



Appeal Decision

Site visit made on 31 January 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 5th April 2022

Appeal Ref: APP/A1530/W/21/3277518

16 Songers Cottages, Dedham Road, Boxted, Essex CO4 5SQ

- 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 Valdete Jusufi against the decision of Colchester Borough Council.
 - The application Ref 211074, dated 18 April 2021, was refused by notice dated 10 June 2021.
 - The development proposed is: *"Subdivision of the existing plot and erection of a self-contained 3-bedroom, 6-persons, 2-storey detached house to the side of the existing dwelling"*.
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Decision

1. The appeal is allowed and planning permission is granted, for the subdivision of the existing plot and the erection of a self-contained 3-bedroom, 6-persons, 2-storey detached house to the side of the existing dwelling, at 16 Songers Cottages, Dedham Road, Boxted, Essex CO4 5SQ, in accordance with the terms of the application, Ref 211074, dated 18 April 2021, subject to the conditions in the attached schedule.

Preliminary matter

2. In the Council's refusal notice, Refusal Reason No 3 (RR3) related to the perceived need for financial contributions for sport and recreation, and for community facilities. RR4 similarly related to the lack of a contribution to mitigate the development's potential effects on off-site protected habitats. Subsequently, the owners of the land have entered into a legal undertaking which provides for these contributions. The Council has been given an opportunity to comment on the undertaking and has raised no issues. In the absence of any submissions to the contrary, I am satisfied that the undertaking is sufficient to overcome RRs 3 and 4.
3. Based on the submissions before me, I agree that the requested contributions are necessary to make the proposed development acceptable in planning terms, and that in principle such contributions are relevant to the proposed development, and fair and reasonable in scale and kind. The undertaking therefore meets the requirements for planning obligations set out in the Community Infrastructure Levy Regulations 2010.

Main issues

4. The main issues in the appeal are the effects of the proposed development, firstly on the character and appearance of the area, and secondly on highway safety.

Reasons for decision

Character and appearance

5. I saw on my visit that Dedham Road is a semi-rural village street, comprising mainly post-war housing. The predominant housing type is mid-20th century semi-detached houses, interspersed with some detached and semi-detached bungalows, and at the western end some more recent developments including a flatted scheme and a small courtyard development. The character of the street is reasonably pleasant, but undistinguished.
6. Songers Cottages comprises a small group of semi-detached chalet bungalows, with a distinctive steep-pitched roof design, and a consistent elevational treatment consisting of blue-green painted horizontal cladding and a canopied porch. No 16, the appeal property, forms one of the end units in this group. To the side, it currently has a single-storey store room, and a concrete driveway and parking area. Beyond this is 2-story semi-detached housing.
7. The appeal proposal would replace the existing store room and hardstanding with a new detached chalet-style dwelling. The new dwelling would have a similar elevational treatment to the existing property, with matching eaves and ridge lines, and similar fenestration and horizontal cladding. In addition, the front elevation would have an enclosed porch and two cat-slide dormers. The existing plot would be divided lengthwise, providing rear gardens for both the new and existing dwellings of about 8m wide by around 40m in length. The existing front garden, of about 20m x 10m, would become a shared parking area for four cars.
8. I appreciate that the two subdivided plots would be narrower than many others in this part of Dedham Road. However, they would not be dissimilar from those a short distance to the east, opposite the junction with Cooks Hill. To my mind, the plot widths created in the appeal proposal would be commensurate with the scale of the existing and proposed dwellings, and with the likely needs of their occupiers. Having regard to the nature of the existing development in Dedham Road, and the lack of any particularly distinctive existing character, it seems to me that the quality of the street scene would not be adversely affected by dividing the plot in the way now proposed.
9. Similarly, the spacing between the existing and proposed new dwelling would be closer than currently exists, and closer than most other existing properties in the vicinity. However, the spacing of the existing buildings is not uniform throughout the street, and hence this does not appear as a particularly important characteristic of the area. Given the nature of the area's existing development, I can see no clear reason why the introduction of a more closely spaced dwelling in this case would cause unacceptable harm.
10. I note the Council's concern about what they describe as the 'bend' in the front elevation of the proposed new building. However, this seems to me a logical design response to the site's particular location and characteristics, in that this change of angle would allow the proposed dwelling to conform to the prevailing building line on either side, following the curve of the road. To my mind this aspect of the design not only serves a functional purpose, but adds visual interest. The 'apex' of the bend would be offset from the building's central axis, but I can see no reason why this should be seen as objectionable; indeed, to my mind, the Council's alternative of dividing the elevation into two

elements of equal width would be more, rather than less, visually unsettling. Inevitably, matters of design are subjective, and opinions may reasonably differ, but in this case I find no basis for the Council's suggestion that the proposed design would appear contrived.

11. The front garden would be predominantly hard surfaced and used for parking and turning. But that would be no different from many other gardens in Dedham Road. A significant part would still remain for planting and landscaping. The details of such landscaping, and of the surfacing of the vehicular area, would be controllable through conditions.
12. I conclude that the proposed development would cause no material harm to the character and appearance of Dedham Road or any part of the surrounding area. In this respect, the scheme would promote and secure high quality design and would respect the character of the site and its context, in accordance with the relevant provisions of Core Strategy¹ Policy UR2 and Development Policy² DP1.

Highway safety

13. The submitted layout plan proposes a shared parking area with four spaces equally distributed on either side of a single vehicular access. I note the Council's concerns, based on the Highway Authority's comments, regarding the width of the proposed access and the space available for manoeuvring. However, these concerns are expressed in generalised terms, and it is not clear from the submissions before me as to the detailed basis for them. Based on the information available, I see no apparent reason why the development would be likely to result in reversing at the access, or blocking of the turning area, or on-street parking.
14. Whilst I appreciate the need for good levels of highway safety, it seems equally important that any requirements in this respect are proportionate to the likely degree of risk, and are balanced against the consequential effects on the quality of the environment. In the present case, I saw on my visit that Dedham Road is lightly trafficked. Indeed at the time of my visit, the traffic flow was negligible; I accept that in the peak hours it may be heavier, but those times are limited in duration. Despite the slight bend at the appeal site, visibility is reasonably good. Many other properties in the road have parking arrangements that involve reversing onto the highway. There is no evidence of any significant accident record in the vicinity. To my mind, all these factors suggest a relatively low risk environment. Furthermore, having regard to the scale of the proposed development, it is clear that the number of traffic movements generated would be low, and thus any conflicting movements would be infrequent at most. Consequently, even if the Council's fears about reversing were to prove correct, the traffic movements resulting from the development could be accommodated in reasonable safety.
15. In addition, it is evident in my view that the site has sufficient space available to form an adequate access, and to provide four parking spaces, in a form that would meet reasonable highway requirements and provide for good standards of highway safety. If any minor amendments to the currently submitted layout were considered to be needed, there seems no reason why these could not

¹ The Colchester Borough Core Strategy, adopted December 2008

² The Colchester Borough Development Policies, adopted October 2010

have been secured either by way of an amended plan prior to determination, or by means of a suitable condition. However, I note that no such condition is now proposed.

16. The Council refers to Policies DM 1 and 8 of 'the Highway Authority's Development Management Policies'. But although that document is not before me, it does not appear to form part of the development plan. I therefore give more weight to Policies DM1, DM17 and DM19 of the adopted Development Policies, in which the most relevant provisions are those that seek to create safe, convenient and attractive environments, with satisfactory access and sufficient parking. For the reasons already stated, I consider that the proposed scheme complies with these policies.

The Council's suggested conditions

17. I agree that a condition requiring adherence to the approved plans is necessary, to define the permission and give certainty as to the approved details. A condition relating to the external materials is needed to ensure a satisfactory appearance. A requirement for a charging point is justified, in order to promote sustainable transport, in accordance with national policies. A limit on construction hours is reasonable, to safeguard the living conditions of neighbouring occupiers during construction.
18. A construction method statement is unnecessary, because any obstruction of the highway can be controlled under highway law. A restriction on permitted development is unjustified, because there is no evidence of any special circumstances necessitating a departure from the provisions of national legislation.

Conclusion

19. For the reasons set out above, I have found that the proposed development would cause no harm to the area's character or appearance, or to highway safety, thus complying with Core Strategy Policy UR2, and Development Management Policies DP1, DM1, DM17 and DM19. There is no dispute that these are the development plan policies most relevant to the appeal. No conflict with any other policies has been substantiated. The scheme therefore accords with the provisions of the development plan as a whole.
20. The development would provide one additional dwelling. This represents a benefit of some significance, irrespective of the District's 5-year land supply position. No other material considerations weighing against the development have been identified.
21. Having taken account of all the other matters raised, I find nothing that outweighs the above matters. I conclude that the development should be permitted. Accordingly, the appeal is allowed.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:
 - VJ/21-101 Proposed Site Plan
 - VJ/21-104 Proposed Ground Floor
 - VJ/21-105 Proposed First Floor
 - VJ/21-106 Proposed Roof Plan
 - VJ/21-107 Proposed Sections
 - VJ/21-108 Proposed Rear Elevation
 - VJ/21-109 Proposed Front and Side Elevations
- 3) No construction work above ground level shall take place until full details of the materials to be used on the external surfaces of the proposed building have been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out in accordance with the details thus approved.
- 4) No demolition or construction works shall take place outside the hours of 08.00 – 18.00 on Mondays to Saturdays. On Sundays and Bank Holidays, no such works shall take place at any time.
- 5) The proposed new dwelling shall not be occupied until an electric vehicle charging point has been installed and made operational. Thereafter, the charging point shall be retained and maintained in a useable condition at all times.