



Appeal Decision

Site visit made on 31 January 2025

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/M1595/W/24/3348747

99 Orchard Road, South Ockendon, RM15 6HJ

- 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 Eugeniu Croitor against Thurrock Borough Council.
 - The application Ref is 23/01016/FUL.
 - The development proposed is the erection of a one storey detached dwelling within the rear of the site with associated hardstanding and soft landscaping.
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Decision

1. The appeal is dismissed and planning permission for the erection of a one storey detached dwelling within the rear of the site with associated hardstanding and soft landscaping is refused.

Preliminary Matters

2. The Council have commented that had they determined the application they would have refused planning permission for the development as they consider that the proposed development would; detract from the character and appearance of the existing dwelling, the semi-detached pair it would be a part of, and the locality in general; and, would provide an inadequate level of private amenity space, resulting in an unacceptable living environment for future occupants.

Main Issues

3. The main issues are therefore 1) the effect of the proposed development on the character and appearance of the area, and 2) whether or not the proposed development would provide acceptable living conditions for future occupants with specific regard to amenity space provision.

Reasons

Character and appearance

4. The appeal site comprises a two-storey semi-detached property. It has a long rear garden with public footpath to the side. Like the majority of the surrounding dwellings, it has a frontage onto the street from which vehicular and pedestrian access to the property is taken. Also like the majority of surrounding dwellings, the frontage comprises low boundary treatments so that the dwelling actively contributes to the character and appearance of the street-scene and the surrounding area.

5. This part of Orchard Road has two clearly identifiable character areas. These are, the more traditional semi-detached properties with front and rear gardens, of which the appeal property is part, and the denser terraced housing which surrounds a parking court. The area however has a definable character of properties which actively contribute to the street-scene through their accesses and/or their open or low boundary treatments. These aspects make a positive contribution to the overall character and appearance of the area and the way it functions.
6. The proposed development would involve the subdivision of the rear garden and the construction of a self-contained single storey dwelling to be accessed from the back lane. Unlike the surrounding properties, there would be little to no interaction with the street-scene, with the dwelling fronting onto the back lane and set behind high boundary treatments. This pattern of development would be out of character with the established form and the positive aspects of the surrounding area which I have identified. In forming a separate self-contained dwelling, the proposed single storey dwelling would have little regard to the existing design, scale and siting of the surrounding dwellings.
7. I acknowledge that some of the properties on this side of Orchard Road have outbuildings of various designs and sizes in their rear gardens, including an annex building to the adjacent property. In this regard, the physical form of the dwelling would cause limited harm. It would, however, be highly conspicuous from the access from South Road and as an entirely separate dwelling, it would appear incongruous and contrived when considered amongst the existing dwellings.
8. Therefore, despite causing limited harm in terms of the appearance of the area, the proposal would be clearly at odds with the character of the area which is predominantly made up of street fronting properties with footpaths. It would not function well or be sympathetic to the local character. Nor would it establish a strong sense of place.
9. The proposed development would therefore cause significant harm to the character of the area, and limited harm to the appearance of the area. It would be contrary to Policies PMD2 and CSTP22 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (as amended) (2015) (the development plan). These policies require, amongst other things, that developments are of a high-quality design, must contribute positively to the character of the area, and must promote a continuity of street frontages.

Living conditions

10. In order to ensure that acceptable living conditions are provided for future occupants of dwellings, the Council have set out the minimum amount of amenity space which should be provided. For the proposed development, given its overall size, this should be a minimum of 75 sqm.
11. The proposed plans¹ show how over 100 sqm of private outdoor amenity space would be provided for the proposed dwelling and the existing retained dwelling. This level of provision, combined with its shape and useability, would provide acceptable living conditions for future occupants of the development.

¹ Drawing Number A03 – Rev C

12. The proposed development would therefore comply with Policy PMD1 of the development plan which requires, amongst other things, that developments do not provide an unacceptable level of amenity for future occupants.

Other Matters

13. The Government's objective as set out in the National Planning Policy Framework (the Framework) is to support sustainable housing growth. 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 having particular regard to, amongst others, policies to secure well-designed places.
14. This applies to applications involving the provision of housing in situations where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. The most recent Housing Delivery Test show that the delivery of housing was substantially below the housing requirement over the previous three years. It therefore follows that paragraph 11 d) of the Framework is engaged.
15. 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.
16. In this case, the adverse impacts of the proposal in terms of the failure to deliver high quality design that would cause significant harm to the character and appearance of the area, 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 development to be visually attractive as a result of good architecture and layout including being sympathetic to local character, including the surrounding built environment and establish a strong sense of place, using the arrangement of streets and spaces to create attractive, welcoming and distinctive places to live.
17. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.
18. The appellant has made several references to the annex building within the curtilage of the adjacent property. Whilst I have acknowledged its presence in terms of the character and appearance of the area, as an annex to the host property, it is fundamentally different to the appeal proposal for a self-contained dwelling, which I have, in any event, determined on its own individual planning merits.
19. The appellant has referred to several land use planning matters which would not be harmed. The absence of harm is, however, a neutral factor in the balance. Similarly, the lack of objections from internal departments is a neutral factor.
20. The appellant has referred to biodiversity enhancements. There are limited details on this matter in order to give it significant weight and I am not convinced that the appeal scheme is the sole means of enhancing the biodiversity value of the site. I therefore give this matter limited weight in the appeal.

Planning Balance and Conclusion

21. 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.
22. The outcome of the Framework paragraph 11 d) process above indicates that the decision should be taken in accordance with the development plan.
23. The proposed development would result in a very small increase in the Council's overall housing number and would also bring a number of additional residents to the area who would contribute to the local economy. When combined with housing delivery in the Council area being substantially below the requirement, collectively, I give these matters significant weight in favour of the proposed development.
24. However, the harm that would be caused to the character and appearance of the area, attracts greater significant weight that outweighs the benefits associated with the proposed development.
25. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
26. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed, and planning permission refused.

A M Nilsson

INSPECTOR