

Appeal Decision

Site visit made on 20 June 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2022

Appeal Ref: APP/A1530/D/22/3293551

29 Wilsons Lane, Marks Tey CO6 1HH

- 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 Evans against the decision of Colchester Borough Council.
 - The application Ref 212686, dated 29 September 2021, was refused by notice dated 14 December 2021.
 - The development proposed is erection of detached garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed garage on the character and appearance of the surrounding area; and the effect on the living conditions of neighbouring occupiers, with regard to privacy.

Reasons

Character and Appearance

3. The appeal property is a two storey semi-detached dwelling in a residential road of similar property types.
 4. Policy DP1 of the Colchester Borough Development Policies document (2010, amended 2014) and Policy UR2 of the Colchester Borough Core Strategy (2008, amended 2014) concern design and include requirements relating to high quality design in new development, and respect for the character and scale of existing development and the surrounding area.
 5. The proposed garage would be located behind the rear building line of the host dwelling and next to the detached garage of the neighbouring dwelling, No 27. As such, the layout would reflect the typical position of a detached outbuilding of this type. The neighbouring garage is single storey and of proportionate scale and appearance to the host dwelling.
 6. The proposed garage would be a much taller building, due to the need to accommodate the upper floor, with a ridge height of over six metres. Consequently, it would be taller than the eaves height of the host dwelling and
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- would not appear subordinate in scale. Moreover, its disproportionate size in the residential setting would be emphasised by its contrast with the adjacent smaller neighbouring garage. The new building would include design features that are not typically found on this type of outbuilding, notably the Juliette balcony to the front elevation and the flat-roofed dormer window to the side.
7. The combined effect of these design features and the height of the garage would result in it appearing incongruous and uncharacteristic in the street scene. It would have the appearance and proportions of a small dwelling rather than an ancillary building and, as such, it would compete visually with the host dwelling rather than complement its character and appearance. Despite the set-back of the garage it would be highly visible from the public realm and neighbouring dwellings from which views the harmful effects described would be readily apparent.
 8. The appellant draws attention by way of comparison to an approved one-and-a-half storey garage at 72 Coggeshall Road. While this is not far away from Wilsons Lane it does not form part of the same street scene, nor does it appear to have the same visual relationship with a smaller neighbouring garage as would be the case with the appeal site. As such, it cannot be seen as a direct precedent for the proposal in this appeal.
 9. Therefore, for these reasons, I conclude that the proposed garage would have an unacceptably harmful effect on the character and appearance of the surrounding area. Consequently, the proposal is contrary to Policy DP1 of the Colchester Borough Development Policies document and to Policy UR2 of the Colchester Borough Core Strategy, as described above. It is also contrary to the National Planning Policy Framework, which promotes good design. Policy SP7 of the North Essex Authorities Shared Strategic Section 1 Local Plan (2021) referred to by the Council is not directly relevant in this case as it concerns new garden communities in North Essex.
 10. I acknowledge that the proposed garage is intended to create additional living space. However, these personal circumstances do not overcome the harm and conflict with development plan policies that I have found would result from the proposal.

Living Conditions

11. Due to the height of the dormer windows I share the Council's concern that they may enable overlooking of the shared side boundary with No 31 towards the rear patio area of this neighbouring property. However, the appellant suggests that to avoid this loss of privacy the windows could include obscured glass, which could be required by condition. I accept that this would be possible and would overcome the likely harm that would occur.
12. The Juliette balcony with a large window to the front elevation would be close to the shared boundary with No 27. This property is positioned at an angle to the boundary and has an open side garden. Due to the height of the proposed balcony, the limited height of the boundary fence and the relative orientation of the proposed garage and No 27, it would be possible to gain close-range views towards the neighbouring dwelling and garden. This would result in a harmful loss of privacy for the occupiers.

13. I note the appellant's acknowledgement that the proposed window represents a form of development that is more intrusive than that of a traditional window. It is suggested, therefore, that the form of the window could be amended and that this could be required by condition. However, it is not clear what form any amendment would take and whether this could satisfactorily overcome the harm that has been found. As such, it would not be possible to impose a condition that could achieve with certainty the necessary objective.
14. Accordingly, for these reasons, I conclude that the proposed garage would cause material harm to the living conditions of the neighbouring occupiers of No 27 Wilsons Lane, with regard to privacy. Consequently, the proposal is contrary in this regard to Policy DP1 of the Colchester Borough Development Policies document, which requires amongst other matters that development will protect existing residential amenity, including with regard to privacy.

Conclusion

15. For the reasons given above it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR