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## Appeal Decision

Site visit made on 9 June 2020

**by L Gilbert BA (Hons), MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 July 2020**

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**Appeal Ref: APP/A1530/W/19/3243027**

**Land adjacent to 20 Queensbury Avenue, Copford, Colchester, Essex CO6 1YN**

- 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 Alan Mansell against the decision of Colchester Borough Council.
  - The application Ref 192290, dated 6 September 2019, was refused by notice dated 8 November 2019.
  - The development proposed is detached 2 bedroom, two storey dwelling with attached garage.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The emerging Local Plan underwent examination hearings in January 2020 and has not yet been finalised. Therefore, as I do not know if there are any unresolved objections nor whether it might be subject to revision, it has been afforded limited weight.

### Main Issues

3. The main issues are:
  - The effect of the appeal development on the character and appearance of the area;
  - Whether the appeal development would provide adequate living conditions for future occupiers, with particular reference to outlook; and
  - The effect of the appeal development on a Special Protection Area.

### Reasons

#### *Character and appearance*

4. The appeal site is located on a corner along Queensberry Avenue and forms part of the existing garden for 20 Queensberry Avenue (No 20). It contains a low perimeter fence, with a taller brick wall enclosing the main garden area within. The site contains several trees and vegetation that positively contributes to the character of the area and is highly visible from surrounding streets.

5. Although there is a mixture of housing styles and designs along Queensberry Avenue, it is strongly characterised by large detached family dwellings set in spacious plots with good sized gardens, driveways and garages. Some aspects of the proposed detailed design, including facing materials, would complement those of the surrounding houses. Nonetheless, due to its scale relative to the size of the site, the proposed house would significantly erode the area's sense of openness, at odds with its prevailing spacious character. Consequently, the appeal house would appear as an awkwardly cramped, discordant addition to the street scene, which would be exacerbated by its prominence.
6. Some properties in the vicinity have been extended and altered in a variety of ways. However, these are not directly comparable in terms of scale and nature to a proposed new dwelling.
7. Therefore, the appeal development would harm the character and appearance of the area. Consequently, in that regard, it would fail to comply with Policy UR2 of the Local Development Framework Core Strategy (2008) (CS) and Policies DP1 and DP12 of the Local Development Framework Development Policies (2010) (DP). It is also contrary to the Council's Supplementary Planning Document, Backland and Infill (2009; 2010). These seek amongst other things, for developments that are discordant with their context and fail to enhance the character, quality and function of an area will not be supported.

*Living conditions*

8. The proposed garden for the new dwelling would be adjacent to 22 Queensberry Avenue's (No 22) single storey garage, which is the existing situation for the garden of No 20. The flank two storey wall at No 22 would be partially visible from the proposed garden, however as it is set back beyond the garage its effect on the proposed garden would be limited.
9. Although the garage at No 22 would border part of the proposed garden, much of it would be contained by fencing. There would also be views through the proposed garden that would be unaffected by the neighbouring garage. Therefore, the proximity to the single storey garage would not significantly harm outlook for future occupiers. Additionally, future occupiers would also have the option of using the recreational open space and play area within walking distance from the appeal site.
10. The Council has referred to much of the proposed garden being overshadowed, although this was not part of the reasons for refusal. As the proposed garden would be south facing, a section besides the garage would receive sunlight through the day and given that it is south facing and that the garage is of reasonably modest proportions, there appears to be good reason to believe that the garden would receive adequate light.
11. The appeal development would provide adequate living conditions for future occupiers, with particular reference to outlook. Consequently, in that regard, it would comply with Policy DP1 of the DP and Supplementary Planning Document The Essex Design Guide (1997), which amongst other things seeks to ensure that development be designed to a high standard and to avoid unacceptable effects on living conditions.

### *Special Protection Area*

12. The appeal site is within the Zone of Influence (ZoI) for a Special Protection Area (SPA). The SPA is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Natural England anticipates that without mitigation, new residential development in this area of this scale would likely have a significant effect on the sensitive interest features of the coastal European designated sites through increased recreational pressure resulting from the occupants of new residential development, such as the appeal scheme.
13. Although the appeal site is presently used as a garden and is within a built-up area, this does not compensate for the need to mitigate the additional recreational pressure for using of the SPA that would be likely to arise from the appeal development. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) includes a financial tariff for residential developments within the ZoI. The appellant does not consider it necessary to pay the tariff, however, without this mitigation the proposal fails to comply with Policy DP21 of the DP.
14. Consequently, the appeal development would be likely to harm the SPA and fails to accord with Policy DP21 of the DP. This seeks amongst other things that development that would cause direct or indirect adverse harm to nationally designated sites or other designated areas will not be permitted unless satisfactory prevention, mitigation and compensation measures are provided.

### **Other Matters**

15. The appeal development would offer the benefit of a two-bedroom property with private amenity space, which would contribute towards housing delivery. It would also be in a sustainable location. While these do weigh in favour of the appeal, given the modest scale of the development proposed those benefits would be commensurately modest, such that they would be comfortably outweighed by the significant harm identified and the associated development plan conflict.

### **Conclusion**

16. For the reasons set out above, I conclude that the appeal should be dismissed.

*L Gilbert*

INSPECTOR