



Appeal Decision

Site visit made on 2 May 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 September 2023

Appeal Ref: APP/A1530/W/22/3298662

The Little Glebe, Spring Lane South, Colchester CO3 4AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr. Ash Afzalnia against the decision of Colchester Borough Council.
 - The application Ref 213003, dated 22 October 2021, was refused by notice dated 11 April 2022.
 - The development proposed is Outline application to refurbish the host house 'Little Glebe' from 3no. existing dwelling units to revert to a single dwelling house and erect two new houses.
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Decision

1. The appeal is allowed and outline planning permission is granted for 'refurbish the host house 'Little Glebe' from 3no. existing dwelling units to revert to a single dwelling house and erect two new houses' at The Little Glebe, Spring Lane South, Colchester CO3 4AN in accordance with the terms of the application, Ref 213003, dated 22 October 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was clearly submitted to the Council as an application for outline planning permission with all matters reserved¹. As such, all plans other than the Site Location Plan, are for indicative purposes only. Indeed, this is reflected through the appellant's evidence and within the Council's recommended 'approved plans' condition, with the latter only referring to the Site Location Plan and the submitted Arboricultural Impact Assessment. Other plans showing the potential access arrangements, elevations and floor plans are therefore indicative and I have considered this appeal on that basis.
3. On 4th July 2022, after the planning application was determined, the Council adopted the Local Plan Section 2² which replaces all of the policies previously referred to in the Council's decision notice. The Council has cited a number of policies as being relevant to the proposed development. However, only Local Plan Section 2 policies DM21 and DM15 are relevant to the main issue of this appeal. I have therefore considered this appeal on that basis. Both parties have referred to the new Local Plan and as such it is not necessary to seek any further representations on this matter.

¹ As referred to on the application form

² Local Plan – Colchester Borough: Local Plan 2017-2033 Section 2 – Adopted July 2022

4. I have taken the description of development from the decision notice but modified it to omit reference to the new access given that access is a reserved matter. This more accurately reflects the proposed development than the description provided on the planning application form. The appellant has agreed to the change in description.

Main Issue

5. The main issue is the effect of the proposed development on highway safety.

Reasons

6. The existing appeal site includes three residential units³ comprised within The Little Glebe with several existing access points onto Spring Lane. Notwithstanding that access is a reserved matter, the appellant submitted details of potential access arrangements. Spring Lane is a dead-end for vehicular traffic. Indeed, during my site visit⁴ there were no vehicular movements at all along this part of spring road for a period in excess of 45 minutes. I noted that the end of the road has a turning head which is likely used by some vehicles given the narrow characteristics of the lane, however vehicles using the turning space would likely be doing so at very slow speeds.
7. The Council has indicated that the access as shown on the illustrative plans is not at 90 degrees with the highway and that it would be located on a radius kerb. However, even taking into account the potential for increased vehicle movements associated with the larger dwellings proposed, the likelihood of conflicts between motor vehicles is extremely low given that vehicle speeds would be minimal in the vicinity of the appeal site (taking into account the prevailing highway characteristics).
8. In terms of pedestrian safety, the footways to the front of the appeal site are relatively poor and often narrow, with little or no pavement on the radius of the kerb in front of The Little Glebe. I therefore consider it likely that pedestrians using Spring Road would walk along a small section of carriageway to the front of the appeal site in order to access Cymbeline Way to the north. Nonetheless, there is no reason why acceptable pedestrian visibility splays could not be achieved and approved at reserved matters stage. There is also no reason why arrangements that are safer than the existing access arrangements could not be achieved (providing greater pedestrian visibility).
9. Interested parties have also highlighted concerns with regard to the narrow nature of Spring Lane and the access with Lexden Road. However, given the small scale of the proposal I do not consider that the low volumes of vehicular movements arising would give rise to an adverse impact on highway safety.
10. In summary, access is a reserved matter and there is no substantive evidence to indicate that a safe access could not be achieved. Indeed, the observations during my site visit and the prevailing road characteristics demonstrate that access to the proposed development could be achieved without an adverse impact on highway safety. The proposed development therefore complies with Local Plan Section 2 Policies DM15 and DM21 which together require that new development provides safe and convenient access which avoids any adverse impact on highway safety. The proposal would also comply with the provisions

³ As confirmed within the Council's Officer Report

⁴ Undertaken during late afternoon on a weekday

of the National Planning Policy Framework (the Framework) in relation to highway safety for the same reasons.

Other Matters

Heritage

11. The appeal site is located within the Lexden Village Conservation Area (CA) and The Little Glebe is a non-designated heritage asset (locally listed building). Furthermore, Glebe House, a Grade II listed building, is located directly to the south of the appeal site. The Council has not refused planning permission on the grounds of the effect of the proposal on any of these heritage assets.
12. Nonetheless, under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest. Under section 72 (1) of the same Act, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA.
13. The CA primarily derives its significance from its verdant parkland settings interspersed with a proliferation of historic architecture, with many buildings listed. Narrow lanes intersect with the broader street scene of Lexden Road, providing an attractive and varied character. The listed building primarily derives its significance from its early 19th Century gothic architecture, albeit it has relatively extensive modern extensions.
14. Whilst the appeal site is located in close proximity to the Listed Building, it only makes a very limited contribution to its setting. Indeed, the Glebe House has been extended significantly since its initial construction and it is these extensions (which have a more modern appearance) which abut the appeal site. The proposal itself would include two new dwellings to the rear of the Little Glebe. However, the site is large and there is ample room to accommodate two dwellings within a visually contained area, such that they would not result in any harm to the setting of the listed building. Whilst there may be a historic functional connection between the appeal site and the listed building, this has long since been eroded through the modern extensions, which physically separate the more attractive part of the building from the appeal site.
15. The proposal as a whole offers potential to enhance the setting of the listed building, given that there would be realistic scope to improve the external appearance of the Little Glebe and other areas of the appeal site, which currently have a dilapidated and overgrown appearance. For the same reasons, the proposal would also result in no harm to the significance of the CA or the non-designated heritage asset and it would offer the potential to enhance the character of the CA and the significance of The Little Glebe, subject to detailed design to be approved at reserved matters stage.
16. Whilst the Council's Officer Report has indicated that the indicative proposals would not be acceptable on heritage grounds, the appellant is not seeking permission for those specific proposals (given that all matters are reserved). Indeed, for the reasons outlined above, a scheme which enhances the significance of the heritage assets would be achievable.

17. As such, there would not be any conflict with the relevant provisions of the Framework in relation to Heritage Assets. The Council has not provided me with a copy of the relevant Section 2 Local Plan Policy in relation to this matter.

Habitat Regulations

18. There would not be any increase in the number of dwellings proposed, given that the Little Glebe already comprises three residential units. As a result, there would not be any likely significant effects associated with increased recreational pressure on European Sites. It is not therefore necessary for me to undertake an appropriate assessment under the Conservation of Habitats and Species Regulations 2017.

Conditions

19. I have considered suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects.
20. Some of the conditions in the list provided by the Council relate to issues which can be addressed under reserved matters. These include matters pertaining to refuse storage, site levels, access and hard/soft landscaping. Similarly, the Council's recommended condition on parking provision is not sufficiently precise and is a matter which can be dealt with in considering 'layout' at reserved matters stage. As such, these conditions are not considered necessary.
21. In addition to the standard timescale conditions [2 and 3], I have imposed a condition specifying the relevant drawings [4], as this provides certainty.
22. The Council has suggested that construction hours are restricted. However, a condition requiring a Construction Management Plan [5] would provide sufficient opportunity for construction hours to be controlled in the interest of neighbouring living conditions. For the same reason a condition requiring an acoustic assessment is also necessary [6].
23. Conditions relating to biodiversity measures [7] and electric vehicle charging points [8] are necessary in the interests of ecology and the environment, respectively.

Conclusion

24. The proposed development complies with the development plan taken as a whole. There are no material considerations which indicate that a decision should be made other than in accordance with it. As such, the appeal is allowed.

Luke Simpson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Ref: 6075-000) and the Arboricultural Impact Assessment (Project Ref: 580, dated 15th October 2021)
- 5) No development shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details of:
 - the parking of vehicles of site operatives and visitors;
 - hours of deliveries and hours of work;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction; and
 - a scheme for recycling/disposing of waste resulting from demolition and construction works
- 6) Concurrent with the reserved matters application(s) relating to design and layout of the dwellings hereby approved, a detailed acoustic assessment and mitigation report, produced by a competent person, which provides details of the noise exposure at the facade of residential dwellings, internal noise levels in habitable rooms and noise levels in all associated amenity spaces, shall be submitted to and approved in writing by the local planning authority. Any development shall thereafter be carried out in accordance with the approved details and the approved measures retained as such thereafter.
- 7) The development hereby permitted shall be carried out in accordance the recommendations set out within Section 5 of the Updated Preliminary

Ecological Appraisal Including a Protected Species Assessment by Skilled Ecology Consultancy Ltd. (dated November 2019, updated October 2021).

- 8) Prior to the first occupation of any dwelling hereby approved, details of electric vehicle EV charging point infrastructure shall be provided to the local planning authority for approval in writing. The charging points shall be installed prior to first occupation of any dwelling hereby approved and shall be retained as approved thereafter.