



Appeal Decision

Site Visit made on 3 February 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal Ref: APP/A1530/W/20/3256964
172 Mill Road, Colchester, CO4 5LP

- 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 Oliva Homes Ltd against the decision of Colchester Borough Council.
 - The application Ref 200590, dated 11 March 2020, was refused by notice dated 7 May 2020.
 - The development proposed is erection of 3no. detached single storey dwellings, existing dwelling and garage to be demolished and alterations to existing vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Procedural Guide Planning Appeals – England states that *only the person who made the planning application can make an appeal*. In this case, the appeal was lodged by Mr J Day of Oliva Homes Ltd. While that person may be a representative of the company, the appeal cannot technically be transferred to another person, it must continue in the original name of the applicant. I have therefore considered the appeal on this basis.
3. The proposed development was refused for four reasons. The appellant has provided an undated but signed Unilateral Undertaking (UU) which includes covenants for the appellant to pay to the Council agreed financial contributions toward open space and recreational facilities, community facilities and the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS). The Council were asked to comment on the content of the UU but it is unclear whether they maintain their concerns or withdraw the third and fourth reasons for refusal outlined on their Decision Notice. I have therefore referred to these matters in the decision.
4. The first reason for refusal on the Council's Decision Notice refers to Policy PP10 of the Myland and Braiswick Neighbourhood Plan. However, the Council has confirmed that the policy should have been listed as Policy HOU1. I have therefore considered the appeal on this basis.

Main Issues

5. The main issues are: -
 - the effect of the proposed development on the character and appearance of the area; and

- whether the proposed arrangements for vehicle parking would be suitable to serve the proposed development.

Reasons

Character and appearance

6. The appeal site concerns the site of a detached bungalow situated within a predominantly residential area. The detached and semi-detached properties are of a varied size and design, but incorporate front and rear curtilage areas of a similar size. The existing bungalow is conspicuous in that it occupies a generous plot and is sited closer to the footpath behind a tall boundary fence. This sets it apart from the properties in the surrounding area, which are generally set back behind frontage areas incorporating a combination of garden and hard surfacing enclosed by low boundary walls and planting. Furthermore, while the properties are generally closely spaced, they are separated from their neighbours to one side by garaging and/or driveways. This is most evident in the detached bungalows immediately northeast of the site, which are grouped close together on one side and separated from the next pair by driveways and shared accesses. Taken together these stated features make a positive contribution to the character and appearance of the area.
7. The proposed bungalows would be of a similar design so would share characteristics with the neighbouring bungalows and would not, of itself, offend the appearance of the area. The removal of the tall boundary enclosure to the site frontage and its replacement with hedge and shrub planting, akin to that found at the adjacent bungalows, would also be an improvement to the street scene.
8. Nevertheless, the proposed bungalows would be tightly spaced together, with a narrow gap to either side and only served by dedicated curtilage areas at the rear. The resultant layout would therefore appear cramped in comparison to the bungalows to the northeast and the largely open area to the site frontage would be dominated by an extensive area of hard landscaping for the manoeuvring and parking of vehicles. Although the frontages of other properties in the locality incorporate off-street parking, they are clearly distinguished from one another by boundary enclosures and/or driveways. The proposed development would therefore be of a contrasting form that would jar with the prevailing characteristics of existing development found locally.
9. I have been referred to the potential for infilling adjacent to the existing bungalow and an alternative scheme of two bungalows but those are not schemes that are before me, so I have given them limited weight in my consideration of the appeal.
10. In light of the above, I conclude that the proposal would introduce a discordant form of development that would have a significantly detrimental effect on the character and appearance of the area. Hence, the proposed development would be contrary to the design aims of Policy UR2 of the Council's Core Strategy¹, Policies DP1 and DP12 of the Council's Development Policies², Policy HOU1 of the Myland and Braiswick Neighbourhood Plan and the Council's SPD 'Backland

¹ Colchester Local Development Framework Core Strategy (Adopted December 2008).

² Colchester Local Development Framework Development Policies (Adopted October 2010).

and Infill Development³; and paragraphs 124, 127 and 130 of the National Planning Policy Framework (the Framework).

Visitor Parking

11. The application drawings suggest that parking spaces would be provided for six vehicles, in two banks of three at either side of the site. This would meet the minimum expectation of two parking spaces for a 2-bedroom property expressed in the Council's parking standards. Despite the absence of an objection from the local highway authority, the Council has suggested that the lack of an additional parking space for visitors would be likely to lead to parking pressures on-street and conditions detrimental to highway safety.
12. Although there is a pedestrian crossing and bus stop in close proximity of the site, there is no substantive evidence before me that the proposals for parking would be likely to lead to local parking stresses or that this would be bound to have a detrimental effect on highway safety. Furthermore, the existing bungalow only has limited off-street parking provision, so it is likely that there will have been times when vehicles were required to be parked on-street in this location.
13. Notwithstanding the above, I am mindful that the Council's parking standards can be reduced in urban areas where there is a high level of access to services. While the site is not within a town centre location, the bus stop opposite offers regular travel to Colchester and Stanway, amongst other places, and local shops, facilities, and services are available within a reasonable walking and cycling distance. Alternative methods of transport are therefore available, which demonstrates that there would not be a reliance on private motorised vehicles for transport from the site.
14. For the above reasons, I conclude that the proposed arrangements for vehicle parking would be suitable to serve the development. Hence, the proposal would accord with Policy DP19 of the Council's Development Policies and the Essex County Council Parking Standards Design and Good Practice (2009).

Other Considerations

15. While the UU is not dated, so is not a completed legal document, the appellant has confirmed the date in further correspondence. I am satisfied that this shows clear intentions by the main parties to resolve the third reason for refusal, primarily the intent to secure financial contributions for the provision of sport and recreation and community facilities. However, despite the requirements of the Council's development plan policies and supplementary planning documents⁴, the Written Ministerial Statement of 28 November 2014 states that tariff style contributions should not be sought for schemes of ten units or less and the Planning Practice Guidance states that Community Infrastructure Levy is the most appropriate mechanism for capturing developer contributions from small developments⁵. Notwithstanding these considerations, given my overall conclusion on the first main issue, it is not necessary for me to consider these matters in any further detail.

³ Colchester Borough Council Supplementary Planning Document Backland and Infill Development (Adopted September 2009, revised December 2010).

⁴ Policy SD2 the Council's Core Strategy, Policy DP3 of the Council's Development Policies, SPD Provision of Community Facilities (2009; 2013) and SPD Provision of Open Space, Sport and Recreational Facilities (2006).

⁵ Paragraph: 023, Ref ID: 23b-023-20190901, Revision date: 01 09 2019.

16. All residential proposals contained within the Zone of Influence for the habitat sites covered by the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS) are required to have regard to the potential adverse effects from increased recreational disturbance. The Council's fourth reason for refusal refers to this matter and the appellant has shown intent to provide a UU to a make a financial contribution to ensure that appropriate mitigation is implemented as part of the requirements of the RAMS. However, I am conscious of the requirement to undertake an 'Appropriate Assessment' of the effects of the development on these protected areas. 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.

Planning Balance

17. 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.
18. The Council has suggested that it can demonstrate five-years supply of deliverable housing land and this position has not been disputed by the appellant. In such circumstances paragraph 11 of the Framework is not engaged. However, I am mindful that the presence of a five-year supply does not represent a ceiling on the delivery of housing, as the Framework supports the Government's objective to significantly boost the supply of homes. The appeal scheme could deliver two additional bungalows, which would contribute to the identified demand for two-bedroom properties in the Borough⁶, particularly for older persons homes. Furthermore, in the context of paragraphs 59 and 68 of the Framework, the proposal could be built out relatively quickly. Despite these factors, given the scale of development proposed, the contribution to the supply of housing would be minor in its extent, so it would only be afforded modest weight.
19. The Framework gives substantial weight to the value of using suitable brownfield land within settlements for homes. Although I recognise that the proposal could be said to make more efficient use of the site and it would be sited in an accessible location, as it is an existing residential garden it would not meet the Framework's definition of Previously Developed Land. Even if this were the case, 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.
20. The proposal would be compliant with the policies of the development plan and relevant guidance with respect to parking. In terms of harm, the proposed development would not comply with development plan policy in respect of the harm to character and appearance.
21. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission. The

⁶ As expressed in the Council's Strategic Housing Market Assessment (Braintree, Chelmsford, Colchester and Tendring Councils 2015).

proposal would also not amount to sustainable development under the terms of the Framework.

Conclusion

22. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR