



Appeal Decision

Site visit made on 21 December 2021

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 17 JANUARY 2022

Appeal Ref: APP/A1530/W/21/3273024

35 Barfield Road, West Mersea, Colchester, Essex CO5 8QX

- 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 Leo Knifton against the decision of Colchester Borough Council.
 - The application Ref 202260, dated 12 October 2020, was refused by notice dated 15 February 2021.
 - The development proposed is erection of 1No. single storey dwelling house, with associated parking & landscaping to the rear of 35 Barfield Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal relate to whether this proposal would be appropriate with regard to the following matters:
 - the character and appearance of the area;
 - the living conditions of the occupiers of number 35A, with particular regard to a reduced back garden and any noise and disturbance arising from the intensification in use of the adjacent access;
 - the living conditions provided for future occupiers of the proposed dwelling, with particular regard to private outside space and any noise, vibration and other disturbance, especially during unsocial hours;
 - the adequacy of arrangements for car parking and providing for a safe and suitable means of access;
 - the mitigation for additional demand upon sports and recreation and other community facilities and for increased impacts upon protected European nature conservation sites.

Reasons

Character and appearance

3. The proposed dwelling would occupy the rear garden of No 35; a property which is in a mixed use, comprising retail and residential units. This site backs onto playing fields but is otherwise surrounded by a quite dense grain of development. A retail development occupies most of the adjacent plot at No 37, and access to the proposed dwelling would be via the narrow service road

to this running between the two sites. To the other side of the appeal site lies blocks of garages and high-density terraced housing. The site is quite tightly hemmed in by other properties. With the building occupying a large proportion of the available plot, this scheme would comprise a rather confined form of development, even in the context of the quite dense grain that surrounds it. Coupled with the back land siting, this would amount to a proposal of marked incongruity with the prevailing built pattern. The appellant has provided evidence of nearby dwellings with similar built footprint to plot ratios. However, these are all examples of comprehensively designed layouts of terraced housing, with conventional front and rear gardens, and do not alter my view over the cramped and incongruous nature of the dwelling proposed.

4. What is proposed is of a intrinsically satisfactory contemporary design, that has applied some creativity to be able to occupy the rather confined site. However, to maintain internal privacy, the site would be partly enclosed by tall fencing and as such would make no positive contribution towards the built character of this area. Otherwise, the low profile, rectilinear design would be relatively inconspicuous, including as glimpsed in the street scene from Barfield Road. Nevertheless, this scheme would be out of keeping with its built surroundings, such as to bring it into conflict with Policy UR2 of the Council's Core Strategy¹ (CS). This resists developments that are discordant with their context and fail to enhance the character, quality and function of an area. For the same reasons, there would be further conflict with Development Policies² (DP) Policy 1 over its requirement for proposals to respect and enhance the character of a site, its context and surroundings.
5. CS Policy UR2 and DP Policy 1 remain broadly consistent with the National Planning Policy Framework (the Framework) and its objectives for achieving well designed places. As such, both policies are considered to be up to date and a full degree of weight may be given to the conflict with them. The scheme would be inappropriate in respect of its adverse effects upon the character and appearance of this area and a significant degree of harm would arise as a consequence.

The living conditions of the occupiers of number 35A

6. The access is already used in connection with the next-door retail use. The adjacent street appeared busy during the day, due to the movements and car parking of shoppers and residents. The additional use of this access by the proposed dwelling would give rise to a small degree of further noise and disturbance, such as to cause limited harm to the present living conditions at number 35A. This limited degree of harm might be mitigated by the fencing suggested by the appellant to provide better sound insulation. Any residual harm would be compounded slightly by the reduced back garden size. However, there is evidence this garden space was never fully utilised, and what would remain appears to be adequate.
7. I find that there would be some harm to the living conditions of the existing occupiers at No 35A, as a consequence of what is proposed. This harm would conflict with DP Policy 1 (iii) over protecting existing residential amenity. This remains consistent with the Framework, over its aims to create places with a high standard of amenity for existing and future users, and so is also given a

¹ Colchester Local Development Framework Core Strategy adopted December 2008

² Colchester Local Development Framework Development Policies adopted October 2010

full degree of weight. However, only a limited degree of further harm would arise from a conflict with DP Policy 1 (iii), in respect of adverse effects on the living conditions of the occupiers of number 35A.

The living conditions provided for future occupiers of the proposed dwelling

8. The new dwelling would be provided a small but adequate garden area, which is to be fenced in to provide some reasonably secluded amenity space. The dwelling would be adjacent to where there appeared to be a small amount of car parking associated with the retail unit. The noise and disturbance from such small amounts of vehicular movement in the adjacent area would not be enough to deem this plot as incapable of providing adequate future living conditions. The evidence is that the shop is serviced directly from the main road and not via the side access, which would mean there would likely not be noise and disturbance emanating from delivery vehicles. My conclusion is that the proposed dwelling would provide adequate living conditions for future occupiers. As such I find no material conflict with the respective parts of DP policies 1 and 16.

Car parking and means of access

9. The site is served by a narrow vehicular access with restricted turning space. The proposed parking spaces would be inconvenient to use given the potential for conflict with an external staircase and other parked cars in the adjacent area at the back of the shop. Furthermore, because the access is narrow, there is the potential for conflict between vehicles leaving and wishing to enter the site at the same time. This could necessitate reversing movements onto Barfield Road where there is evidently already a considerable amount of conflicting vehicular activity and movement.
10. The appellant has provided evidence of a right of way to the site via the proposed access. The external staircase is said to be contrary to this, and permission could be conditional upon this being removed. A single dwelling with two parking spaces would not generate a large number of daily vehicle trips. Notwithstanding these factors, I consider the access to the site to be of an insufficient width and standard to cater for any further vehicular use. For this reason, the proposal conflicts with DP Policy 17, insofar as this requires development be provided safe access for all users. This remains consistent with the Framework's objectives for safe and suitable site access. DP Policy 17 therefore retains full weight in this decision, and I find a significant degree of harm arising from the conflict with it.

Mitigation for additional demand on facilities and for impacts upon the protected European sites

11. The Council's fourth and fifth reasons for refusal relate to the lack of a legally binding mechanism to secure planning contributions required in association with, respectively, sport/recreation/community facilities and Habitat Regulations mitigation under the emerging Essex Coast Recreational Disturbance, Avoidance and Mitigation Contribution Strategy (RAMS). This might be resolved by amending the appellant's draft section 106 obligation to include the RAMS contribution, and for this then to be signed, dated and completed as a deed. However, in view of my final conclusions, I have not pursued this matter further.

Conclusion

12. The proposal would provide increased surveillance and security at this rear part of the site. However, this is a minor benefit, as too is the contribution towards overall housing supply of just one additional dwelling. Set against this are the number of disadvantages of a dwelling in this location. Whilst individually these might not amount to harms of a fully determinative nature, they collectively add up to a significant adverse effect. Most particularly in relation to the character and appearance of the area and an unsafe and unsuitable means of access, such harm would outweigh any small benefits. On balance, the proposal represents an unsuitable overdevelopment of a residential back garden site, contrary to the development plan and the Framework when both are read as a whole. Therefore, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR