



Appeal Decision

Site visit made on 2 February 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2021

Appeal Ref: APP/W1525/W/20/3250182

37 Arbour Lane, Chelmsford CM1 7RG

- 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 Mysave Ltd against the decision of Chelmsford City Council.
 - The application Ref 19/01395/FUL, dated 6 August 2019, was refused by notice dated 26 February 2020.
 - The development proposed is described as the “demolition of the existing buildings and the construction of three separate buildings to accommodate 10 x residential apartments, together with associated car parking facilities, bin storage and cycle provision”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the Council made its decision, it adopted the Chelmsford City Council Local Plan 2013-2036 (the Local Plan) on 27 May 2020. The policies from the previous Core Strategy and Development Control Policies referred to within the decision notice have therefore been replaced and carry no weight within the determination of this appeal. Compliance with policies which are no longer in force at the point of determination can carry no weight within this appeal.
3. Both parties appeal statements clearly acknowledge the Local Plan and I am satisfied that each has had the opportunity to comment as to the impact of the adoption of the new Local Plan, and the relevant policies which refusal is based upon, in relation to the determination of this appeal.

Main Issues

4. The main issues in this appeal are the effect of the proposal on the:
 - character and appearance of the area,
 - living conditions of adjoining occupiers with particular regard to privacy and outlook,
 - living conditions of future occupiers with particular regard to outlook, living space, and amenity space,
 - Essex Estuaries Special Area of Conservation (SAC), and,
 - whether the development would provide accessible or adaptable dwellings and the effect of the development on surface water drainage.

Reasons

Character and Appearance

5. The appeal site contains a building that was formerly being used as a public house, its car park, and grounds. The area is generally residential in character and contains a variety in size and type of property and has a pleasant suburban nature. The proposal seeks to demolish the existing public house and erect three separate buildings, providing a total of ten apartments.
6. Although I accept that there are groups of narrow two storey dwellings in the vicinity, from visiting the site and the surrounding area, it is clear that the character of the area is far more diverse and contains a wide variety of style and type of property which includes semi-detached and terraces of dwellings, along with flatted developments such as that immediately north of the appeal site at Cobbs Place.
7. The overall form and scale of the proposal would undoubtedly result in a larger mass of building at the site. Nevertheless, this alone need not be harmful to the character of an area, especially when considering the context of the appeal site. One has to have regard to the proposal, and in this particular case, its urban setting and the wide variety and pattern of development that characterises the area. Thus, although there are buildings about the site that are indeed narrow span, a three storey development of the nature proposed need not appear unduly out of place or prominent.
8. On the whole, the area has a varied and diverse character and the introduction of a further development of flats at the site would not result in the erosion of any identified or established character that would otherwise harm the appearance of the area. Moreover, I am not persuaded that the inclusion of crown style roofs on block 1 and 3 nor dormer windows would be so harmful to render the entire development unacceptable. I find the overall design of the proposal and the arrangement of the roof scape to add interest to the development and given the variation in the street scene in the vicinity of the appeal site, I also find that the area has the capacity to accept additional flatted development in the form proposed. Furthermore, given that the proposed cycle storage area would be set back some distance from the entrance and positioned against the background of a large building, this element would not become a particularly prominent feature within the street scene. Consequently, the overall form and scale of the proposal has the ability to assimilate with the surrounding patterns of development without resulting in harm to its character or appearance.
9. Thus, the development would have an acceptable impact on the character and appearance of the area. It would not be in conflict with Policy DM23 of the Local Plan and paragraph 127 of the National Planning Policy Framework which seek, amongst other things, to ensure that developments are compatible with its surroundings.

Living Conditions - Neighbours

10. Block 3 would be positioned to the rear of the site, with a neighbouring property at 23 Parklands Drive (23) located to the west. As the land rises to the east, the property at 23 is positioned at a lower level, so that from the appeal site the ground floor of 23 is obscured from view by an existing wall.

11. An extant planning permission¹ (the extant permission) for the site also positions a block of flats towards the rear and includes a two storey building with windows to habitable rooms facing towards 23. Although I acknowledge that block 3 would be, to some extent, sited closer to 23 and that the development proposes dormer windows, I am satisfied that adequate separation distance between elevations would remain post development. This leads me to conclude that there would be a sufficient distance between the properties to ensure that overlooking to 23 would not occur to unacceptable levels. Moreover, this distance would also ensure that the development would not have an overbearing impact on the outlook that the occupiers of 23 currently enjoy.
12. In addition, the lower portion of the window serving bedroom 2 of flat 2 within block 2 would be obscurely glazed to prevent overlooking to properties at Old Court, similar to that accepted as part of the extant permission. Moreover, although positioned slightly closer by some 1.3m than the extant permission, there would nonetheless remain adequate separation between the two sites so that the proposed development does not become overbearing or indeed domineering when viewed from properties on Old Court to the south.
13. Thus, the development would not have a detrimental impact on the living conditions of adjoining occupiers through loss of privacy or outlook. It would not be in conflict with Policy DM29 of The Local Plan which seeks, amongst other things, to ensure that developments safeguard the living environment of the occupiers of any nearby residential property.

Living Conditions – Future Occupiers

14. The development proposes bedroom and bathroom accommodation within the roof space of block 2 that would be served only by roof lights. It is not uncommon for bathrooms to be served by mechanical ventilation, and given its frequency of use, I do not find that it represents a poor standard of amenity for future occupiers. However, bedrooms are not always used exclusively at night just for sleeping, but are also areas where occupants may choose to relax, away from other family members or occupants of the flat. As such, the outlook from the bedroom within the roof space of block 2 would be limited to rooflights only, which would not provide a reasonable level of amenity for future occupiers.
15. In addition, Policy DM26 of the Local Plan requires that all new dwellings (including flats) achieve appropriate internal space through adherence to the Nationally Described Space Standards² (NDSS). The Council calculate that flat 2 in block 1 and flat 5 in block 3 would fail to meet standards as set out within the NDSS. Although the appellant states that the accommodation could be altered to provide two bed units with the remaining bedrooms enlarged or changed to a study, the fact remains that what is before me to consider is for both undersized flats to be three bed units. Thus, as the NDSS sets out the minimum spaces required to make the development acceptable, to fall below the standards, even marginally, would render the accommodation inadequate.
16. Turning to amenity space, I acknowledge that the proposed buildings would be largely sited in accordance with the extant permission. However, there are

¹ 17/01752/OUT dated 21 May 2019

² Technical housing standards – nationally described space standard March 2015

noticeable differences with the placement of parking spaces adjacent to blocks 1 and 2 which reduces the amenity space available. In addition, cycle parks and areas for refuse bins also reduce the overall space and fails to provide a quality environment for residents. No balconies are provided for upper floor flats and it has not been identified where private amenity space for ground floor flats would be positioned. Consequently, notwithstanding the appellant's calculations regarding the amount of amenity space provided within the site, the layout fails to comply with the requirements of Table 11 of Appendix B of the Local Plan.

17. Thus, the proposal would have a detrimental effect upon the living conditions of adjoining occupiers by failing to provide adequate accommodation in terms of floorspace, outlook, and amenity areas. It would be in conflict with Policy DM26 of the Local Plan which seeks, amongst other things, to ensure that developments achieve sufficient amenity space and open space, appropriate internal space, and provide a suitable living environment for residential occupiers.

Essex Estuaries SAC

18. The site lies within the zone of influence of the Essex Estuaries SAC which is a European site of nature conservation importance. It is established that any development resulting in a net increase in the number of dwellings, within the zone of influence and without avoidance measures, would be likely to have a significant effect on the SAC. This effect principally derives from identified recreational pressures on the SAC associated with additional residential development and atmospheric pollution on the SAC.
19. As the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment and the requirement for any payments to off-set the impact of the development on the SAC as identified within the Essex Coasts Recreational Disturbance Avoidance and Mitigation Strategy.

Accessible or Adaptable Dwellings and Surface Water Drainage

20. Policy DM1 of the Local Plan states that 50% of new dwellings are to be constructed to meet requirement M4(2) of the Building Regulations 2015 (accessible or adaptable dwellings). Although the Council contends that the proposed development would not comply with requirement M4(2), neither party has provided substantive evidence in respect of this matter. I do not consider that compliance with Building Regulation M4(2) would necessarily be an insurmountable problem, which, if I were minded to allow the appeal, is a matter that could not be addressed by a suitably worded condition, such as that suggested by the Council.
21. Likewise, although Essex County Council as Local Lead Authority raised a holding objection to the development regarding the disposal of surface water within the site, again I do not find this to necessarily be an insurmountable problem that, if I were minded to allow the appeal, could not be addressed via a suitably worded condition, such as that suggested by the Council.
22. Thus, the development would not be in conflict with Policies DM1 and DM18 of the Local Plan which seek, amongst other things, to ensure that developments

provide accessible and adaptable dwellings and are safe from flooding through risk management from the development.

Other Matters

23. I acknowledge that the development is within an area whereby residential development is considered acceptable in principle and it would utilise previously developed land. However, neither this nor any other material consideration that has been advanced outweighs the harm that I have identified above.
24. I note that representations were made by a local resident raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

25. Thus, for the reasons given above, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. As I have found significant, substantial conflict with the development plan, the appeal is therefore dismissed.

Graham Wyatt

INSPECTOR