
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: 21st March 2023

Appeal Ref: APP/A1530/W/22/3297404

Scarletts, Recreation Road, Colchester CO1 2HJ

- 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 A Suljic against the decision of Colchester Borough Council.
 - The application Ref: 213276, dated 23 November 2021, was refused by notice dated 21 January 2022.
 - The development proposed is part conversion, part extension of the former therapy centre to 3 no dwellings and the erection of 2 no chalet bungalows with parking.
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Preliminary Matter

1. My site visit took place between 10.00 and 11.00 on the date noted above. Neither the Appellant nor his agent were present at that time. However I am satisfied that I have been able to view the site and its surroundings sufficiently to enable me to reach a decision on the appeal. This course of action has been confirmed as acceptable to the Appellant.

Decision

2. The appeal is dismissed.

Main Issues

3. The main issues in the appeal are:
 - (a) The impact of the proposed development on the character and appearance of the locality;
 - (b) Whether the proposed development would provide adequate living conditions for future residents;
 - (c) Whether adequate access to the appeal site is achievable;
 - (d) The impact on trees within the appeal site.

Reasons

Character and Appearance

4. The appeal site is narrow along its full length, decreasing to a point at its northern extremity. The existing building, which would be extended, is located in the wider part of the land, towards the western boundary. This existing building sits comfortably in its surroundings and is flanked by a number of trees, some of which are protected by tree preservation order (TPO). In principle I see no difficulty with the building reverting to residential use. I

understand this was a previous use prior to conversion to a therapy centre. It is unassuming in its design and bulk and has sufficient space around it to provide an acceptable residential environment. However, I am not satisfied that the proposal as submitted, as a whole, would result in a similarly suitable configuration.

5. This is principally because of the intended construction of 2 chalet bungalows on the narrower, northern, part of the site. These 2 dwellings would appear to be squeezed in to a small area of land, with little distance between them and the adjacent road. This would be at odds with the predominant pattern of development locally which has a more spacious feel. As a result this part of the proposal would appear contrived and discordant. In this respect I agree with the Council.
6. The chalet bungalows themselves would be an incongruous design with prominent and large dormer windows at first floor level¹. Their squat bulk in close proximity to each other would be at odds with the spacious nature of the appeal surroundings at this point, and the generally open feel to the development nearby.
7. The development plan includes the recently modified and adopted in Section 1 and newly adopted Section 2. A number of policies have been referred to me as being relevant in this case. In relation to this issue I am aware of Policy SP7 – Place Shaping Principles, which I consider to be an important policy. The policy requires, amongst other things, that new development responds positively to local character and context. For the reasons given above it is my judgement that the proposal fails to accord with this policy. Policy DM15 of the recently adopted Section 2 has similar objectives and again the proposal fails to adhere to its principles.

Living Conditions

8. The existing building would be extended in a relatively minor way and divided into 3 small dwellings. Although each would have an area of garden they would also be small. Nonetheless the size of the units and their gardens would not, of itself, be sufficient to refuse planning permission. The chalet bungalows would also have small gardens, but again, in principle, there would be no reason to suppose that the size of the dwellings and gardens would be unacceptable such that planning permission should be refused.
9. However, the fact that the dwellings and the space around them would be, on balance, of sufficient size to accommodate residential use without unacceptable harm to the living conditions of future residents, this does not overcome the fundamental concerns I have in regard to the impact on the character and appearance of the locality.

Access

10. There is one current access to the site, and another proposed to serve the 2 chalet bungalows. I have noted the comments of some people who use the nearby school in relation to safety. I was able to see at my site visit that the existing access has adequate visibility so long as care is taken (and I have no reason to believe that it would not be). The second access proposed though,

¹ The revised details were not part of the application decided by the Council and are therefore not part of the appeal before me.

would involve cars being parking perpendicularly close to the back edge of the footway. Despite the fact that part of a row of conifers would be removed to facilitate access it seems to me that the propensity for impaired visibility between drivers and pedestrians would be significant.

11. The parking configuration would be likely, at times, to require drivers to reverse onto the carriageway, possibly also with a restricted view because of the presence of other vehicles. That would not be in the best interests of highway safety. In short it seems to me that there would be scope for conflict between vehicles and pedestrians on the approach to a school. As a result the development would not integrate safe vehicular access into its design and would be likely to introduce vehicular and pedestrian conflict. It would conflict with important Local Plan Policies DM15 and DM21.

Impact on Trees

12. The removal of part of the row of conifers would not be a great loss. Although tall, they are not native trees and some appear to be in poor condition. But that does not apply to all trees on site, some of which have formal protection. I have noted the concerns expressed that allowing residential development proposed would be likely to result in pressure for trees to be felled or pruned. That is a valid concern but I consider it unlikely in this case. That is principally because the protected trees do not currently impinge greatly on the areas where residents would be living or enjoying their gardens. This is a matter which does not weigh against the proposal, and in any event control would remain with the Council.

Other Matters

13. At the time the Council made its determination there was no mechanism in place to deal with any potential impact on nearby protected sites. However that has now been addressed by the provision of an obligation pursuant to S106 of the 1990 Act. This would make appropriate contributions to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). Had I been minded to allow the appeal I would have addressed this in the manner of an appropriate assessment, but in view of my findings do not need to consider this matter further.

Overall Conclusion

14. I have found conflict with the development plan in respect of 2 issues as set out above. Whilst other matters do not weigh against the proposal there are no considerations in this case which suggest that a decision should be made other than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR