

Appeal Decision

Site visit made on 24 April 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3rd May 2017

Appeal Ref: APP/P1560/W/17/3166754

Matapos, Colchester Road, Elmstead, Essex CO7 7EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Dunt against the decision of Tendring District Council.
 - The application Ref 16/01449/FUL, dated 3 May 2016, was refused by notice dated 3 November 2016.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at Matapos, Colchester Road, Elmstead, Essex CO7 7EG, in accordance with the terms of the application, Ref: 16/01449/FUL, dated 3 May 2016, subject to the conditions in the attached schedule.

Background and Main Issues

2. The Council are currently unable to demonstrate a five year supply of housing land. As a consequence, relevant policies for the supply of housing should not be considered up to date. Saved Policies QL9, QL10 and QL11 of the Tendring District Local Plan 2007 (LP) can have the effect of limiting housing supply and should therefore be considered out of date.
3. In such circumstances Paragraph 14 of the National Planning Policy Framework (the Framework) directs that planning permission should be granted 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 or specific policies in the Framework indicate development should be restricted. The Council have not suggested that the latter applies so the balance in Paragraph 14 is engaged. Therefore, the main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether, in a planning balance, any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits.

Reasons

The effect on the character and appearance of the area

4. The appeal site encompasses 'Matapos' and its curtilage, which is a residential property with a frontage onto Colchester Road. This is a busy thoroughfare the
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northern side of which is characterised by linear development of detached and semi-detached properties broadly arranged in a discernible building line behind front gardens. However, the building line varies due to the size of front gardens and the position of the properties back from the road. There is also variety in the size, style and scale of properties as well as the width of individual plots.

5. The appeal scheme is for the erection of a detached dwelling to the side of Matapos in front of the existing double garage. The space to the side of Matapos is triangular in shape with the narrow frontage widening towards the garage. As a result, the proposed dwelling would be set behind the building line between Matapos and Brooklands. This would result in the proposed dwelling appearing harmfully cramped, as if it has been squeezed into the available space rather than being a natural and harmonious infill within the street scene. Moreover, due to the low ridge and eaves height the proposed dwelling would have under sized proportions when viewed alongside the two storey houses to the east and west.
6. However, the appellant has demonstrated that the visual envelope of the proposal would be limited due to the recessed position of the proposed dwelling behind the frontage elevations of adjoining properties. Moreover, when the proposal is considered in the context of the wider street scene, which is varied and includes bungalows, the impact of the lower ridge and eaves would be notably diminished. As such, any harmful impact would be limited.
7. The proposed dwelling would be located close to the side boundaries of its suggested curtilage. However, many properties nearby are located in close proximity to their respective side boundaries. Whilst I accept the gap with Matapos would be smaller than usual, it would not be harmful within the context of the wider street scene. Thus, there is no conflict with saved Policy HG14 of the LP. Architecturally the proposal would employ a 'contemporary design' with large areas of glazing. However, the proposed house would retain the simple gabled shape that is evident in the properties to the east. It would therefore respond to the appearance of buildings nearby.
8. The use of boarding on the external elevations of the proposed house would be at odds with the local pallet of materials evident in the street. However, the side elevations would not be prominent and the area to the front would be subservient to the render and glazing. As such, the boarding would not harm the street scene in this instance. Nevertheless, the cramped siting of the proposal would result in some limited harm to the character and appearance of the area and therefore I conclude, on balance, that the proposal would be at odds with saved Policies QL9, QL10 and QL11 of the LP, which seeks to ensure that a development proposal reflects the character of the area. These policies are consistent with Paragraphs 17, 58 and Section 12 of the Framework.

Whether any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits

9. The proposal would be at odds with Policies QL9, QL10 and QL11 of the LP and an application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the lack of a five year housing land supply is a significant material consideration that renders saved Policies QL9, QL10 and QL11 of the LP as out of date. As such, the shortfall in housing land supply means these Policies cannot be afforded full

weight and emerging Policy SPL3 is not at a sufficiently advanced stage to be attributed determinative weight either. Within this context the harm I have identified to the character and appearance of the area would only be limited and therefore I afford it only limited weight in this instance as an adverse impact of the proposal.

10. Weighed against the above is that the proposal would, in a modest way, support the local economy through construction jobs and the circulation of funds. The proposal would also boost housing supply and support the vitality of the rural community. However, as only one dwelling is proposed these benefits are of a limited scale and are thus of a limited weight. Nevertheless, the appeal scheme would not have adverse impacts that would significantly and demonstrably outweigh its benefits. I therefore find the proposal to be sustainable development for which the Framework carries a presumption in favour. Accordingly, the appeal should succeed.

Other Matters

11. The Parish Council have suggested the rear element of the proposed dwelling may preclude light from entering the adjoining property. I have not however, been presented with substantive evidence to suggest this would be the case and I note the Council's assessment and conclusions on this point, which I share. As such, this matter does not alter my conclusions on the main issues.

Conditions

12. I have had regard to the advice in the Planning Practice Guide and the list of conditions suggested by the Council. In the interests of safeguarding the character and appearance of the area it is necessary for the development to be implemented in accordance with the approved drawings. In the interests of highway safety it is necessary to attach the three conditions suggested by the Council, amended in the interests of precision, which would secure an adequate and safe parking area.

Conclusion

13. The appeal scheme would result in a conflict with the development plan but this adverse impact would not significantly and demonstrably outweigh the benefits of the proposal in this instance. The proposal is thus sustainable development for which the Framework carries a presumption in favour. Accordingly, for this reason and the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced within 3 years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing numbers PAR-05, PAR-30, PAR-15, PAR-31, PAR-20, PAR-10, PAR-11 and PAR-4.
3. Prior to the occupation of the development hereby permitted, the vehicular parking and turning facility, as shown on the approved plans, shall be constructed and surfaced and made available for the ancillary parking of cars in connection with the occupation of the dwelling hereby approved. It shall thereafter be maintained free from obstruction at all times and retained for its approved purpose.
4. No unbound materials shall be used in the surface treatment of the vehicular access, parking spaces and vehicular hardstanding within 6 metres of the highway boundary.
5. The parking spaces within the vehicular hardstanding shall be constructed to minimum dimensions of 5.5m x 2.9m.