
Appeal Decision

Site visit made on 22 February 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal Ref: APP/A1530/W/21/3277213

18 St Annes Road, Colchester CO4 0BL

- 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 Claire Marsh (CES) against the decision of Colchester Borough Council.
 - The application Ref 202889, dated 23 December 2020, was refused by notice dated 26 March 2021.
 - The development proposed is described on the application form as 'Proposed dwelling to rear of 18 St Annes Road'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The main parties have had an opportunity to comment on the revised National Planning Policy Framework 2021 (the Framework) and I have had regard to it in this decision.
3. The appellant has submitted a signed and dated Unilateral Undertaking (UU) in respect of this appeal. The Council has considered the UU and has outlined that it is no longer defending reasons for refusal 5 and 6 (as numbered on the Council's decision notice). These relate to requirements under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations) and contributions towards sport & recreation and community facilities, respectively. The main issues of this appeal reflect the Council's latest position in this regard, and I have not therefore identified any conflict with the development plan policies referred to in these reasons for refusal. Notwithstanding this, the implications in relation to the Habitat Regulations are discussed further under 'other matters'.
4. The Council's reasons for refusal refer to emerging Policy ENV1 of the Section 2 Colchester Publication Draft Local Plan (October 2021). The Council's Officer Report indicates that this plan is currently at examination stage and is yet to be adopted. I have not been provided with any evidence to suggest that this position has changed. Given the early status of the plan, its policies can only be afforded limited weight.
5. Planning permission was previously granted by the Council for a new dwelling¹, attached to 18 St Annes Road (No.18). That development has been constructed. However, the appeal proposals include a revised location for the

¹ LPA Reference: 191780

two parking spaces associated with this recently constructed dwelling. The currently proposed dwelling would be sited in the location of the two previously approved parking spaces. I also noted, during my site visit, that the parking spaces have been constructed and laid out in the location currently proposed under this appeal.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the surrounding area.
- Whether the proposed development would provide an adequate standard of accommodation to future occupiers, with particular regard to the amount and quality of the outside space proposed.
- The effect of the proposed development on highway safety.
- The effect of the proposed development on the living conditions of the occupiers of 20 St Annes Road, with particular regard to privacy.

Reasons

Character and Appearance

7. The appeal site is a small area of land adjacent to Dilbridge Road West which formerly comprised part of the rear garden of No.18. It is also located to the rear of the recently constructed dwelling attached to No.18.
8. The surrounding area has a strong consistency and structured layout that contributes positively to its character and appearance. It consists mainly of traditional brick two storey semi detached and terraced dwellings arranged as frontage plots with, generally, deep gardens with a set back and parking to the front. In this context, the proposed plot would be very small. This would not only result in a constrained plot overall but a restricted garden and a building in very close proximity to the road. This, as well as the addition of an integral garage, would result in dwelling that bears a very limited relationship with the surrounding area, jarring with its clear consistency and structure.
9. The proposed development would therefore result in unacceptable harm to the character and appearance of the surrounding area and would therefore conflict with Core Strategy² Policy UR2 and Development Policies³ DP1 and DP12. Together, these policies seek to ensure that development is of a high-quality design.
10. The Council's reason for refusal also refers to the Backland and Infill Supplementary Planning Document⁴ (Backland SPD). However, the Council has not specified which part of the Backland SPD would be conflicted with and a copy has not been provided to me. As such, I have not identified any conflict with it.

² Colchester Borough Council Local Development Framework – Core Strategy (Adopted December 2008)

³ Colchester Borough Council Local Development Framework – Development Policies (Adopted October 2010, revised July 2014)

⁴ Colchester Borough Council – Supplementary Planning Document – Backland and Infill Development (Adopted September 2009, revised December 2010)

Standard of Accommodation

11. A very small area of private outside space would be provided to the rear of the proposed dwelling and some outside space would also be provided to the side, adjacent to the proposed parking spaces. Given the small size of the appeal site, much of this outside space would be squeezed between neighbouring boundary treatments and the proposed dwelling. Users would therefore be subject to an enclosed and oppressive experience. In addition, the total area of outside space provided would be 43sqm. This is below the minimum of 50sqm required for one-bedroom dwellings under Development Policy DP16. The proposed development would therefore conflict with Policy DP16 in this regard.
12. In terms of the quality of the space proposed, it would be located in relatively close proximity to an existing parking area and the adjacent highway. However, the majority of the space would be to the rear of the dwelling. As such, future occupiers using this space would not be susceptible to noise or light and emissions pollution over and above what might typically be expected in an urban residential area.
13. That said, the proposed outside space would be very small and constrained and would not provide a suitable standard of accommodation for future occupiers. The proposed development would therefore conflict with Core Strategy Policy UR2 and Development Policies DP1, DP12 and DP16 which together require that development is designed to a high standard, providing adequate and high quality 'amenity space'.
14. There would also be a conflict with Framework 130, which requires in part that developments create a high standard of amenity for future users.
15. Given my conclusions in relation to noise and pollution, there would not be a conflict with Development Policy DP12, which seeks in part to avoid adverse effects in these regards.

Highway Safety

16. The proposed development includes two car parking spaces to serve the recently constructed dwelling to the east of the site (a revised location compared to that approved under Council planning permission reference 191780). The parking spaces appear to have already been constructed and laid out as proposed. The development also includes an integral garage which would provide one space for the proposed dwelling. There is some on-street parking available in the vicinity of the appeal site. However, during my site visit I noted that the majority of the vehicles parked on street were partially obstructing the footways, given the relatively narrow carriageway.
17. The Parking Standards SPD⁵ requires that one car parking space is provided for dwellings comprising one bedroom. The SPD also sets out minimum dimensions of 7m x 3m for car parking spaces. The proposed garage space would measure 6m x 3m and would therefore fall short of this standard. As a result of the substandard size of the proposed space, it would be likely that occupiers of the proposed development would park on-street. This would lead to obstructions to the highway and increase the likelihood of conflicts between road users.

⁵ Essex Planning Officers Association: Parking Standards – Design and Good Practice (September 2009)

18. In addition, given the location of the garage, in very close proximity to the footway, visibility in each direction would be very limited. The visibility in this regard would be much worse than that possible from the two spaces approved under the previous planning permission (which were proposed in a similar location). The appellant suggests that the wide footway allows for good visibility of oncoming vehicles. However, this would not overcome the very poor visibility of pedestrians using the footway itself. This would be particularly dangerous if vehicles were reversing out of the proposed garage, when visibility would be even further reduced. The steep gradient of the highway in this location would also increase the potential for conflicts between pedestrians and vehicles to arise in this regard.
19. The proposed development would therefore result in an adverse impact on highway safety and would conflict with Development Policies DP12, DP17 and DP19 and the Parking Standards SPD, which together require that adequate parking is laid out to an acceptable standard and that development does not lead to an adverse impact on highway safety.
20. The Council's reason for refusal also refers to the Backland SPD. However, the Council has not specified which part of the Backland SPD would be conflicted with and a copy has not been provided to me. As such, I have not identified any conflict with it.
21. It is not clear whether the Council's reasons for refusal extend to the two parking spaces proposed to serve the newly constructed dwelling to the east. However, given that I am dismissing the appeal on other grounds, including the impact of the proposed garage on highway safety, it is not necessary for me to consider this matter further.

Living Conditions

22. The proposed dwelling includes several first-floor windows which would face the end of the rear garden of 20 St Annes Road (No.20). However, the windows are all shown on the submitted plans as high-level windows, or otherwise could be obscure glazed (through imposition of a planning condition). As such, they would not result in any unacceptable loss of privacy to the occupiers of this neighbouring property. Neither would there be any unacceptable 'perception' of a loss of privacy, as is suggested by the Council. This is because the dwelling would be sited at the very rear of the neighbouring garden and the majority of the garden would not be overlooked, even in a perceptual sense.
23. For these reasons, the proposed development would not result in any unacceptable loss of privacy to the occupiers of No.20 and it would therefore comply with Development Policy DP1, which seeks in part to ensure acceptable living conditions for neighbouring occupiers.
24. Core Strategy Policy UR2 is not relevant to this main issue as it relates to general design considerations.

Other Matters

25. The UU, provided by the appellant, includes provision for a Recreational disturbance Avoidance and Mitigation Strategy (RAMS) payment and the Council's reasons for refusal indicate that the development may have a significant or adverse effect on a Special Protection Area (SPA). However, I have not been provided with evidence to establish which protected sites would

be affected or what effect the RAMS payment would have in terms of mitigating any such effects. Nonetheless, given that I am dismissing this appeal on other grounds, it is not necessary for me to undertake an Appropriate Assessment as would otherwise have been required under the Habitat Regulations. In the absence of such an assessment, despite the Council's contention that this matter has now been addressed, it is not possible to conclude on whether the proposed development would comply with Core Strategy Policy ENV1, Development Policy DP21 or emerging Section 2 Local Plan Policy ENV1, which together seek to protect designated sites (such as those protected under the Habitat Regulations).

26. The proposed development would provide one new dwelling which would contribute towards the housing stock. There would be social and economic benefits associated with this. However, given the small scale of the development, these benefits would be of limited weight and would not outweigh the harm which the development would cause.
27. The pair of semi-detached properties opposite the appeal site are orientated in a similar manner to the proposed development. However, in contrast, they are located more centrally in their plots, set-back from the highway and they also incorporate front driveways. They do not therefore lead me to allowing the appeal.
28. Development Policy DP16 sets out a 25sqm minimum requirement for 'private amenity space' for flats and the appellant suggests that a similar requirement should apply in this case. It is not clear why that should be so. Flats have different characteristics to dwellings and often include shared outdoor communal spaces. The appellant also indicates that there is a country park within 624m of the appeal site. However, this space is not private and nor would it be easily accessible to future occupiers of the proposed dwelling (in comparison to a private garden). As such, this is not a consideration which justifies the small and constrained amount of outside space which would be provided. The semi-detached dwellings opposite include small areas of private outside space. However, the case-specific circumstances under which those dwellings were granted planning permission are not before me. As such, this consideration does not weigh in favour of the proposed development

Conclusion

29. The proposed development would not result in any harm to the living conditions of neighbouring occupiers. However, the proposed development would be harmful to the character and appearance of the area, would have an adverse impact on highway safety and would not provide a suitable standard of living accommodation for future occupiers.
30. Therefore, the proposed development would conflict with the development plan taken as a whole and there are no other material considerations of sufficient weight which indicate that a decision should be made other than in accordance with it. As such, the appeal is dismissed.

Luke Simpson

INSPECTOR