
Appeal Decision

Site visit made on 10 March 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 April 2021

Appeal Ref: APP/A1530/W/20/3261425
66 Belle Vue Road, Wivenhoe CO7 9LD

- 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 Mrs Linda Jones against the decision of Colchester Borough Council.
 - The application Ref 201200, dated 14 June 2020, was refused by notice dated 6 August 2020.
 - The development proposed is erection of new C3 2 bedroom chalet style house in addition to retention of existing Chalet.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted evidence prepared for the appeal by a Transport and Highways Consultant¹. The Council has provided comments in relation to this evidence. I am satisfied that no party would be prejudiced by my having taken it into account.
3. The Council's decision notice refers to Policy DP3 of the Council's Core Strategy 2014. However, the evidence shows this policy to be part of the Council's Development Policies 2014 document. I do not consider that any party would be prejudiced by my taking it into account.

Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area; (ii) whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to privacy; (iii) highway safety; and (iv) the impacts on European sites and local infrastructure.

Reasons

Character and appearance

5. The appeal scheme would result in an irregular shaped, part two storey and part single storey, three bedroom dwelling to the side of No 66 Belle Vue Road (No 66). Despite the careful attention given to the design of the proposed dwelling, its layout, largely filling the space between the side elevation of No 66

¹ Patrick Eggenton MSc MILT, Director of EAS

- and its boundary with No 64 Belle Vue Road (No 64), with only a comparatively small garden area at the rear, would be out of character with the prevailing pattern and layout of development in this part of the street.
6. This conflict would be exacerbated by the appeal building's proposed position forward of No 66. Although the footprint of the proposal would be smaller than that of the existing dwelling, because of its overall height and its position within the plot the proposed dwelling would appear overly dominant in relation to No 66. This would be the case despite the inclusion of a single storey wraparound element nearest to that property. In this context, notwithstanding that No 66, by virtue of its orientation in relation to the road, is itself at odds with the general rhythm of development, the proposed dwelling would also appear unduly cramped within its plot. In addition, the rear garden would be uncharacteristically small and somewhat triangular in shape. Whilst this element of the scheme would not be obvious in the street scene, it would nevertheless be visible from the rear of neighbouring dwellings, where it would be read as a discordant feature.
 7. A large part of the site frontage would be given over to the provision of parking and turning space for both the existing and the proposed dwelling. However, the proposal would provide raised planting beds, thereby retaining an element of soft landscaping. Given the propensity in the street for parking within the frontages of properties, I do not consider this element of the proposal to be out of keeping with the area. However, this does not negate my findings above in relation to the overall impact of the proposal on the character and appearance of the area.
 8. Accordingly, I conclude that the proposal would cause unacceptable harm to the character and appearance of the area. Thus, it would conflict with Policy UR2 of the Colchester Core Strategy 2014 (CS), Policy DP1 of the Colchester Development Policies 2014 (DP), the Council's Backland and Infill Supplementary Planning Document 2010 (SPD) and Policy WIV 13 of the Wivenhoe Neighbourhood Plan 2019 – 2033, which together and amongst other matters require high quality design that respects and enhances the character of an area and integrates well with existing development.

Living conditions

9. The proposed development would be in close proximity to the side elevation of No 64. This elevation contains two windows at first floor level and a further window at second floor level. Notwithstanding the Council's concerns, I am satisfied that the single storey, pitched roof, side extension at No 64 would interrupt any view from those windows, towards the rear garden of the proposed dwelling, to such a degree that privacy of future occupiers would not be compromised to a harmful degree.
10. As such I conclude that the proposed development would provide satisfactory living conditions for future occupiers with particular regard to privacy. Thus, it would comply with DP Policies DP1 and DP16 where they seek to avoid unacceptable impacts on amenity and ensure provision of private amenity space.

Highway safety

11. The proposal would retain the existing access in conjunction with the proposed dwelling and would create a new access within the site frontage for the existing property. The Highway Authority objected to the proposal, considering that as far as could be determined from the submitted plans the proposal would fail to provide a reasonable degree of intervisibility between users of the new access and those already on the highway. In addition, concern was raised that the proposal would introduce an additional and unnecessary point of conflict into the highway, and would lead to an intensification of the use of the site without adequate manoeuvring and turning facilities which would result in vehicles reversing to the highway to the detriment of highway safety.
12. However, in the absence of any substantive evidence from the Council to dispute the findings of the appellant's highway consultant, I am satisfied that the proposed access would meet the visibility requirements of Manual for Streets for a 30mph speed limit road in a residential area. In addition, I am satisfied that the proposed development would provide satisfactory levels of parking and manoeuvring within the site, for both dwellings, such that the development would not result in the need to reverse onto the highway.
13. With regard to intensification of use of the site by the provision of an additional dwelling and the additional access point, the number of traffic movements would be commensurate with that of the use of other similar accesses along the street. Given this, in combination with the acceptability of the proposed access in terms of visibility, the 30 mph speed limit and the 'Crashmap' evidence indicating an absence of incidents along this stretch of road, I consider that the proposal would not result in unacceptable harm to highway safety.
14. Thus, the proposal would not conflict with DP Policies DP12 and DP17 or the SPD where they require accesses to be created in a manner which maintains the right and safe passage of all highway users, including by the provision of adequate turning space within the site.

European sites and local infrastructure

15. The appellant has agreed in principle to making the financial contributions sought by the Council towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and local community facilities. The Council has confirmed that should arrangements be made, for a legally binding mechanism, in the form of a Unilateral Undertaking (UU), it would consider these reasons for refusal satisfied. However, no completed UU has been received during the appeal process. Therefore, reasons two and three of the Council's decision still stand over the lack of a legally binding mechanism to secure these contributions.
16. The means to undertake an assessment of the proposal's effects on the nearest European sites, required under the Conservation of Habitats and Species Regulations 2017 is, therefore, lacking. The proposal is contrary to DP Policy DP21 which does not permit proposals for development that would cause direct or indirect adverse harm to nationally designated sites or other designated sites or protected species without satisfactory prevention, mitigation and compensation measures being provided.

17. The proposal also remains in conflict with CS Policy SD2, DP Policy DP3 and the Council's Supplementary Planning Documents, the Provision of Community Facilities 2013 and the Provision of Open Space, Sport and Recreation 2006 in respect of a failure to mitigate for the demand on local infrastructure.

Other Matters

18. I note the absence of objection to the proposal by members of the public and that there is support for the scheme from third parties, however, this does not alter my overall conclusions.
19. My attention has been drawn to a plot further along the street which the appellant considers to be of identical size to the appeal site. This hosts two pairs of semi-detached dwellings and is referred to in order to garner support for the appeal proposal, in terms of demonstrating that the size of the appeal site is capable of accommodating two dwellings. However, I do not consider the scale and orientation of these pairs of semi-detached dwellings within their plots to be sufficiently comparable to the appeal scheme proposal as to be afforded any weight in the determination of this appeal.
20. The proposed building is of a high-quality design and would incorporate a range of environmental measures, including the use of natural materials and heating from a renewable source. These are benefits to which I attribute modest weight. Other issues where no material harm has been identified, would be neutral in the planning balance.
21. Conversely, I have found that the proposal would be contrary to policies of the development plan as cited above. I attribute significant weight to this conflict. I consider that the benefits of the proposal are not sufficient to outweigh the harm that I have identified and do not justify a decision being made other than in accordance with the development plan.

Conclusion

22. For the reasons given above the appeal is dismissed.

S Tudhope

Inspector