
Appeal Decision

Site visit made on 16 June 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Appeal Ref: APP/W1525/W/20/3244977
69 Torquay Road, Chelmsford CM1 7NX

- 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 S Oldroyd against the decision of Chelmsford City Council.
 - The application Ref 19/01555/FUL, dated 13 September 2019, was refused by notice dated 7 November 2019.
 - The development proposed is the erection of a 2-storey detached dwelling and 2-storey rear extension to the existing dwelling
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Decision

1. The appeal is dismissed insofar as it relates to the proposed detached dwelling. The appeal is allowed insofar as it relates to the rear extension to the existing dwelling and planning permission is granted for a 2-storey rear extension to the existing dwelling at 69 Torquay Road, Chelmsford CM1 7NX in accordance with the terms of the application, Ref 19/01555/FUL, dated 13 September 2019, and the plans submitted with it insofar as relevant to that part of the development hereby permitted, and subject to the conditions as set out in the attached schedule.

Preliminary Matters

2. The Chelmsford Local Plan Full Council Version was adopted in May 2020 (the LP). The Core Strategy and Development Control Policies DPD 2001-2021 Adopted 2008 was replaced on adoption of the LP. Policy MP1 in the LP when it was in its emerging form is now Policy DM23 as adopted. Policy MP4 is now Policy DM26 as adopted.
3. The appellant has suggested that the planning application was mistakenly refused without reference to the submitted elevation drawings. However, drawing Ref P/304 E, which details the proposed elevations of the new dwelling, was referenced on the Council's decision notice. I am content that for me to deal with the appeal on that basis would not prejudice any party's interests.
4. The appellant has submitted a revised drawing with the appeal which would have changed the high-level slot window to Bedroom 5 in the flank elevation to a larger window. This revision would result in changes to the overlooking of neighbouring properties. I have therefore not accepted this revision because to do so would materially alter the nature of the proposal and potentially prejudice the interests of interested parties who would not have been given the opportunity to comment on the revised proposal.

Application for Costs

5. An application for costs was made by Mr S Oldroyd against Chelmsford City Council. This application is the subject of a separate Decision.

Main Issues

6. The two main issues in this case are the effect of either part of the proposal on the character and appearance of the area, and whether the proposed detached house would provide acceptable living conditions for future occupiers, with particular regard to outlook and ventilation from Bedroom 5.

Reasons

Character and appearance

7. Torquay Road is characterised by linear development, predominantly detached houses set fairly closely to one another, and with all dwellings facing directly onto the road. The appeal site is on a corner plot at the end of a cul-de-sac, with a large garden. The garden provides a degree of visual relief and is in-keeping with their corner location set away from the road. The houses along Torquay Road have similar widths, approximately the same as the existing dwelling on the appeal site. There is a wide property at 58 Torquay Road, but the extension that has created the width is only single storey, and significantly narrows as it approaches the front elevation, reducing its prominence.
8. The proposed one-storey rear extension to the existing house is not in dispute between the parties. It would be modestly sized and would relate well to the host and neighbouring dwellings. The rear extension would therefore preserve the character and appearance of the area.
9. Turning to the proposed detached dwelling, this would be located in the existing side garden of the host property, 69 Torquay Road. Although it would have the same overall height as neighbouring properties, the proposed new dwelling would be significantly larger than the host dwelling and the other dwellings along Torquay Road. In particular, it would be much wider than other dwellings along the road. It would be set away from the frontage with the road and would fill most of its plot.
10. The size, width and bulk of the proposed property, which would be significantly in excess of the neighbouring properties, would be incongruous and would contrast negatively with the surrounding houses on the cul-de-sac. The fact that a reasonably sized garden would be provided in proportion to the property does not mitigate the over-sized proposed dwelling and nor does it adequately replace the existing feeling of open space created by the existing garden. Gaps would be retained to neighbouring properties, however, due to the size of the proposed property it would still dominate the setting of the host and other neighbouring properties.
11. The siting of the property within the corner garden plot, and in particular being set away from the frontage with Torquay Road, is out-of-keeping with the character of the area. Although it would be situated in a corner plot and set back from the road, the proposed dwelling would still be clearly visible from the public domain, and some neighbouring dwellings. It would be prominent and would fail to integrate successfully into the street scene.

12. The proposed detached dwelling would therefore harm the character and appearance of the area, contrary to the relevant parts of Policy DM23 of the LP which requires, amongst other things, high quality design and development that is compatible with the character and appearance of the area. It would also fail to comply with Chapter 12 of the National Planning Policy Framework (the Framework) which, amongst other things, requires high quality design.

Living conditions

13. Proposed Bedroom 5 within the proposed detached dwelling would be provided with a narrow, high level window to the south elevation and two rooflights to a second elevation. There would be no window allowing for suitable outlook and ventilation in a wall. However, the combination of the three windows would provide reasonable ventilation. There would be some outlook from the proposed windows, particularly the rooflights, although it would be limited. The overall living environment within the bedroom would be fairly poor. However, this is only one of five bedrooms in the proposed house. The level of outlook and ventilation to all other bedrooms and habitable rooms in the proposed dwelling is not in dispute. I am not persuaded that the relatively poor outlook and ventilation to just one bedroom would negate the overall standard of accommodation when considering the proposed house as a whole.
14. Consequently, despite the proposed house not providing a window allowing for suitable outlook and ventilation in a wall as required by Appendix B.7 of the LP, it would comply with the relevant parts of Policy DM26 of the LP which allows for lower provision than the standards in Appendix B where site circumstances allow, as long as suitable living conditions are provided for the future occupiers. The proposed house also complies with Paragraph 127 of the Framework which, amongst other things, seeks a high standard of amenity for future users.

Other Matters

15. The site falls within the Zone of Influence of the Blackwater Estuary Special Protection Area and Ramsar site, as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). This provides habitats for a number of breeding and non-breeding birds and waterfowl. The RAMS identifies that the site is vulnerable to harm from increased recreational pressure as a result of increased human activity.
16. The proposed rear extension would result in a small increase in the size of a dwelling, with no additional bedrooms to be provided. The increased size would not therefore directly lead to an increase in the number of persons living at the property, which is already a family-sized home. The proposed rear extension would not therefore lead to an increase in human activity in the European designated site. The proposed rear extension would not therefore be likely to have a significant effect on the designated features of the habitat, either alone or in combination with other developments.
17. The new detached dwelling would have led directly to an increase in the number of persons living on the appeal site. Had this element of the appeal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, and in this instance the relevant

element of the proposal is to be dismissed. I have not, therefore, undertaken an AA.

Planning Balance

18. I conclude that the living conditions of future occupiers of the proposed detached dwelling would be acceptable. This weighs neutrally in the planning balance. The proposed new house would help the Council to meet its housing land supply, would bring temporary economic benefit from the construction process, and would provide long-term economic benefit from the boost to local facilities and services from the new occupancy on the site. These factors weigh in favour of the proposal, but the benefits would be limited because only one additional residential unit is proposed.
19. The harm to the character and appearance of the area from the proposed detached dwelling would be substantial. Paragraph 124 of the Framework sets out that high quality buildings and places are fundamental to the aims of the planning process. This harm therefore outweighs the neutral and beneficial aspects of the detached new dwelling.

Conditions

20. I have attached the standard time limit condition, and also a condition specifying the relevant drawings to provide certainty. I have only listed drawings which relate to the proposed rear extension. The trees condition is necessary in order to ensure that the oak trees to the rear of the site, which provide a high level of visual amenity, are protected during construction of the proposed rear extension.
21. The Council has requested a number of conditions but only one of these relates to the proposed rear extension, with regard to details of the proposed materials. I have attached this condition which is necessary in order to preserve the character and appearance of the area but have amended the wording to ensure that the approved materials are subsequently used in the construction of the development. I have not attached any of the conditions which only relate to the proposed detached dwelling.

Conclusion

22. I find the rear extension to the existing dwelling to be acceptable and it is clearly severable both physically and functionally from the proposed detached dwelling. Therefore, I intend to issue a split decision in this case and grant planning permission for the rear extension.
23. Therefore, and for the reasons above, I conclude that the appeal should be allowed insofar as it relates to the rear extension to the existing dwelling, but dismissed insofar as it relates to the proposed detached dwelling.

O S Woodward

INSPECTOR

Schedule 1 – Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to the proposed rear extension: L.301; P.301/C; P.302; P.303/A.
- 3) Prior to their use, details of the materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) In relation to tree protection, tree surgery and construction methods, the development shall only be carried out in accordance with the submitted arboricultural report entitled Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan, dated 21 August 2019 subject to such minor variations as may be agreed in writing by the local planning authority.