



Appeal Decision

Site visit made on 15 July 2025

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2025

Appeal Ref: APP/B1550/W/25/3358810

Land adjacent 9 College Gardens, Rochford, Essex SS4 1YL

- 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 Mr K Ogundana against the decision of Rochford District Council.
 - The application Ref is 24/00272/FUL.
 - The development proposed is described as 'New build 4-bed 3 storey property'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have included the site address given on the Council's decision notice. On the application form, the site was referred to as either 9 or 9A College Gardens. The location plan identifies 9 College Gardens as the existing dwelling next to the site, but it is outside the application site boundary. As such, the address used by the Council accurately describes the location.
3. A revised National Planning Policy Framework (the Framework) was published in December 2024, shortly before the Council determined the application. The appeal was submitted in January 2025, so both parties have had the opportunity to take account of the current Framework in their appeal evidence. I have likewise considered the appeal based on the Framework in its current manifestation, while being mindful of the timing of the Council's decision where relevant.

Main Issues

4. The appeal site is within the Green Belt, adjacent to a recent housing development on the site of a former college. It is enclosed on three sides by housing and on the fourth by the Trust Links community building and car park. The plot is well-defined by the adjacent development and includes the remains of a former access road. Drawing on the characteristics of the site, including its position within a built-up area and negligible contribution to the purposes of the Green Belt, the Council did not refuse planning permission on Green Belt grounds. That position has not been contested by any other party and based on the evidence before me I do not have any reason to take a different view.
5. Although the second reason for refusal refers to 'overdevelopment', the Council's evidence in support of that reason relates to the consequences for living conditions within an adjacent property, rather than the character and appearance of the wider street scene.

6. Against the above background, the main issues for this appeal are:

- the effect of the proposed development on living conditions for occupiers of no. 32 Rocheway, with particular regard to privacy and outlook,
- the effect on the wellbeing of those accessing services at the adjacent Trust Links premises, with particular regard to privacy, and
- whether suitable living conditions would be provided for future occupiers, with reference to the amount of private outdoor amenity space.

Reasons

Living Conditions: 32 Rocheway

7. The proposed dwelling would adjoin, and have a similar design to, the other properties along College Gardens. However, it would also adjoin a detached bungalow at 32 Rocheway (no. 32) which pre-dates that development. Whereas the proposed dwelling would front College Gardens, no. 32 faces in the opposite direction. Consequently, the rear garden of no. 32 would adjoin the front driveway of the proposed dwelling.
8. Currently, the garden at no. 32 has a good standard of privacy, being enclosed by a close boarded fence and not overlooked by the other adjacent bungalow or the nearest elevation of the Trust Links building, neither of which include windows above ground floor level. Although the other dwellings on College Gardens do include some upper floor windows, they are further away, beyond the appeal site, so have a less direct relationship with this particular property.
9. The Design and Access Statement and Officer Report both refer to a front balcony, but no such feature is shown on the drawings which are before me. The relevant reason for refusal refers to a proposed bedroom window above the garage, which would face towards the adjacent rear garden, close to the shared boundary. This opening would be significantly closer to the garden of no. 32 than any of the other upper floor windows in College Gardens. Part of the garden would be screened by the bungalow itself, but a significant proportion would be exposed to view, to an extent that would create a much greater sense of being overlooked, materially undermining the privacy of occupiers when using the outdoor space.
10. Use of obscure glazing could mitigate the actual loss of privacy, although there would still be a perception of being overlooked. Furthermore, since the proposed window would serve a bedroom, the use of obscure glazing would unreasonably undermine the quality of the proposed internal accommodation. On that basis, I am not satisfied that a condition to that effect would be a suitable means to address the adverse effect on privacy.
11. No. 32 also includes a window in the flank elevation, which extends above the top of the boundary fence and faces directly into the appeal site. In their representations, the occupiers identify this window as serving a habitable room, which was being decorated at the time of the Council's site visit but generally serves as a dining room and/or study.
12. The proposed development would introduce a solid brick flank wall in the direct outlook from the side window, with limited separation distance. This would be an imposing feature as seen from no. 32, with the uninterrupted brick doing little to

alleviate its scale and appearance. The Officer Report also notes that there would be some overshadowing of the side window, although those to the front and rear would be unaffected. Taking those factors together, the outlook from the dining room/study would be significantly curtailed and the interior would be more gloomy, which would harmfully undermine the quality of the internal accommodation.

13. While the proposed design draws closely on that of the rest of the College Gardens development, and there are similar features on the other houses, they do not have a similar relationship with the adjacent bungalow. While each of the above issues affects only part of that neighbouring dwelling, when considered together the design would be both intrusive and overbearing from the perspective of the adjoining occupiers.
14. I therefore conclude that the proposed development would have an unacceptably harmful effect on living conditions for occupiers of no. 32 Rocheway, with particular regard to privacy and outlook. It would conflict with relevant requirements in Policy DM1 of the Rochford Development Management Plan 2014 (RDMP) which, amongst other things require that new development avoids overlooking, ensures privacy and demonstrates a positive relationship with existing and nearby buildings in accordance with Policy DM3. The latter policy similarly includes a requirement that residential infill development carefully considers and positively addresses the proposal's impact on residential amenity.

Wellbeing Considerations: Trust Links

15. The Trust Links premises adjoin the southern site boundary. The building is set further back, but the car park is directly adjacent. Around the car park are landscaped areas, which include a narrow bed directly alongside the appeal site boundary and other areas further to the south.
16. Representations on behalf of Trust Links explain that the organisation provides therapeutic support for people with mental health challenges and that gardening within the site is among the activities used to support wellbeing and recovery. Clients include adults and children who require a safe, private environment to avoid feelings of exposure, anxiety and distress, which would undermine the benefit of engagement with those activities.
17. The evidence indicates that individuals supported by Trust Links include people with protected characteristics relating to their age and/or disabilities associated with mental health conditions. Therefore, I have had regard to the aims of the Public Sector Equality Duty (PSED) set out in the Equality Act 2010 which, in summary, are to eliminate discrimination and other prohibited conduct, advance equality of opportunity and foster good relations between people with relevant protected characteristics and the wider community. Based on the details provided in representations and other appeal evidence, I recognise that the service provided by Trust Links is itself closely aligned to those aims. Since the service provides for both children and adults, I am also mindful that the best interests of the child are a primary consideration, in line with Article 3(1) of the United Nations Convention on the Rights of the Child (UNCRC).
18. When I visited the site, the landscaped area closest to the proposed dwelling was visible from outside the Trust Links site, through the open gate. Even if the gates were closed, the open mesh design would not fully screen that area from the street or from the frontages of the existing dwellings at the end of College Gardens. It

would also be visible from the first floor windows of the dwellings at 9 and 10 College Gardens. Therefore, while the area is enclosed by fencing, and appears capable of providing a secure and well-managed area when in use for therapeutic purposes, it is not, in reality, entirely private.

19. The proposed dwelling would be more directly adjacent than the other College Gardens dwellings, but it would overlook a similar area. The existing close boarded fence would be retained, which would continue to provide a secure and well-defined boundary with this part of the Trust Links land. There would be little intrusion on other garden areas in the southern part of the site, given the much greater separation distance. Nor would there be any close views into the building, which is well set back in the car park.
20. For the above reasons, I am not persuaded that the proposed development would materially compromise the existing level of privacy within the Trust Links site, including the gardening areas. The boundary would remain similarly secure, and a controlled environment could still be provided. That being the case, there is no clear evidence of any conflict with the aims of the PSED or with the best interests of children using the site, since the existing therapeutic activities could continue without detriment.
21. The new vehicular access would be adjacent to a pedestrian gate. Representations from Trust Links raised associated safety concerns, although those did not feature in the reasons for refusal. However, this area is already used by vehicles accessing the adjacent dwellings at nos. 9 and 10 College Gardens as well as those entering and leaving the car park. Anyone arriving on foot would already share the road surface, as there is no pavement. Since the additional vehicle movements associated with a single dwelling would be limited, there is no substantive evidence of prejudice to the safety of Trust Links clients.
22. For the reasons given above, having had particular regard to the issues raised about privacy, I conclude that the development would not harmfully affect the wellbeing of those accessing services at the Trust Links premises. There would be no conflict with the aims of the PSED, the obligations in Article 3(1) of the UNCRC, or relevant requirements in Policy DM1 of the RDMP that development should avoid overlooking and ensure privacy. Nor would this aspect of the proposal conflict with relevant paragraphs in the Framework, including those relating to the provision of healthy, inclusive, accessible and safe places which promote wellbeing and support healthy lives.

Living Conditions: Future Occupiers

23. The Rochford Housing Design Supplementary Planning Document (SPD2), adopted in 2007, sets out design standards for housing development, including minimum garden areas. A private zone garden area of at least 100sqm is required for the majority of new dwellings as built. That draws on the similar requirement in the Essex Design Guide 2018, although both documents recognise that there may need to be flexibility in some cases. Policies DM1 and DM3 of the RDMP require that account is taken of these standards.
24. There is no dispute that the proposed development would not meet the minimum requirement, with the rear garden area being around 87sqm according to the Design and Access Statement and the Council giving figures of 10-12sqm for the scale of the shortfall.

25. The rear garden would, however, provide a usable space of straightforward layout and reasonable proportions. It would be capable of accommodating activities such as drying washing, play space for young children, and a private space for sitting or eating outdoors, accessed directly from the rear patio doors. There would be an integral garage and space within the front garden for bin storage, cycle parking and some decorative planting, so occupiers would not be entirely reliant on the rear garden for domestic storage and gardening. The layout is, in part, dictated by alignment with the adjacent dwelling at no. 9 and the Essex Design Guide allows for some flexibility in such circumstances.
26. There is also a public open space to the west. Although not directly adjacent to the appeal site, it is within walking distance and would provide occupiers with ready access to a larger outdoor space for more active recreation.
27. For the reasons given above, in this particular case, the relatively limited shortfall against the minimum garden area in SPD2 would not materially compromise the provision of adequate private amenity space as required in Policy DM3. I therefore conclude that suitable living conditions would be provided for future occupiers, with reference to the amount of private outdoor amenity space.

Other Matters

28. At the time of determining the application, the Officer Report stated that the Council can demonstrate an up to date five year housing land supply. No updated or contrary evidence has been provided.
29. Even if the housing land supply position has changed, as a result of the revised Framework or otherwise, the benefits associated with the development would be inherently limited by its scale. More efficient use would be made of land in a built-up area, with a layout and design which relates closely to the housing in College Gardens. Nevertheless, only a single dwelling is proposed and, taken together, these benefits attract only very modest weight.
30. The harmful effect on living conditions for occupiers of no. 32 is contrary to the development plan and conflicts with the Framework's policies for securing well-designed places, notably the requirements in paragraph 135 that development functions well and adds to the overall quality of the area over its lifetime and provides a high standard of amenity for existing and future users. That is a matter which attracts significant weight.
31. Consequently, the harm arising from the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Even if the housing land supply position has changed, the proposed development would not benefit from the presumption in favour of sustainable development, as set out in paragraph 11d of the Framework.
32. The appeal site is within the Zone of Influence for Essex Coast European Sites, where recreational pressure from new housing has been identified as having a likely significant effect on qualifying features. The Officer Report indicates that mitigation has been provided, in the form of a financial contribution, based on the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. Had I been minded to allow the appeal, I would have undertaken an appropriate assessment of the effect of the proposal on the integrity of the European Sites.

However, as I am dismissing the appeal for other reasons, there is no need to consider this matter further.

Conclusion

33. Although I have concluded that the proposed development would provide suitable living conditions for future occupiers and would not adversely affect the wellbeing of those accessing services at Trust Links, it would have an unacceptably harmful effect on living conditions for occupiers of no. 32 Rocheway. That would bring the proposal into conflict with the development plan as a whole. There are no material considerations which outweigh the conflict with the development plan and therefore the appeal should be dismissed.

Jane Smith

INSPECTOR