



Appeal Decision

Site visit made on 3 April 2025

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/M1520/W/24/3350152

8 Felstead Road, South Benfleet, Essex SS7 1BJ

- 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 Mrs Kane against the decision of Castle Point Borough Council.
 - The application Ref is 24/0121/FUL.
 - The development proposed is described as 'Demolition of the existing mechanics workshop to be replaced with a new dwelling. The plot will be divided to create two separate curtilages.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal a new National Planning Policy Framework has been published (the Framework). As the policies which are most relevant to this appeal have not been subject to substantive changes I am satisfied that no party would be prejudiced by my taking it into account.
3. A Unilateral Undertaking has been submitted with the appeal, dated 9 March 2024 (the UU). This has been taken into account in determining the appeal.
4. Revised drawings have been provided by the appellant at the final comments stage of the appeal, which relate to the arrangements for waste storage. The Appeals Procedural Guide is clear that the appeal process should not be used to evolve a scheme. I have considered whether to accept the revised drawings in light of relevant case law, and the revised drawings would amend the red line boundary of the appeal site and alter the proposed location for bin storage. As such, accepting these drawings could amount to a fundamental change to the proposal and cause unlawful procedural unfairness to interested parties, particularly those close to the area of the proposed waste storage, through depriving them of the opportunity to comment. On this basis I have not accepted those amended drawings, although I return to the issue of solutions for waste storage later in this decision.

Main Issues

5. The main issues are: i) whether the proposal would provide appropriate arrangements for waste and recycling collection, and ii) the effect of the proposal on designated habitats sites.

Reasons

Waste Collection

6. Section 5.15 of the Council's Residential Design Guide 2013 (the RDG) refers specifically to refuse and recycling storage, and sets out that it is essential that adequate, safe and convenient storage facilities are provided in order to provide and maintain an attractive and healthy setting for all dwellings. It goes on to state that if not planned appropriately, receptacles can be left out on public footways or to the front of dwellings resulting in obstructions and eyesores, and a visually poor public realm. The Council's Recycling Guide provided by the appellant includes provision for green waste collections via wheelie bins, as well as food waste collections via caddies and glass collection using plastic boxes. Accordingly, there would be a need for certain types of bins to be moved to and from the highway to be emptied.
7. The appeal site lies within a residential area and I observed Felstead Road to comprise a mix of house types and sizes. The consistency in their building lines and predominantly low front boundaries, give an ordered and tidy appearance and contribute positively to the character and appearance of the street. Due to the height of the front boundaries, the front gardens and parking areas of the properties are visible to users of the road and footpath. At the time of my site visit some properties stored their waste and recycling bins within the front gardens, whereas many appear to store them to the side or rear of the properties, out of view from the street. The only minor obstructions to the footpaths were by telegraph poles and street lights, set at the back edge of the footpaths.
8. The proposal includes a waste collection point in front of the proposed new house and behind no.8 Felstead Road, where it would be a significant distance from the edge of the highway. This far exceeds the distance reasonable for waste collectors, which the RDG states to be 10m, or 15m in the Officer's Report. Accordingly, future occupants would instead need to move their refuse to Felstead Road and this would be a significant distance on an unmade track, again exceeding the distance recommended by the RDG. Accordingly, given the distances involved and relative inconvenience of this arrangement for future occupants, receptacles may instead be left out on the footway for periods of time, causing obstruction and/or an unwelcome eyesore to the street, as described in the RDG.
9. Arrangements exist for sections of unmade road further south on Felstead Road including the use of smaller refuse collection vehicles. However, the Council note the width of the track here would not be adequate for the smallest collection vehicle and as such I cannot be satisfied, based on the information before me, that the Council would collect from the intended refuse storage point. While correspondence with the Council's waste team has been provided, this contains generalised advice rather than providing reassurances for the particular arrangements proposed here. Other private collections may be available, however there is little information to demonstrate that this would be a reasonable alternative or that it would be viable for future occupants of the property in perpetuity.
10. The Council have suggested that an agreeable alternative could exist, entailing the provision of a storage facility adjacent to no.8, and the appellant responded to this suggestion with their amended drawings. I have given reasons why those amendments cannot be accepted during this appeal process. Notwithstanding those reasons, I have concerns for the location of that proposed storage facility, given its position within the off street parking area of no.8, and proximity to the entrance to no.8 which has its door within its side elevation. I am also mindful that

an earlier application was refused by the Council which included a waste collection point in front of no.8. For these reasons in combination, I am not convinced that a suitable solution exists within the remit of the proposal before me. Accordingly, a condition to secure details at a later date would also not be appropriate.

11. For the reasons given, the proposal would be contrary to part RDG13 of the RDG, which seeks to ensure suitable refuse and recycling storage, and could in turn cause obstruction to the footway or visual harm through the absence of an appropriate and attractive solution for future occupiers. This would present conflict with the objective of the Framework to achieve well-designed places, and paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies, taking into account any local design guidance.

Habitats Sites

12. The appeal site is within the zone of influence of the designated habitats sites of the Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site, and Blackwater Estuary SPA and Ramsar. These are part of the Essex Coast which is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
13. The Council have identified that population growth in Essex is likely to increase the numbers of people visiting the habitats sites for recreational purposes, including for walking, sailing and bird watching among other activities. It has been identified that the majority of this activity is undertaken by people who live in Essex. As such, a likely significant effect on the habitats sites from the proposed development, either alone or in combination with others, cannot be ruled out.
14. New residents of the proposed development could cause harm to the birds and coastal habitats of the SPA and Ramsar sites through their recreational activities throughout the lifetime of the development, thereby having an adverse effect on their integrity and the purposes of the designations. In partnership with Natural England and other local authorities, the Council has prepared a Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This provides a strategic approach to mitigation and identifies measures to avoid and mitigate the likely significant effects of new residents, through applying a tariff to new residential development within the Zone of Influence. The RAMS sets out how such a tariff would be used and based on the information before me, I have no strong reason to doubt that this financial contribution would be successful in ensuring no adverse effect on the integrity of the sites.
15. The appellant has submitted a UU, which relates to the provision of a contribution for habitat mitigation as set out in the RAMS. Notwithstanding the Council's comments on the UU, it would appear to relate to a planning permission granted by the Council, which would not be the case here if the appeal were otherwise allowed. As such I cannot be certain that the UU would be successful in securing the required mitigation if planning permission were granted under this appeal.
16. Accordingly, it cannot be established with the necessary certainty, that the proposal would have no adverse effect on the integrity of the habitats sites, and there is no other evidence to provide certainty on this matter. The proposal would therefore conflict with the Framework insofar as it relates to habitats sites.

Planning Balance

17. The Council accept that its development plan is out of date and it cannot demonstrate an appropriate land supply for housing. As such, the provisions of 11d) of the Framework apply to the appeal. Nonetheless, the policies in the Framework insofar as they relate to habitats sites provide a strong reason to refuse the development proposed, and this is reiterated by paragraph 195. The proposal would not therefore benefit from the presumption in favour of sustainable development.
18. The proposal would deliver a new home, which would contribute towards the national objective to boost the supply of homes and this is particularly important given the acknowledged undersupply of land for homes in the Borough. This new home would be on an existing developed site in a built up area and with good accessibility to existing services and facilities including public transport links. There would also be some economic benefit arising from the construction process and ongoing expenditure into the local economy by future occupants. Nonetheless, the weight which can be given to these benefits is modest, given the scale of the proposal. Conversely, the proposal would fail to provide suitable refuse storage arrangements which could in turn present a risk to highway safety and harmful visual clutter, and these effects could be significant and long lasting, and would be contrary to the objective of the Framework to create well-designed places.
19. Consequently, even if the policies of the Framework relating to habitats sites did not provide a strong reason for refusing the development, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole and having particular regard to the considerations listed in paragraph 11d)ii.

Conclusion

20. For the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR