



Appeal Decision

Site Visit made on 16 June 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/A1530/W/21/3267165

17 Station Road, Tiptree, Colchester CO5 0AZ

- 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 & Mrs Barker against the decision of Colchester Borough Council.
 - The application Ref 200979, dated 15 May 2020, was refused by notice dated 21 July 2020.
 - The development proposed is Proposed two bedroom attached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Part 1 of the Council's new Colchester Borough Local Plan (the CLP) has been adopted. Part 2 of the CLP is still emerging and is currently under examination. It is therefore subject to change and thus it attracts only limited weight in my decision. The submitted evidence indicates that the policies referred to in the Council's decision notice have not yet been superseded by the emerging plan and therefore remain relevant.
3. On 20 July 2021 a revised National Planning Policy Framework was issued. The main parties were given the opportunity to comment on the implications of the resulting changes for this appeal. Neither party provided comment. Any reference to 'the Framework' made within the decision are to this revised version.

Main Issues

4. The main issues are the effect of the proposed development on (i) the living conditions of the occupiers of 17 Station Road and whether or not the proposal would provide satisfactory living conditions for future occupiers of the proposed dwelling, with particular regard to noise and disturbance; (ii) highway safety; (iii) the integrity of European sites; and (iv) local infrastructure.

Reasons

Living conditions

5. The existing parking arrangements at the front of 17 Station Road (No 17), whereby vehicles are parked side by side and parallel to the highway in front of the dwelling, and the way that vehicles enter and exit this area from Firs Road close to its junction with Station Road, would be retained as part of the appeal proposal. The effect of this arrangement on the living conditions of the occupiers of No 17 would therefore be unchanged. Consequently, I do not

consider that the appeal proposal would result in any harmful impact on the living conditions of the occupiers of that property.

6. Nevertheless, the proposal would result in the new dwelling having an unrelated parking and manoeuvring area positioned directly in front of it. The comings and goings across this area would be separate to and uncontrolled by the future occupiers of the proposed dwelling. There would be a degree of noise and disturbance from those movements, the sound of car doors closing and of engines being started. It is also likely that glare from the headlights of the vehicles using this space would shine into the proposed dwelling's living room at unacceptably close range, which would be particularly noticeable during the hours of darkness. In my view, the close proximity of the unrelated vehicle movements directly in front of the proposed dwelling's living room and directly below a bedroom, would result in unsatisfactory living conditions for future occupiers, with regard to noise and disturbance.
7. The number of vehicular movements generated by the occupiers of No 17 would be commensurate with the size of that property and would perhaps be tempered by the potential to access nearby services and facilities without the need to rely on the use of private motor vehicles. There would be a level of background noise, experienced by future occupiers of the proposed dwelling, arising from vehicles passing along Station Road. However, these matters do not persuade me that the proposed arrangements would be acceptable.
8. Accordingly, while I have not found harm in relation to the effect of the proposal on the living conditions of the occupiers of No 17, I have found that the proposal would not provide satisfactory living conditions for future occupiers of the proposed dwelling, with regard to noise and disturbance. The proposal would conflict with Policy UR2 of the Colchester Core Strategy 2014 (CS), Policies DP1 and DP12 of the Colchester Development Policies 2014 (DP) and the Council's Backland and Infill Development Supplementary Planning Document 2010, where they seek to avoid unacceptable impacts on amenity.

Highway safety

9. The proposal would rely on the continued use of existing parking and access arrangements for the host property, No 17. Whilst this area is not included within the appeal site, it is necessary to ensure that the proposed subdivision of No 17's plot provides acceptable access and parking arrangements for both the existing and proposed dwellings. From the submitted evidence and what I have seen on site, it is clear that the shingle surfaced area, in use for access and parking at the front of No 17, utilises a piece of land which lies outside the ownership of the appellants and which forms part of the visibility splay for Firs Road.
10. The manoeuvring arrangements that the use of this area necessitates are unsatisfactory and are likely to cause some conflict with, and therefore risk to the safety of, other users of Firs Road, including pedestrians. The proposal would also remove the ability for the occupiers of No 17 to park elsewhere within their plot, thereby ensuring reliance on unsatisfactory arrangements to the detriment of highway safety.
11. I accept that this concern may not have been raised by the Council when it granted planning permission at the site for an extension to the dwelling and then separately for an extension to the dwelling for annexe accommodation.

However, those proposals are not directly comparable to the appeal scheme and do not therefore justify acceptance of a substandard access in this case.

12. The proposed dwelling would be provided with the appropriate number of parking spaces for a property of its size. The arrangement would necessitate reversing either into or out of the spaces within Firs Road. Whilst I consider that the number of vehicle movements within this no-through private road would be likely to be low, commensurate with the number of dwellings that it serves, and that speeds would be likely to be slow, the proposal would, nevertheless, result in an increase in the potential for conflict between users of this road that could result in damage or injury.
13. The existence of other similar arrangements within Firs Road does not justify the provision of additional substandard arrangements. Further, it is apparent that the proposed visibility splay to the south of the parking spaces lies outside of the appeal site and the proposal cannot therefore demonstrate that this area could be retained free from obstruction in the future.
14. Drawing all of these matters together, I conclude that the proposal would not provide satisfactory access and parking arrangements for either the host property, No 17, or the proposed dwelling, to the detriment of highway safety. It would conflict with DP Policies DP12, DP17 and DP19 and the Council's Supplementary Planning Documents, Vehicle Parking Standards 2009 and Backland and Infill Development 2010, which, among other things, seek to ensure that developments deliver adequate parking provision and are served by a safe means of access.

European sites

15. The evidence indicates that the appeal site is located within the recognised zone of influence of one or more European sites¹ and within the area covered by the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The appellants have agreed in principle to making the financial contributions sought by the Council towards the RAMS. However, no legally binding mechanism to secure such payment has been received during the appeal process. 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.
16. 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. I also find conflict with emerging Policy ENV1 in this regard.

Local infrastructure

17. The Council has advised that a financial contribution is required towards the provision of sport and recreation and community facilities. I have not been provided with a planning obligation and the appellants have contested the necessity of such contributions.

¹ Now the 'national site network' when referring to the network of European sites in the UK, following the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

18. CS Policy SD2 and DP Policy DP3 set out the Council's requirements for contributions towards local infrastructure in terms of community facilities and sport and recreation. The policy context and explanation for the requirements, including relevant financial calculations and confirmation as to how the monies would be invested, are set out in the Council's adopted 'Provision of Open Space, Sport and Recreational Facilities' and 'Provision of Community Facilities' Supplementary Planning Documents. Although only one dwelling is proposed, this is a development type identified by the Council as having the potential to place additional demands on local infrastructure.
19. The Council has identified two projects in its evidence. This approach is consistent with the Council's local plan policies and guidance and the contributions would be fairly and reasonably related in scale and kind to the proposed development. The projects would relate to facilities that could be used by future occupiers of the proposed dwelling. The requirements meet the relevant tests for planning obligations.
20. Therefore, in the absence of any mechanism by which to secure the required payments and any substantive evidence to refute the need for such contributions, I conclude that the proposal would have an unacceptable impact on local infrastructure, with particular regard to the provision of sport and recreation and community facilities. Thus, the proposal conflicts 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

21. My attention has been drawn to development further along Station Road (No 11, a block of flats) which is situated between a restaurant and a public house, with which it shares an access. The appellants consider that the activity associated with the use of the existing parking area at the front of No 17 would not be dissimilar to that found at No 11 and that this provides justification for the appeal scheme. However, from the evidence provided and from what I saw on my site visit, it is clear that the circumstances at No 11, in particular the parking arrangements, are not sufficiently comparable to the appeal scheme proposals as to be afforded weight in the determination of this appeal.
22. I note the concerns raised regarding the use of Firs Road to access the proposed parking for the new dwelling and whether or not the appellants have right of access over this private road. Whilst this matter is unclear from the evidence, given my findings on the main issues, I have not pursued it any further.
23. The proposal would make a small but meaningful contribution to the supply of housing and would seek to make more efficient use of land in an accessible location. I afford these benefits modest weight commensurate with the scale of development proposed. Other issues where no material harm has been identified, would be neutral in the planning balance.
24. Conversely, I have found that the proposal would be contrary to policies of the development plan resulting in harm as cited above. These are matters I give significant weight. Overall, the benefits of the proposal, when considered individually or cumulatively, would be outweighed by the harm I have

identified. The proposal would conflict with the development plan as a whole and there are no other material considerations including the provisions of the Framework which outweigh this finding.

Conclusion

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

S Tudhope

INSPECTOR

