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## Appeal Decision

Site visit made on 17 October 2022

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

an Inspector appointed by the Secretary of State

**Decision date: 31st October 2022**

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**Appeal Ref: APP/P1560/W/22/3296576**

**Number 19 and land to the rear of 17A and 17B Chilburn Road, Clacton-on-Sea, CO15 4NX**

- 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 K Kandiah against the decision of Tendring District Council.
  - The application Ref. 21/00258/FUL dated 27 January 2021, was refused by notice dated 29 October 2021.
  - The development proposed is demolition of existing bungalow and garage, construction of 3 No. bungalows and associated driveway and garages
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### Decision

1. The appeal is dismissed.

### Preliminary matters

2. As paragraph 2 of the National Planning Policy Framework (the Framework) points out, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. At the time that the appeal application was determined by the council, the adopted local plan consisted of the saved policies of the Local Plan 2007 and Section 1 (the more strategic policies) of the *Tendring District Local Plan 2013-2033 and Beyond* (TLP), which was formally adopted on 26 January 2021. Section 2 (more specific policies) of the *Tendring District Local Plan 2013-2033 and Beyond* was then still under examination, but was formally adopted on 25 January 2022. The 2007 Local Plan is now superseded. Since applications should be determined in accordance with the development plan, it is the recently adopted plans that are my starting point in considering this appeal proposal.
3. The second reason for refusal of the application concerned the absence of a unilateral undertaking to address the necessary contributions in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy in respect of Special Protection Areas, and also the council's Open Space and Play Supplementary Planning Documents. The appeal documents include a section 106 unilateral undertaking which secures the necessary contributions in the event that permission is granted. Therefore the council withdraws the second refusal reason.
4. The third refusal reason was in respect of the lack of an ecology survey or any biodiversity enhancement measures with it being likely that the proposed development would result in a loss of biodiversity, and possible harm to

protected species. The appellant has submitted a Bat Survey, undertaken by an appropriately qualified and licenced surveyor, which established that no bats we seen exiting the property and foraging behaviour was extremely low. This is satisfactory and would enable suitable conditions to be placed on any permission. Again, in the light of this, the council withdraws the third refusal reason.

## **Main Issue**

5. As a result of the matters dealt with in paragraphs 3 and 4 above, there remains a single main issue: the effect of the proposal on the character and appearance of the area.

## **Reasons**

6. There are 2 policies from the newly adopted local plan that the council quotes – Policies LP4 and LP8. Policy LP4 'Housing Layout' of Section 2 of TLP opens with the statement: *"To ensure a positive contribution towards the District's 'sense of place', the design and layout of new residential and mixed-use developments in the Tendring District will be expected to"* (there follows a number of criteria, of which h is relevant here): *h deliver new dwellings that are designed to high standards of architecture, which respect local character and which together with a well-considered site layout, create a unique sense of place;"*.
7. Policy LP8 'Backland Residential Development' begins *"Proposals for the residential development of "backland" sites must comply with the following criteria:"*, of which only criterion f is said to be contravened by the appeal proposal. This reads: *"f. the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development"*.
8. The housing on Chilburn Road primarily consists of bungalows, mostly detached on the north side, but with a number of 1½ storey dwellings, particularly on the south side of the road. The dwellings are set on a generally regular building line and are, for the most part, evenly spaced. No.19 Chilburn Road is a detached, single-storey hipped-roof dwelling, thought to date from the 1930s. The depth of rear garden conforms with most of those on the north side, but it widens out behind Nos. 17A and 17B which are semi-detached and appear to be of more recent construction. The plot that they are on may well have been of the regular depth in previous times.
9. The proposal would see the proposed frontage bungalow squeezed over to the eastern side of the appeal site in order to provide for the access drive to the pair at the rear. The drive is proposed to be 3.5m wide for most of its length, but widening at the front to 5.5m. These features would not conform to the general character of the street, and neither would the narrow frontage of the bungalow itself, emphasised by the forward projecting bedroom. The 2 bungalows at the rear would be clearly apparent from the road, again a feature at odds with the surroundings. There would also be very limited scope for any softening of the development with planting, which I consider the landscape plan rather illustrates, when existing bushes and hedges are welcome features in the road. I make this point noting that Nos. 17 A and B have fully paved frontages, but have at least preserved relatively generous areas where pots or planters can be placed.

10. At my site visit I included in my inspection the 5 examples given in the appellant's appeal statement, where it is said that developments of a similar type have taken place. My clear impression is that generally the circumstances are not particularly similar. The development next to 89 Chilburn Road for instance has a much wider entrance, and is closer in appearance to a cul-de-sac than a private drive. The Burrs Road example is not dissimilar to that next to No. 89. 'Wilson Court' in Gorse Lane illustrates, it seems to me, an incongruity in the street scene. Nor do I find the other examples in Gorse Lane to be persuasive. Furthermore, I have no knowledge of the circumstances that surrounded decisions in these cases.

### **Conclusions**

11. I conclude that the proposed development would have a harmful effect on the character and appearance of the area, and would be contrary to the intensions of TLP policies LP4 and LP8. For these reasons I will dismiss the appeal.

*Terrence Kemmann-Lane*

INSPECTOR