



Appeal Decision

Site visit made on 14 April 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2023

Appeal Ref: APP/A1530/W/22/3306811

8 Wilkin Drive, Tiptree, Essex CO5 0QP

- 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 Adam Bailey against the decision of Colchester Borough Council.
 - The application Ref 221192, dated 12 May 2022, was refused by notice dated 7 July 2022.
 - The development proposed is change of use from C3 dwelling house into C2 Young Persons Care Home. The existing converted garage will be used as an office for carers.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the Council's title at the time of determining the application. However, following Colchester's recent designation as a City, the Council is now known as Colchester City Council.
3. An existing garage at the rear of the site has been converted to office use and a substantial dormer window has been erected on the rear roof slope. The appellant indicates that these alterations undertaken prior to submission of the application benefitted from permitted development rights for alterations and additions to dwellinghouses¹, although this is disputed by some interested parties. The application did not seek planning permission for the dormer window or conversion of the garage and it is not the function of this appeal to determine whether works undertaken comply with what is permissible. There is no dispute that the garage is not currently available for parking of vehicles and I have considered the appeal on that basis.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance relating to vehicle movements,
 - the effect of the proposed development on highway safety, with particular regard to the risk of conflict between pedestrians, cyclists and vehicles, and

¹ As set out in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended

- whether any harm would be outweighed by other material considerations, with particular regard to the effect of the proposal on the availability of residential care and support for young people.

Reasons

Living Conditions

5. The appeal site is a detached dwellinghouse as defined in Use Class C3². It provides accommodation on two storeys, plus additional rooms within a converted roofspace. The dwelling faces Wilkin Drive, with a modest area of hardstanding to the front. To the side is a private driveway providing access to the rear of both no. 8 and its neighbour at no. 10. To the other side, the boundary with the frontage of no. 6 Wilkin Drive is defined by a wrought iron railing.
6. Both the appeal site and no. 10 were originally built with garages and parking areas to the rear. The garage to no. 10 appears to remain in its original use, although the garage at no. 8 has been converted to home office use. There is a small area for parking in front of the garages, used by both properties.
7. Wilkin Drive is one of the main routes through a relatively modern housing estate. I saw during my site visit that the estate roadways, including Wilkin Drive, incorporate features which appear to be designed to moderate traffic speeds through the estate. The appeal site is one of several dwellings arranged in a close formation around one such feature. The carriageway widens around a circular cobbled feature and the surrounding dwellings are angled inwards, facing into the resulting circular space.
8. Conflicting evidence has been presented as to the number of parking spaces within the site boundaries. Whereas the appellant's evidence indicates that four vehicles can be parked – two on the site frontage and two on the driveway – the Council and interested parties dispute whether this accurately reflects the available space.
9. At the time of my site visit, one vehicle was parked in front of and perpendicular to the dwelling and another was parked on the driveway, in front of the former garage. While another vehicle could potentially have been parked on the site frontage, the available space was tightly constrained between the parked vehicle and the railing on the boundary with no. 6. While photographs provided by the appellant demonstrate that this area can accommodate a second vehicle parallel to the house, the same photographs confirm that there would be almost no space for such a vehicle to manoeuvre forwards or backwards. Therefore, the area would be very awkward to access whenever the adjacent space was already in use. On that basis, parking two vehicles in front of the house would require close coordination of their arrival times and/or moving any car already parked perpendicularly, so as to enable use of the second space.
10. The gap between no. 8 and no. 10 Wilkin Drive is a single driveway width, which could easily be obstructed by vehicles parked next to the flank wall of no. 8. Parking here would also obstruct any vehicles parked in front of the former garage. While evidence has been provided that this area is within the appeal site boundary, it is also clearly the case that the driveway is designed

² Schedule 1, Part C of The Town and Country Planning (Use Classes) Order 1987

for shared use, with no. 8 and no. 10 both requiring clear access to the parking and garage areas at the rear. Therefore, I am unconvinced that a second vehicle could routinely be parked in this location without at best causing inconvenience to the adjacent occupier and at worst obstructing access across the shared driveway.

11. Based on the above observations, I find that two vehicles could readily be parked within the site clear of the highway. However, use of the remaining areas to park two additional vehicles would be awkward and inconvenient. Their use would be likely to cause a material degree of disruption to neighbouring occupiers, as a result of the noise and disturbance associated with multiple vehicles being manoeuvred in and out of areas not properly laid out for parking and/or by the obstruction of access to no. 10.
12. While it is intended that the premises would function as a family home, similar to others on the estate, the proposed level of staffing and support services would involve a level of vehicle movement beyond what is typical of single family occupation. Details of proposed staffing arrangements indicate that two vehicles would routinely be parked on site, with parking also being required for visiting social workers. Since staff would work shifts to provide daytime and overnight supervision, there would be a regular requirement for staff to enter and leave the premises, with associated vehicle movements. Given the requirement to provide continued supervision of the young residents and allow for a proper handover, there would be increased numbers of staff present, albeit briefly, at the beginning and end of shifts.
13. Given the above, there would be a regular and frequent requirement to move cars in and out of the site, within an area which is in very close proximity to windows of neighbouring properties, particularly no. 10. Evidence on staff movements provided with the application indicates that changeover periods are anticipated in the early morning when neighbouring residents have a reasonable expectation of peace and quiet. There would also be a changeover in the early evening, likely to coincide with increased vehicle movements by other residents coming home at the end of the working day.
14. In addition to the regular pattern of staff movements, the appellant's evidence identifies a variety of other staff and service providers who would visit the property for shorter periods, but still on a regular basis. While the intention may be that these additional staff and service providers would arrive and depart at less busy or unsociable times, there is nothing to guarantee that this would be the case. Therefore, on occasion, the number of people seeking access to the very constrained parking areas could be further increased.
15. While some staff may arrive by means other than the car, and cycle storage would be provided, arrivals on foot or bicycle could not be guaranteed or enforced, particularly where visiting personnel are employed by other agencies. It would not be realistic to rely on resident staff to regulate the parking arrangements on a continuous and consistent basis, given the inherently constrained site layout and the number of different individuals likely to be involved.
16. For the above reasons, I conclude that the proposed development would have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance relating to vehicle movements. As such, it would conflict with relevant requirements of Policy SP7 of the North

Essex Authorities' Shared Strategic Section 1 Plan adopted February 2021 and Policy DM15 of the Colchester Borough Local Plan 2017-2033 Section 2, adopted July 2022. These policies, amongst other things, require that new development protects the amenity of existing residents, including with regard to noise and disturbance.

Highway Safety

17. As described above, Wilkin Drive is one of the main vehicle routes through the estate. The appeal faces onto an area which is laid out using contrasting surfaces, defining the vehicular carriageway, pavements and private forecourts. Pavement areas are delineated with low kerbs and contrasting materials. The Highways Authority confirms that the layout and design of highway surfaces is intended to allow for larger vehicles to gain access, while encouraging traffic generally to travel slowly around the winding street layout.
18. Evidence from all parties identifies a pattern of anti-social parking in the vicinity of the appeal site (although not necessarily by the appellant or their staff), including parking across the low pavements. At the time of my site visit I observed examples of parking obstructing pavements near the site and photographs of similar examples have been provided in the evidence before me. While this may not be contrary to any specific legal restrictions such as double yellow lines, it nevertheless has potential to obstruct visibility and hinder safe access through the estate.
19. Although traffic speeds are generally low, due to the traffic calming measures, the winding street layout means that forward visibility is not always particularly clear. When pavements are obstructed, there is an increased risk of conflict between pedestrians, cyclists and moving vehicles. Furthermore, given the quiet, residential nature of the estate, there is a relatively high probability of pedestrians and cyclists being present within the highway. The fact that parking across the pavement is already commonplace does not justify increasing the likelihood that this will occur.
20. Opportunities for safe on-street parking are limited within the surrounding estate roads. Therefore, given the conclusions I have reached about the inadequacy of well laid out parking within the site, there is a clear risk that vehicles associated with the proposed use would be parked within the street nearby. Given the established issues as outlined above, this would be likely to perpetuate the existing pattern of vehicles parked in a manner which is detrimental to highway safety.
21. The Highways Authority also expressed concern about wear and tear on the pavement surfaces as a result of increased vehicle movements. I noted several places where there is evidence of stone cobbles having become dislodged. However, I have not been provided with any detailed evidence explaining the causes of such damage. Given that the estate layout includes other, properly laid-out parking areas which are accessed across the pavement, I am unconvinced that there would be a materially increased risk of surface damage as a result of the proposed development.
22. Nevertheless, for the above reasons, I conclude that the proposal would have a harmful effect on highway safety. It would conflict with Policies DM20, DM21 and DM22 of the Section 2 Local Plan, the Essex County Council Parking Standards Supplementary Planning Document September 2009 and relevant

paragraphs of the National Planning Policy Framework. These policies, amongst other things, require that new development should not have an unacceptable impact on highway safety, should support walking and cycling and should minimise conflict between traffic, cyclists and pedestrians.

Other Considerations

23. I recognise that the proposal would advance equality of opportunity for disadvantaged young people who share a protected characteristic due to their age. With that in mind, when considering the appeal I have had appropriate regard to the aims of the Public Sector Equality Duty (PSED), as set out in s149 of the Equality Act 2010. I have furthermore been mindful of the need to avoid giving weight to any unjustified assertions of a discriminatory nature.
24. The proposed development would accommodate young people in need of care and support, within a setting which the appellant explains would be designed to function as far as possible as a family home. The site is located within a residential area, close to a public park, with access to local services, including schools. Setting aside the harm I have identified in relation to the associated vehicle movements, I find that the surrounding environment would support the underlying objectives of the proposed use. To that extent the proposal would support the rights of disadvantaged young people as defined in Article 8 of Schedule 1 to the Human Rights Act 1998, namely the right to respect for private and family life.
25. In line with Article 3(1) of the United Nations Convention on the Rights of the Child, I am mindful that the best interests of the child are a primary consideration in all actions by public decision-makers where children are concerned. In this regard, I recognise that the proposal would increase the availability of residential placements for young people in Essex and have noted the support expressed by Essex County Council's Children and Families Commissioning Manager.
26. Given the regulated nature of residential social care provision, mechanisms exist outside the scope of the planning system to ensure that the proposed use would appropriately meet the needs of the young occupiers. There is no substantive evidence that the use would increase the likelihood of anti-social behaviour or other disruption to neighbouring residents. In the event that such issues arose, these could be addressed under the relevant regulatory regime, in the same manner as disruptive behaviour by any other local residents.
27. I recognise that the existing C3 use of the site allows for up to six residents to live together as a single household where care is provided. As such, only a modest increase in potential occupation is proposed. Therefore, I have had regard to the extent to which the parking and highway safety issues identified above could also arise while use of site remains within Use Class C3.
28. The proposed C2 use would allow for a small but material increase in the number of resident young people, who would by definition be in need of care and support. Such care and support includes visits by support workers such as social workers. Depending on the individual needs of the young people in question, it can reasonably be anticipated that different workers may be responsible for each individual's care. On that basis, even a small increase in the number of proposed residents would be likely to involve increased arrivals and departures by service providers.

29. Since I have found that the resident staffing arrangements would be disruptive to the living conditions of neighbouring occupiers and prejudicial to highway safety, even a small increase in visiting staff would cause further harm. On that basis, while I have had regard to the fallback position which allows the dwelling to be used for up to six residents, I find that the proposed C2 use would involve a materially greater degree of harm.
30. I have furthermore been presented with no substantive evidence that limiting the scale of the proposed use to the six occupiers allowed by Use Class C3 would prevent the site from providing for young people in need of care or otherwise materially prejudice the availability of residential care placements in the County as a whole. Therefore, the benefits of the proposed C2 use in this regard are inherently very modest in scale.
31. In addition, limited evidence has been provided to demonstrate that the appeal site is notably well located to meet objectively identified needs for residential placements, or the particular needs of any specific child or young person. Given the harm arising from the constrained parking layout, the lack of any specific evidence that the need cannot be met in other nearby and more suitable locations is a factor which weighs against the proposal.

Conclusion

32. I have found that the proposed development would result in harm to the living conditions of neighbouring occupiers as a result of noise and disturbance due to increased vehicle movements. There would also be harm to the safety of pedestrians and cyclists as a result of the additional demand for parking in a constrained area, increasing the risk of conflict with moving vehicles.
33. The provision of residential care and support for disadvantaged young people is a benefit of the proposal. However, the scale of that benefit is moderated by the lack of substantive evidence that the site has any particular advantage over other locations where such facilities could be provided without the associated harm. The proposal would furthermore provide for only a single additional residential placement, over and above what could be accommodated without the proposed change of use.
34. I have had due regard to the PSED, recognising that the proposed development would advance equality of opportunity for people with protected characteristics due to their young age. However, given the scope of the established use within Use Class C3, the scale of the associated benefits would be very modest. Set against that would be the more clearly identifiable harm to the living conditions of neighbouring occupiers and the safety of vulnerable highway users.
35. Therefore, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that it is proportionate and necessary to dismiss the appeal.

Jane Smith

INSPECTOR