



Appeal Decision

Site Visit made on 8 December 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2020

Appeal Ref: APP/W1525/W/20/3259110 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 20/00094/FUL, dated 23 January 2020, was refused by notice dated 17 July 2020.
 - The development proposed is erection of a 2-storey detached dwelling, proposed part 1-storey and part 2-storey rear extension to the host dwelling.
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Decision

1. The appeal is dismissed insofar as it related to erection of a 2-storey detached dwelling. The appeal is allowed insofar as it related to part 1-storey and part 2-storey rear extension to the host dwelling and planning permission is granted for part 1-storey and part 2-storey rear extension to the host dwelling at 69 Torquay Road, Chelmsford CM1 7NX in accordance with the terms of the application, Ref 20/00094/FUL, dated 23 January 2020, and subject to the following conditions:-
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: B.401/A, P.401/C and P.403/A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling.
 - 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 23 December 2019.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the site and its surroundings.

Reasons

3. The appeal site concerns the large side garden of 69 Torquay Road, a detached dwelling situated in the corner of the cul-de-sac part of the road arranged around a T-shaped turning area. The surrounding residential area is

characterised by closely spaced, predominantly detached, two-storey dwellings arranged with direct frontages to the roads.

4. While the dwellings in Torquay Road are of a varied design, their plot sizes and the position of the properties therein is largely consistent. However, towards the end of the cul-de-sac, the building line staggers and the layout of the dwellings becomes more spacious and open. Although I accept that this has as much to do with the highway layout as it does the composition of the dwellings, the plots of Nos 67, 69, 70 and 72 are, nevertheless, more generous and spaciouly arranged. This also enables Nos 69 and 72 to have greater visual prominence at the end of the cul-de-sac. Taken together these stated features, particularly the space and openness provided between the dwellings at the end of the cul-de-sac, gives rise to a clear and distinct pattern of development, which makes a significantly positive contribution to the character and appearance of the site and its surroundings.
5. The proposed dwelling would largely appear as a handed version of No 69 and its size, materials of construction and the space around it would be comparable with nearby properties. Nonetheless, the dwelling would be set back, away from the road frontage, in the corner of the cul-de-sac and its garage would be sited to its frontage. Hence, a new form of development would be introduced that would not be akin to the visual characteristics of the road frontage nearby. Furthermore, while the openness of the garden is not formally protected, the presence of the dwelling therein would erode the spacious feeling present between the existing properties. When viewed from within the road the proposal would therefore appear as a discordant addition in relation to the established grain of development, so would have a significantly detrimental effect on the character and appearance of the site and its surroundings.
6. I have had regard to the analysis of the turning heads of other cul-de-sacs nearby and it is evident that dwellings are primarily more densely arranged around them. However, there are clear differences between those turning heads and that found at Torquay Road, which includes dwellings more spaciouly arranged at the end of the cul-de-sac. As it is that context that is before me, I am not persuaded that the proposal would be suitably related to this context.
7. I acknowledge that the other properties within the street have undergone extension and alteration, but as the proposal is for a new dwelling situated within a more spacious part of the cul-de-sac, they would not be comparable development and their presence would not outweigh the concerns that I have identified above.
8. In light of the above, I conclude that the proposed development would have a significantly detrimental effect on the character and appearance of the site and its surroundings. Hence, the proposal would fail to accord with the design aims of Policy DM23 of the Chelmsford Local Plan (Adopted May 2020). The proposal would also conflict with the design aims of paragraphs 124, 127 and 130 of the National Planning Policy Framework (the Framework).

Other Matters

9. The Blackwater Estuary Special Protection Area (SPA) and Ramsar Site is internationally important for nature conservation as it provides habitats for a number of breeding and non-breeding birds and waterfowl. There is evidence

to suggest that recreational activity is causing disturbance to the important biodiversity that this accommodates. Consequently, any intensification of these activities could lead to further disturbance. The appeal site is located within the Zone of Influence of the SPA and the appellant has provided a financial contribution to ensure that appropriate mitigation is implemented, which has been accepted by the Council.

10. I am conscious of the requirement to undertake an 'Appropriate Assessment' of the effects of the development on the SPA. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Given that I have found harm in relation to the main issue, it is not necessary for me to consider this matter in any further detail.
11. In previously granting planning permission for the rear extensions to No 69, the Inspector for the previous appeal¹ did not find harm in respect of the extensions on the host property or those neighbouring, the character and appearance of the area and with regard to the protected site referred to above. There is nothing before me that would lead me to a different conclusion in respect of these matters and I note that the Council also did not raise any concerns. As the part of the proposal constituting the rear extensions to No 69 is both physically and functionally severable from the proposed dwelling, a split decision would be a logical outcome.
12. I acknowledge the appellant's concerns with the Council's handling of the planning application and the alleged comments and actions of a local councillor. In particular, there was some discussion as part of the application with regard to the applicability of covenants on the land. I also appreciate that the Council's Officers recommended the proposal for approval, following pre-application advice, and it was refused permission by the Members of the Planning Committee. Nonetheless, in reaching my decision I have been concerned only with the individual merits of the appeal scheme, which I have considered afresh in relation to the relevant policies and evidence before me. Any positive feedback given by the Council's Officers either as part of pre-application discussions or through the planning application does not, therefore, warrant allowing this appeal. Even so, planning permission would not have overridden the limitations of any legal covenants applicable to the site.

Planning Balance

13. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise, which includes the Framework.
14. The provision of a four-bedroom dwelling and an enlarged dwelling on the site would provide new residential accommodation in a location accessible to the shops, facilities and services in Chelmsford. The new dwelling would also be sustainably constructed and contribute to local and national housing targets. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period. However, given the scale of the development, these benefits would be limited in scale and kind.

¹ Appeal Ref: APP/W1525/W/20/3244977

15. I also recognise that the proposal could be said to make more efficient use of the site. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
16. There is agreement between the main parties that the proposed dwelling would be compliant with the policies of the development plan relevant to highway safety and parking provision, protected trees and the living conditions of neighbouring occupiers, subject to planning conditions. These matters would therefore neither weigh in favour or against the appeal scheme.
17. The proposed dwelling would not comply with development plan policy in respect of its effect on the character and appearance of the site and its surroundings. That aspect of the appeal scheme would therefore not amount to sustainable development under the terms of the Framework and the adverse impacts of the proposed dwelling are matters of significant and overriding weight against the grant of planning permission for that part of the appeal scheme. However, the proposed rear extensions to the host property would comply with the policies of the development plan so I have concluded that a split decision would be a logical outcome.

Conditions

18. I note that the conditions suggested by the Council appear to relate to the proposed dwelling. With this in mind, I have specified planning conditions that would normally apply to development under a householder appeal. Moreover, in addition to the standard time limit, in the interests of clarity and the appearance of the host dwelling, I have specified the approved plans for the extensions and that the materials of construction of the proposal should match those of the existing dwelling. While the wording of the latter differs to that imposed by the previous Inspector, the location of the proposed extensions would not appear to be a particularly sensitive, so the submission and agreement of materials in writing would not be reasonable or necessary.
19. Notwithstanding the above, I have included the Council's condition in relation to tree protection measures, as this is necessary to ensure that oak trees, to the rear of the site, of high amenity value are protected during construction of the proposed rear extensions. I have, however, omitted the tail piece to the condition to provide certainty to the details approved by the condition.

Conclusion

20. For the reasons above, I conclude that the appeal should be allowed insofar as it relates to the proposed part single and part two-storey rear extension to the host dwelling. However, as I have found harm in respect of the character and appearance of the site and its surroundings and there are no other considerations which would outweigh this finding, the appeal is dismissed insofar as it relates to the proposed 2-storey detached dwelling.

Paul Thompson

INSPECTOR