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# Appeal Decision

Site Visit made on 28 September 2021

**by Graham Chamberlain BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> October 2021**

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**Appeal Ref: APP/A1530/W/21/3269111**

**Land adjacent 1 Whitehouse Cottages, Bourne Road, West Bergholt, Essex CO6 3EW**

- 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 Ms Duff against the decision of Colchester Borough Council.
  - The application Ref 201280, dated 24 June 2020, was refused by notice dated 18 August 2020.
  - The development proposed is described as 'erection of one attached dwelling'.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for an award of costs was made by Ms Duff against Colchester Borough Council. This application will be the subject of a separate Decision.

## Preliminary Matters and Main Issues

3. A revised version of the National Planning Policy Framework (the 'Framework') has recently been published and the parties had an opportunity to address this in their submissions. Since the Council issued its decision it has adopted Section 1 of its new Local Plan, which contains several strategic policies. There is nothing of substance before me to indicate this change should have a important bearing on the outcome of this appeal.
4. The main issues in this appeal are the effects of the proposal on:  
1) The character and appearance of the area; 2) Highway safety; and 3) The provision of sport and recreational infrastructure and community facilities.

## Reasons

### *The character and appearance of the area*

5. The appeal site encompasses a parcel of land located towards the edge of West Bergholt on the corner of Bourne Road and Chapel Lane. The properties in Bourne Road exhibit a mixture of architectural styles and forms. That said, the street scene has a harmony due to the position of properties in discernible building lines behind front gardens. Many of these front gardens are enclosed by hedges and incorporate lawns and planting. This provides a pleasant and verdant edge of village character to the street, which tapers off into a country lane. In this regard, the hedging to the front and side of 1 Whitehouse Cottages (No 1) contributes to the character and appearance of the area.

6. To accommodate adequate parking for the proposed dwelling, the drawings show a parking space in front of No 1 and another in front of the new dwelling. This arrangement would require the removal of the frontage hedge, widening the highway access and the construction of additional hardstanding. These works would adversely erode the quality of the street scene of Bourne Road and are discouraged by the backland and Infill Development Supplementary Planning Document. The parking would also appear cramped due to the position close to the front elevation of the existing and proposed dwellings.
7. The parking dominated layout would be exacerbated by the provision of spaces to both the front and rear of the new dwelling. In isolation, parking to the rear may not be as problematic because Chapel Lane is characterised to a greater extent by prominently sited parking areas. However, hedging would be removed to create the access and visibility splays, and the drawings do not show this loss being offset by new planting. The proposal would therefore harmfully erode the verdant character of the area.
8. The appellant submits that the parking works do not require planning permission. Even if I were to agree, it is unlikely they would occur independently of the appeal scheme given the recent landscaping of the front garden and the ample level of parking currently on site. Thus, the apparent ability to do these works without planning permission is a fallback position to which I afford limited weight. In any event, the parking to the front and rear would appear cramped when seen in combination with the new dwelling.
9. The proposed dwelling would have very similar dimensions to No 1 but I nevertheless share the view of the Council that the appeal scheme would result in an unbalanced terrace due to the fenestration. This impact could have been lessened markedly by sensitive detailing. However, the scheme proposes clumsy features such as relatively large porch, different windows and a long ridge unrelieved by a replicating chimney. It would be unreasonable for me to impose a condition requiring these features to be entirely redesigned without further details before me demonstrating an acceptable solution.
10. The new dwelling would have a smaller plot size than No 1, but it would not be dissimilar to the bungalows to the rear and the smaller extent of garden would not be obvious due to the boundary hedge. On balance, the plot size would be acceptable. The mixed appearance of the dwellings in the area, including recent infilling at 2A and 6A Bourne Road, would not justify the harm I have identified because the proposal as a whole would appear particularly stark for the reasons given, and due to its prominent corner location.
11. In conclusion, the proposal would harm the character and appearance of the area, the Bourn Road street scene in particular, and therefore it would be at odds with Policy UR2 of the CS<sup>1</sup>, Policy DP1 of the DPD<sup>2</sup> and Policy PP10 of the West Bergholt Neighbourhood Plan. These policies seek to secure development that is of a high quality, contextually appropriate and respectful of local character. This is consistent with Section 12 of the Framework

### *Highway safety*

12. There appears to be an existing recently re-established highway access from Chapel Lane into the appeal site. It is unclear whether this has been

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<sup>1</sup> Colchester Local Development Framework Core Strategy

<sup>2</sup> Colchester Local Development Framework Development Policies

established lawfully. Notwithstanding this, its narrowness, the presence of a five-bar gate and the modest area of hardstanding beyond it means residents of No 1 would currently find it much more convenient to instead park vehicles to the side of their property. To this end, the area to the side has recently been upgraded with a gravel finish. The Chapel Lane access would therefore see an intensification in use were the appeal scheme to be approved.

13. Despite the concerns raised by the Council and Local Highway Authority, the appellant has not provided details of visibility splays or tracking demonstrating there is adequate space in Chapel Lane to manoeuvre into and out of the appeal site. That said, the presence of other highway accesses along Chapel Lane indicates that the carriageway is wide enough.
14. The existing fence and hedge would restrict visibility at the Chapel Lane access. This could be remedied to an extent by removing part of the hedge, but it is unclear how much would need to be removed to achieve adequate visibility. More significantly, in the absence of details it is unclear the extent of visibility splays to the north and to what extent they would require land outside the appellant's control. As a result, the appellant has not demonstrated that the Chapel Lane access would have adequate visibility and thus operate safely with the intensification caused by the proposed development. Chapel Lane is probably lightly traffic by slow moving vehicles so a reduced splay may be acceptable. Moreover, there are no accident records before me, and 2 Chapel Lane appears to have restricted visibility. However, the proposed access would be close to the junction with Bourne Road and there are no pavements in the vicinity. As a result, there is a need to demonstrate adequate visibility splays.
15. The existing access onto Bourn Road is well established, serves two vehicles and appears to be regularly used. The hedge along Chapel Lane has already been trimmed back. In this context the changes to the frontage would not prejudice highway safety. Nevertheless, the appellant has failed to demonstrate that the Chapel Lane access would have adequate visibility and thus operate safely. In conclusion, the proposal would be contrary to Policies DP1 and DP17 of the DPD, which state that new development should be safe. This is an aim consistent with Paragraph 110 of the Framework.

### *Infrastructure*

16. The Council submit that contributions towards local community and recreational infrastructure is a requirement of Policy SD2 of the CS as well as Policy DP3 of the DPD. The background policy context and rationale for these requirements, along with standards and calculations are set out in adopted Supplementary Planning Documents<sup>3</sup>.
17. The Council has belatedly explained that the contribution towards community facilities would be spent on the Open Hall in West Bergholt. The appellant has not disputed the necessity of this and has confirmed no 'in principle' objection. That said, they have not advanced a mechanism for securing the contribution, such as a planning obligation. In the absence of this, the evidence before me indicates the proposal would place unmitigated additional pressure on the Open

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<sup>3</sup> Community Facilities Supplementary Planning Document and the Provision of Open Space, Sport and Recreational Facilities Supplementary Planning Document

Hall, which is a community facility, contrary to the above policies. This is a conclusion consistent with a similar appeal decision at another site<sup>4</sup>.

18. However, in respect of the recreational contribution the Council has failed to specify a figure, confirm where it would likely be spent or set out an up-to-date evidence base underpinning the request. It is therefore difficult to gauge whether it is necessary and proportionate. As such, the Council has failed to demonstrate that a recreational contribution would meet the relevant tests<sup>5</sup>.

### **Other Matters**

19. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 requires an Appropriate Assessment (AA) to be carried out where the competent authority is minded to grant consent for a development. Given my overall conclusion that the proposal is unacceptable for other reasons, there is no need for me to undertake an AA in this instance.

### **Planning Balance**

20. The appeal scheme would harm the character and appearance of the area and the appellant has failed to demonstrate that the Chapel Lane access would be safe. The impacts on community infrastructure would not be mitigated. These impacts would be at odds with the development plan as a whole. This conflict is a matter of significant weight against the proposal.
21. The appeal scheme would deliver several benefits as it would be a windfall development in a built-up area close to facilities. It would support housing land supply and the local economy through construction jobs and the spend of future occupants. However, the positive contribution in respect of these matters would be modest in extent as only one home is proposed. Thus, the adverse impacts of the proposal would not be outweighed by its benefits.
22. Within the appellant's planning statement, it is suggested that the Council are only able to currently demonstrate a 4.7yrs housing land supply. The Council do not dispute this anywhere in their submissions, although the Inspector in the appeal decision referred to above indicated that the Council does currently have a five-year housing land supply. Even if I were to accept the appellant's proposition set out in the planning statement, the adverse impacts on the character and appearance of the area and highway safety would significantly and demonstrably outweigh the scheme's benefits. This would be the case before factoring in the effect on community infrastructure.

### **Conclusion**

23. The proposal fails to be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the submitted evidence, the matters weighing in favour of the appeal proposal would not outweigh the identified harm and the subsequent conflict with the development plan. Accordingly, the appeal has failed.

*Graham Chamberlain*  
INSPECTOR

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<sup>4</sup> APP/A1530/W/20/3262247

<sup>5</sup> See Paragraph 57 of the Framework