



Appeal Decision

Site visit made on 5 October 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2023

Appeal Ref: APP/A1530/W/22/3309973

17 Station Road, Tiptree CO5 0AZ

- 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 and Mrs Barker against the decision of Colchester Borough Council.
 - The application Ref 220610, dated 28 February 2022, was refused by notice dated 29 April 2022.
 - The development proposed is a two bed dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr and Mrs Barker against Colchester Borough Council, and by Colchester Borough Council against Mr and Mrs Barker. These are the subjects of separate Decisions.

Preliminary Matters

3. Following receipt of a completed Unilateral Undertaking from the appellants, the Council no longer pursues its reasons for refusal relating to the lack of securing a range of planning obligations, including in respect of the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). I return to this below.
4. The Council adopted Section 2 of the Colchester Local Plan 2017-2033 (LPS2) in July 2022, which supersedes some policies referred to in the Council's decision. I have determined the appeal on this basis, and all parties have had a chance to make representations on any implications.
5. A 2 storey side extension was permitted in 2016¹. The appellant suggests that this permission is extant following the commencement of the foundations, a position not disputed by the Council. An appeal for a similar proposal as that now before me was dismissed in 2021².

Main Issue

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

¹ Reference 161175

² Reference APP/A1530/W/21/3267165

Reasons

7. The site comprises a semi-detached house with a sizeable side and rear yard, and a front hard surfaced area. It lies on the corner of Station Road and Firs Road, a private road providing access to the front and rear of the appeal site and several other dwellings.
8. The rights of the appeal site access off Firs Road are disputed by the parties, but this is a civil matter which therefore has not had a direct bearing on my determination. I have taken a similar approach to issues raised regarding the rights and ownership of the land in front of the dwelling, including that required for visibility splays. Furthermore, on the evidence before me, even if the provision of visibility splays or the acquisition of such access rights are necessary, this does not appear to have no prospects at all. The Planning Practice Guidance (PPG) on the imposition of conditions therefore does not preclude allowing the appeal on this basis.
9. The LPS2 Policy DM22 and the Essex Parking Standards: Design and Good Practice Guide Supplementary Planning Document (SPD) (2009) identify that 2 spaces are required for 2+ bedroom dwellings. The appellants suggest that the site would require less parking according to the Essex Design Guide SPD. However, I have not been directed to the exact section and publication date of this SPD where such standards are identified, such that I find this does not outweigh the Parking Standards SPD requirements.
10. The proposal would relocate the required 2 spaces for No. 17 from its front to its rear, accessed off Firs Road. However, only 1 space would be provided for the new dwelling. The SPD and the LPS2 Policy DM22 do identify that a lower provision may be considered based on local circumstances, such as if there are good links to sustainable transport. However, the site is not a town centre location. Despite passing bus services and the previous Inspector's inference of the potential to access nearby services and facilities without the need to rely on private vehicles, it has not been demonstrated that the site is so accessible that it is a location where reduced parking standards should apply. Other examples provided are a different context, such as being on the main street within the Tiptree town centre.
11. The proposal would therefore displace the need for 1 parking space onto the highway immediately adjacent to the site. Although no evidence of accidents or conflict has been presented, the increased need for parking on Station Road in this vicinity on a relatively busy road would increase the risk to highway safety by further blocking visibility or the free flow of traffic.
12. The frontage manoeuvring arrangements are unsatisfactory, despite that the appellants suggest that reversing from the frontage onto Station Road would be unnecessary. The proposal would therefore retain an existing poor quality situation which would be likely to cause some conflict with other users of Firs Road, including pedestrians.
13. However, the set back of the rear parking spaces would allow for a manoeuvring width in excess of the standard required by the Highway Authority. The previous Inspector identified that the number of vehicle movements would be likely to be low, and at slow speeds. As such and on balance, I find that the rear parking area would be acceptable overall despite the need to reverse into or out of those spaces.

14. Overall, the proposal would be harmful to highway safety, and would therefore conflict with the LPS2 Policies DM12, DM21, and DM22. Together and amongst other matters, these seek to provide an appropriate and safe amount of parking, and access which maintains the right and safe passage of all highway users. It would also conflict with the Parking Standards SPD, and the Backland and Infill Development SPD (2009; 2010), regarding the need to provide suitable parking provision, and a standard of access which does not cause problems to the safety of road users. It would also conflict with the Framework, and specifically paragraph 112 in seeking to create places which minimise the scope for conflicts between pedestrians, cyclists, and vehicles.

Other Matters

15. The 2016 extension permission allows for a form of the site's frontage access from Firs Road for 2 vehicles. Alongside the historic use of this area for parking, I find such frontage parking to be a relevant fallback position, against which I must assess the proposal. There is also an existing gated vehicle access off Firs Road into the site's side garden. Although the extent of its use has not been specified, it is neutral to my determination insofar as it would remain as at present.
16. The proposal would provide for 1 less vehicle parked in the property's frontage than the fallback. This would thus result in better visibility across that land and a lower number of manoeuvres, with a resulting improvement to highway safety. However, there would also be an increased use of Firs Road overall from the parking relocation to the rear. This would lead to the potential for increased conflict around the junction, including with an additional vehicle parked nearby.
17. The appellants suggest that the existing fence could be set 1.0m further back from the road to provide additional visibility, achieved through the imposition of a condition. This would provide a slightly increased manoeuvring area and wider visibility splay to the west. However, the appeal proposal would also displace 1 parking space onto the highway compared to the fallback. The visibility splay would therefore be impeded in any case by a parked vehicle both within and outside of the site. As such, I do not find this potential fence relocation to be such an improvement such that it would outweigh the impact from the lack of on-site parking, and the increased traffic movements around the junction.
18. The benefits from 1 additional dwelling would be a modest contribution to the housing land supply. There would also be modest social and economic benefits from local construction, and from the new occupiers increasing local expenditure and demand for local services. However, I have not been presented with any evidence that there is a local under-supply of housing. I give these benefits modest weight. A vehicle electric charging point would be installed, which would be a minor benefit.
19. This is a relatively finely balanced judgement. However, I find that overall, the fallback does not weigh in favour of allowing the appeal, and the benefits would not outweigh the harm I have identified.
20. The site lies within a recreational 'Zone of Influence' for the Essex Coast European Designated Site afforded protection under the Habitat Regulations. Permission may only be granted after having ascertained that the proposed

development would not affect the integrity of these protected sites. To this end, the appellants have provided a Unilateral Undertaking (UU) to provide a financial contribution to the Council towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy. However, as I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether the contribution would adequately mitigate the proposal's effect on the integrity of the protected sites.

21. The UU also provides for other financial contributions relating to provision for sport and recreation, and community facilities. The appellants contest the necessity for these, on the basis that the Council has not identified sufficient details of specific schemes, and so they do not meet the PPG requirements and Community Infrastructure Regulations. Again, as I am dismissing the appeal on other grounds, and it no longer forms a reason for refusal by the Council, I have not concluded as to whether these UU contributions would all be appropriate.

Conclusion

22. The proposal would be contrary to the development plan and the Framework taken as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR