
Appeal Decision

Site visit made on 8 March 2023

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/A1530/W/22/3298551

52b Bourne Road, Colchester, Essex CO2 7LT

- 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 D Thursting against the decision of Colchester Borough Council.
 - The application Ref: 220585, dated 25 February 2022, was refused by notice dated 22 April 2022.
 - The development proposed is the erection of one dwelling.
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Preliminary Matters

1. The Council's decision included a reason for refusal relating to the failure to make provision for a contribution to mitigating any adverse impact on protected sites. However, an obligation pursuant to S106 of the 1990 Act has now been submitted and this would make provision for an appropriate contribution. As such, and in light of my final decision in this case, I do not need to consider this matter further.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in the appeal are:
 - (a) Whether the proposed development has adequate access for vehicles;
 - (b) Whether the proposed development would be of a suitable design and be situated in an acceptable location;
 - (c) The effect of the proposed development on surrounding residents.

Reasons

Access

4. The appeal site is part of a parcel of land to the rear of properties which front onto Bourne Road. The access would be taken from a relatively narrow unmade track between Nos 52a and 54. This track is about 3m in width between the side walls of those houses, though it widens on the approach to the appeal site. It is not disputed that the land has been previously developed and that, as such, it is suitable for development in principle, as encouraged in the National Planning Policy Framework (NPPF).

5. Bourne Road is a typical urban street and has a good deal of on street parking. Albeit that visibility at the exit of the track is adequate for slow moving vehicles driving in a forward gear there would be no scope for vehicles to pass each other within the track until a position close to the appeal site was reached. This must lead to a realistic possibility of vehicles having to reverse onto Bourne Road, which would conflict with highway safety. I acknowledge the representations which indicate that the appeal site has been used as a builder's yard, and that some comings and goings would have been associated with that. But I must consider the proposal in the light of the information put before me and following my site inspection.
6. It was clear from what I saw at my visit that the track is already used for access to garages located off it, and further traffic would clearly exacerbate any potential for vehicular conflict. Furthermore, I am mindful of the representations which indicate that the track is used by pedestrians, some of whom use it to walk to the nearby primary school. It seems to me, therefore, that any increase in the use of the track by vehicles would have the potential to cause conflict and loss of safety.
7. Of equal concern, given that this proposal is for a permanent dwelling, would be the difficulty of access for large vehicles, such as refuse lorries or fire tenders. These vehicles could not easily turn into the track or exit from it. Taken in the round, therefore, I am satisfied that the Council's concerns in relation to the unacceptability of the vehicular access to the appeal site have been borne out. There would therefore be conflict with Policy DM21 of the Colchester Borough Local Plan 2017 – 2033 Section 2 (LP) which was adopted in July 2022. This policy requires, amongst other things, safe layouts which minimise conflicts between traffic, cyclists and pedestrians.

Design and Location

8. Part of the consideration of design naturally includes the matter of access, which I have already dealt with. But in addition this is a case where a dwelling design has been submitted. The 2 storey house proposed would be of plain style under a pitched roof, using materials which are commonplace in the locality. It is unremarkable in design and does not include any appreciation of some of the detailing which can be seen locally, such as exposed lintels or contrasting bricks quoins. Similarly there would be no projection of the roof at gable height, a common feature where gables form the main elevation locally. This lack of articulation in the design leads to a bland appearance. The design would not enhance the locality or respect its character and would therefore conflict with LP Policy DM15(i).
9. In being within a residential area of Colchester it would be wrong to argue that the site is unacceptable in principle for a dwelling. However, it is located in a wider area of unkempt 'backland'. I share the Council's concern that piecemeal development of this wider area would not allow a comprehensive effort to improve the area, though no such scheme has been suggested as likely to come forward. The backland area appears to be effectively 'landlocked' and a future scheme may or may not be forthcoming. So the fact that this is a single dwelling on the edge of the backland area is not in itself a matter which weighs against the proposal. In isolation the dwelling would be unlikely to hinder any scheme for the wider area.

Effect on Surrounding Residents

10. Apart from the residents who might use the track as pedestrians¹, and thereby potentially come into conflict with vehicles, the residents likely to be most affected here are those residing on either side of the access.
11. Both Nos 52a and 54 have rear gardens which run alongside the access track, separated from it by fencing. In my judgement any extra traffic using the track would be likely to be highly intrusive to the quiet enjoyment of those gardens. I recognise that the track is already used by vehicles, but adding to the use, even in a small way, would be likely to harm the amenities of adjacent residents. This would conflict with LP Policy DM15(v).

Other Matters

12. The Council has concerns that the appeal site may suffer from contamination. Whilst there is no conclusive evidence one way or another I agree with the Appellant that this is a matter which can be dealt with by the imposition of suitable conditions. This does not weigh against the development.

The Planning Balance and Conclusion

13. As an existing site in an urban and principally residential location it is not disputed that it has been previously developed, albeit that the nature of the use of the land has not been successfully established. Even so it seems to me that residential use would be acceptable subject to detailed matters being equally acceptable. However in this case there are drawbacks relating to access, design and impact on residential amenity which lead to conflict with the recently adopted Local Plan. As such, whilst acknowledging that there would be some benefit from the proposal in terms of housing provision and the economic benefits following from construction activity, overall the development cannot be regarded as sustainable in NPPF terms. There are no material considerations which outweigh the conflict with the development plan.
14. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

¹ I have noted that the track has not been identified as a public right of way during the appeal.