



Appeal Decision

Site visit made on 12 November 2024

by P B Jarvis DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/C1570/W/24/3347093

Land north of 4 Clarke Close, Stansted, Essex CM24 8FX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Larry Tucker against the decision of Uttlesford District Council.
 - The application Ref UTT/23/2841/FUL was approved on 2 January 2024 and planning permission was granted subject to conditions.
 - The development permitted is the erection of two detached dwellings with new dropped kerb access.
 - The condition in dispute is No 12 which states that: *"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development within Classes A to F of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the Local Planning Authority."*
 - The reason given for the condition is: *"To prevent the site becoming overdeveloped, to preserve the character and appearance of the area and to safeguard appropriate levels of amenity space in accordance with policy GEN2 of LP and NPPF."*
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Decision

1. The appeal is allowed and the planning permission Ref UTT/23/2841/FUL for the erection of two detached dwellings with new dropped kerb access at land north of Clarke Close, Stansted, Essex CM24 8FZ granted on 2 January 2024 by Uttlesford District Council, is varied by deleting condition 12 and substituting it with the following condition:

"12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) no development within Classes A to E of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place within Plot 1 and no development within Classes A to D of Part 1 of Schedule 2 and Class A of Part 2 of Schedule 2 of the Order shall take place within Plot 2 without the prior written permission of the Local Planning Authority."

Procedural Matter

2. An updated version of the National Planning Policy Framework (the Framework) was published in December 2024. The relevant parts of the Framework have

not materially changed and whilst the parties have not been asked to comment, I am satisfied they have not been prejudiced as a result.

Main Issues

3. The effect on the character and appearance of the area and whether sufficient amenity area would be provided to serve the dwelling.

Reasons

4. The appeal site is located within a modern, fairly densely developed residential estate. It is located at the southern end of Clarke Close with residential properties to the north and on the opposite (west) side of the road. A large area of public open space with play area lies to the south of the site. Condition 12 removes a range of permitted development rights (PDR) relating to both extensions and alterations to the dwellings themselves, curtilage buildings and structures and means of enclosure. The relevant permission allowed for one 2 bed dwelling (plot 1) and one 3 bed dwelling (plot 2) which were under construction at the time of my site visit.

Character and appearance

5. Plot 1 is of a relatively small size compared to neighbouring plots. Whilst in street scene views it appears generally in keeping with the pattern and layout of buildings within the Clarke Close, the small rear garden area would be of very modest depth and would be enclosed by the rear garden areas of both adjoining plots, which 'wrap around' it. This somewhat constrained arrangement would mean that any extensions and curtilage buildings could result in a cramped layout particularly to the rear of the row of dwellings of which it would form a part.
6. Plot 2 has a more generous garden area, albeit only just above the minimum standard but, with a dwelling footprint that is not significantly greater than the dwelling on plot 1, appears more 'comfortable' within the overall layout. However, it is sited in a visually prominent location at the southern end of the road adjacent to the area of public open space. As such, given the allowances within the relevant PDR, extensions could impact on the character of the wider area. Whilst such extensions may not be unacceptable in principle, the restriction on PDR ensures that they can be assessed in respect of impact on the character of the site and wider area. Given the size of the garden area and the PDR relating to extensions such a condition remains necessary and reasonable. However, having regard to the size of garden area proposed and the likely size of curtilage buildings, I see no need for a condition to restrict Class E PDR.
7. In terms of other extensions and alterations, these could include additions and alterations to the roof of the dwellinghouses. Given the design of the dwellings which already contain accommodation within the roofspaces served by dormer windows and rooflights, further additions and alterations seem unlikely but nevertheless could be required which, in turn, could detract from the pleasant design and character of the dwellings and wider area. Thus a restriction on these PDR is also necessary and reasonable.

Amenity / Garden space

8. It is agreed between the parties that the approved garden areas extend to just over 50 sqm. for plot 1 and just over 100 sq.m. for plot 2.
9. The Essex Design Guide (2018) (EDG) was in place at the time of the determination of the above application and this requires a minimum of 50 sq.m. garden size for two bed dwellings and 100 sq.m. garden size for three bed dwellings. The Uttlesford District-Wide Design Code SPD (2024) has been recently adopted and requires both two and three bed dwellings to provide 100 sq.m. garden areas; however, the Council has confirmed that it does not consider it appropriate to seek to impose these recently adopted standards given that permission has already been granted for the development in question. I agree that would be unreasonable to apply these more recent standards in these circumstances. Therefore, the garden areas as proposed would satisfy the relevant standards.
10. However, as noted by the Council, these areas could be significantly reduced through the exercise of Part 1 Class A permitted development rights once the dwelling is occupied. The EDG refers to the possibility of future extensions reducing the size of the garden area for two bed dwellings and states that the garden area should be calculated excluding the area that could be occupied by an eventual extension¹. Having regard to the relevant permitted development allowances, the garden area for plot 1 could be significantly reduced resulting in an area considerably below that of the minimum EDG standard. Therefore, for this reason, the condition to prevent such extensions is reasonable and necessary.

Other Matters

11. I have taken into account the close proximity of the area of public open space however whilst it provides a pleasant and convenient amenity area that could be enjoyed by the occupants of the dwellings, it does not provide the same type of private amenity space that is sought by the relevant policies and guidance.
12. The appellant has also raised a concern that the removal of Part 2 Class A PDR is overly restrictive as it would prevent the erection of a gate to provide security. However, I note that the plans show a close-boarded fence to the rear garden areas and the relevant PDR allow for the alteration of such means of enclosure provided meeting certain conditions. In addition, the existing permission includes condition 14 which refers to gates provided at the vehicular access. In other respects, the restriction remains reasonable and necessary in the interests of the character and appearance of the area.
13. The condition also removes Part 1 Class F PDR relating to the provision of hard surfaces incidental to the enjoyment of the dwellinghouse. Given that these would not impact on the amount of usable garden area nor the wider character and appearance of the area this restriction is not necessary or reasonable.

Conclusions

14. Having regard to my findings above and the requirements of Policy GEN2 of the Uttlesford Local Plan, the EDG and SPD, and the tests set out in paragraph 57

¹ EDG page 30 paragraph 1.80

of the Framework, conditions to restrict PDR on both plots remain necessary and reasonable. However, in respect of plot 2, the PDR restrictions on Part 1 Class E are not necessary nor as noted above are those relating to Part 1 Class F for both plots. I therefore intend to vary the condition accordingly.

15. I conclude that this appeal should be allowed and the condition in question deleted and substituted with the varied condition.

P B Jarvis

INSPECTOR