forward of surrounding development, the space around this unit would not significantly compete with the existing building line of properties on London Road.
9. The street scene, which as well as displaying a variety of different buildings and designs, also contains similar forms of development as the proposal on the opposing side of Rayleigh Road. Although the extension is not subservient to the host building, in this context, it would satisfactorily reorder the entire building along the London Road elevation and would visually reflect existing development in the immediate area. Overall it would not appear incongruous or overly dominant.
10. Although the proposed rear extension would erode the space between it and the rear of properties on Romsey Close, this space is compromised. Given there are large extensions visible at the rear on the parade of shops, I am not persuaded that the space at the rear of this building, in this particular context would be harmed by any great degree by this proposal.
11. Although the Council has raised concerns about creating a precedent, it has not been articulated where this could occur. I am not convinced there is a reasonable prospect of the same development being repeated nearby. Furthermore each proposal can be considered on its own merit.
12. I conclude that the proposal would not harm the character or appearance of the area. It would therefore accord with policies CSTP22, CSTP23, PMD1 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) adopted January 2015 (the LDF). 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.

Living conditions

13. Despite the yard at the rear of the site, the appellant contends that neither of the existing homes have any amenity space. Therefore the situation for the occupant of the existing second floor flat would ultimately be very similar to the current arrangement whereby occupants have no outdoor space. The proposed ground floor one-bedroom flat would also have no external space. This would not allow future occupiers opportunities for activities such as sitting out or drying washing.

The proposal would result in private amenity space for the occupiers of the first floor two-bedroom units in the form of a roof terrace. However, even if I were to accept the lack of outdoor space for the occupiers of the altered two-bedroom unit is an improvement, it would still leave two new additional units with very small outdoor areas, which would be significantly below the expected areas required for a one-bedroom and two-bedroom home.

14. In addition, the proposed outside space would be located next to a main road, it would not be very private and as well as being small it is enclosed and sited in very close proximity to existing extraction equipment for the café. This would make it less pleasant and therefore less likely to be used as a result. Although the homes would meet the Nationally Described Space Standards, given that a larger unit is more likely to be occupied by children I find that this would be a detractor of the scheme. The proposal would not promote health and well-being and therefore result in harm to the living conditions of future occupiers.
15. Due to absence of outside space for the one-bedroom flat and the size and quality of external space for the two-bedroom flat, I conclude the proposal would be harmful to the living conditions of future occupiers. There would be conflict with Policy PMD1, which seeks to ensure that development that would have an unacceptable effect on future occupiers is not permitted.

Highway safety

16. The proposal provides a parking space for each of the two-bedroom units. These are provided in a relatively constrained area at the rear. Neither party has provided clear evidence regarding the requisite standards to be applied. However, given the proximity of local services and facilities, including access to public transport, future occupiers would be able to use modes of transport other than the private car to access services and day to day facilities. However, this is a different matter to highway safety, and as spaces are provided, they must be suitable for their intended use.
17. As the existing accommodation are not afforded any parking, there would be new vehicular movements at the site. The submitted drawings do not provide certainty that vehicles could turn fully or safely into and out of the constrained parking spaces. This could lead to an increased potential for vehicles entering the site to undertake convoluted manoeuvres, which could result in vehicles needing to reverse back onto London Road. This would be detrimental to highway safety and the free flow of traffic on London Road or for pedestrians using the footway.
18. Furthermore, if the parking arrangements are difficult to turn into this could displace additional parking on to the highway. I have no substantive evidence that surrounding roads would be able to accommodate this, or that parking in front of the café or other spaces would be available for future occupiers.

19. For the above reasons, and in the absence of sufficient information to demonstrate to the contrary, the development would harm highway safety with particular regard to parking arrangements. The proposal would be contrary to LDF Policy PMD8 and PMD9 which require developers to use the relevant residential car parking standards in conjunction with suitable physical design to reduce the risk of inappropriate on-street parking and safe access.

Habitats sites

20. The appeal site falls within the Zone of Influence (Zol) 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).
21. 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.
22. The proposed homes would be likely to result in additional recreational pressure locally on sensitive areas and such activity could cause disturbance to birds and their habitats. The increase in population 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.
23. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 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.
24. In the circumstances of this case where there is no formal agreement or undertaking through a planning obligation provided as part of the appeal submissions, there is no certainty that the necessary contribution will be made and no means of securing it through the appeal process. Nor is there evidence that the required amount has already been paid to the Council.
25. Therefore, the proposal fails to ensure that adequate provision would be secured for the mitigation of the likely effects on the Habitats sites. The proposal would therefore be contrary to Policy CSTP19 which concerns nature conservation and biodiversity, and which requires proposals to contribute positively to biodiversity in the Borough.

Planning Balance

26. The Council cannot demonstrate a sufficient supply of deliverable housing sites as required by the Framework. However, the presumption in favour of sustainable development contained within paragraph 11d) of the Framework does not apply. This is because the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. As identified in Footnote 7 and paragraph 195 of the

Framework this includes Habitats sites. Given my findings above this means that there would be a clear reason to refuse the development proposed.

27. However, the proposed development would provide social, economic and environmental benefits. This includes the creation of two additional homes contributing to the supply, mix and range of housing in the district. These could be built quickly. The proposal would also upgrade existing accommodation. Economic benefits would arise from the construction and occupation of the development. The proposal would also utilise brownfield site in an accessible location. However, even taking into account that cumulatively numerous small developments make a contribution, due to the very small scale of the development, the weight to be given to these benefits is limited.
28. The proposal would result in harm to the living conditions of future occupiers and conflict with Policy PMD1. Furthermore, the Framework at paragraph 135 expects development to have a high standard of amenity for future users. Given the proposal provides adequate internal accommodation, and some external space, I attribute moderate weight to this harm.
29. Highway safety is also a key aspect of sustainable development. This position is supported by the Framework at paragraph 115, which seeks safe and suitable access to the site for all users. As such I attribute significant weight to harm arising from the failure to show that vehicles can suitably manoeuvre within and out of the site or displace parking onto the public highway.
30. Nevertheless the proposal has not been shown to satisfactorily address the potential for the proposal to harm the integrity of Habitats sites. This is also supported by the principles contained in the Framework at paragraph 193 which advises that if harm cannot be mitigated then planning permission should be refused. I attribute significant weight to this.
31. I have no substantive evidence before me that the proposal would harm the living conditions of the occupiers of other nearby homes, or that the proposal would not be acceptable in other respects. However, these, and the intentions of the owner of No 4 Rayleigh Road to join the scheme, weigh neither for nor against the proposed development.

The appellant refers to the failure of the Council to determine applications and the subsequent decline in validated applications. However, these are not matters which weigh in the planning balance. Even if adequate mitigation of the likely effects on Habitats sites were secured, the harm to the living conditions of future occupiers, and highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

32. 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