



Appeal Decision

Site visit made on 12 December 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/W1525/W/23/3318852

37A East View, Writtle, Chelmsford, Essex CM1 3NN

- 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 Kevin Smith of Squirrel Homes Ltd against the decision of Chelmsford City Council.
 - The application Ref 22/02227/FUL, dated 8 December 2022, was refused by notice dated 27 February 2023.
 - The development proposed is one new two bed bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised on 19 December and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal remain broadly the same. As a result, I have not sought further submissions on the revised Framework. I am satisfied that no party has been prejudiced by my approach.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - whether the proposed development would provide acceptable living conditions for future occupants, with regard to privacy, outlook and the provision of private outdoor amenity space; and,
 - the living conditions of occupants of neighbouring properties, having particular regard to noise and disturbance.

Reasons

Character and appearance

4. The appeal site lies within the defined settlement boundary of Writtle and forms part of the rear garden for 37A East View (No 37A). No 37A is a two storey dwelling that has single storey projections on both sides, which provide garage space. Built form in the area is predominantly characterised by two storey dwellings, which tend to comprise of brick, render or weatherboarding, with tiled roofs. With the exception of the historic farmhouse at 33 East View (No

33), which is set back from the road, properties typically front the road. This creates a well-defined building line along East View. On the opposite side of East View are allotments, which together with the tree and hedgerow planting within the gardens of the residential properties, contribute to providing a green and verdant character.

5. The proposal seeks to provide a new bungalow within the rear garden of No 37A, which is on slightly higher ground than the adjacent properties. The proposed parking area and driveway would be close to the boundaries with Jubilee Cottage and Victoria House. Demolition of one of the attached garages to No 37A would facilitate access to the proposed bungalow, between the boundary with Jubilee Cottage and the flank wall and garden of No 37A.
6. The proposed dwelling by reason of its back garden position would be set back behind the existing building line. As a result, it would fail to respect the prevailing development pattern of the area, where properties typically front the street. Furthermore, given the relatively limited plot size and the proximity of the dwelling to its boundaries, the proposed dwelling, driveway and parking area would dominate the plot. As a result, it would create a development that would appear cramped in relation to its plot and would fail to respect the generally more spacious layout of properties in the locality.
7. The proposed development would also result in the loss of trees and a hedge. While the existing trees are located in the rear garden of No 37A and are of low arboricultural value, they are visible from the public realm in views between dwellings and over the single storey built form. The loss of these trees and hedge would be harmful to the green and verdant character of the area. While new planting is proposed, it would take some time to mature to the extent that it would be visible from the public realm. Moreover, there would still be a reduction in the soft landscaping and greenery on the appeal site. Therefore, the proposed planting would not mitigate the harm that I have identified.
8. Although the proposed dwelling would be sited on slightly higher ground than No 37A, it would be single storey in height. It would also be set back from the highway and partially screened from the public realm by existing buildings. As a result, the proposed development, including any associated domestic paraphernalia would not appear unduly prominent when viewed from the public realm. However, the roof of the proposed dwelling would be visible from the street and the cramped and urbanising impact of the proposal would appear incongruous in this location.
9. For the reasons given above, I conclude that the proposed development would cause harm to the character and appearance of the area. The proposal would fail to comply with Policies S1 and DM23 of the Chelmsford Local Plan, adopted 27 May 2020 (the Local Plan). These policies among other things require that new development respects the character and appearance of the built environment and the existing development pattern. The proposal would also conflict with the guidance within the Making Places Supplementary Planning Document January 2021 (SPD), insofar as it seeks to ensure that new development integrates well with its surroundings and makes a positive contribution to the built environment.
10. Furthermore, the proposal would conflict with the Framework, which requires that developments are sympathetic to local character, including the surrounding built environment.

Living conditions of future occupants

11. Jubilee Cottage is a two storey detached dwelling, which has two first floor windows facing the appeal site. One window is obscure glazed and serves a bathroom. The other window is clear glazed and the appellant advises that it serves a landing. This is not disputed by the Council or third parties.
12. There is currently a mature hedge adjacent to the boundary with Jubilee Cottage. The existing hedge exceeds the height of the boundary fence and provides a degree of screening from the first floor windows of Jubilee Cottage into the appeal site.
13. The appellant's arboricultural consultant advises that the hedge adjacent to the boundary with Jubilee Cottage would need to be removed to construct the proposed driveway. While Jubilee Cottage is positioned at a slight angle to the boundary and the landing window is not a habitable room, views would be available from this window into the lounge, bedroom 2 and the garden of the proposed dwelling at a relatively short distance. Although the proposed tree planting would eventually provide some screening of this part of the garden from Jubilee Cottage, the planting would take some time to mature and provide adequate screening. Consequently, future occupants of the development would be subjected to a harmful level of overlooking.
14. The size of the proposed garden would exceed the standards set out within Appendix B of the Local Plan. However, the proposed layout of the development relative to its plot would mean that the garden would be fragmented. Some parts of the proposed dwelling would be very close to the site boundaries. The largest area of amenity space would be sited adjacent to the proposed car parking area and would be overlooked by the landing window of Jubilee Cottage. Although the proposed tree planting would eventually provide some screening of this part of the garden from Jubilee Cottage, the planting would take some time to mature and provide adequate screening. As a result, the proposal would fail to provide a sufficient standard of private amenity space for future occupants.
15. Given the limited space between the proposed dwelling and its boundaries and the enclosing impact caused by the adjacent two storey dwellings, future residents would also experience a poor outlook.
16. The elevation facing No 37A would have two small windows, which would serve a bathroom and en-suite. No 37A would not cause a harmful level of overlooking to any habitable rooms. While views would be available into the garden area of the new bungalow, the main area of amenity space would be sited to the opposite side of the bungalow. Accordingly, No 37A would not cause a detrimental level of overlooking to future occupants of the development.
17. For the above reasons, I conclude that the proposed development would fail to provide acceptable living conditions for future occupants of the proposed dwelling, having particular regard to privacy, outlook and the provision of private outdoor amenity space. The proposal would conflict with Policy DM26 of the Local Plan. This policy among other things requires that all new dwellings provide acceptable living conditions and sufficient private amenity space for future occupants. The proposal would also conflict with the Development

Standards set out in Appendix B of the Local Plan, which seeks to achieve a good standard of living environment for future occupants.

18. Furthermore, the proposal would conflict with the Framework, which requires that a high standard of amenity is achieved for future users.
19. Policy DM29 of the Local Plan is not applicable to this main issue as it relates to the living conditions of occupants of nearby residential properties, rather than occupants of the proposed development.

Living conditions of adjoining occupants

20. The appeal site is located on slightly higher land than the adjacent properties. A new access is proposed adjacent to the flank wall and garden of 37A. The proposed parking area and driveway would also be close to the boundaries of Jubilee Cottage and Victoria House. The proposal would generate additional vehicular movements and intensify activity in the rear garden when compared to existing levels. However, given that the proposal seeks to provide one small dwelling, any noise and disturbance would be minimal. Even taking into consideration the slight change in topography, the level of noise and disturbance generated from the proposed development would not be unduly harmful to the living conditions of occupants of adjoining properties.
21. For the reasons given above, I conclude that the proposed development would not be harmful to the living conditions of occupants of neighbouring properties, having particular regard to noise, disturbance and privacy. The proposal would therefore comply with Policy DM29 of the Local Plan. This policy among other things seeks to safeguard the living environment of occupiers of nearby residential properties and requires that new development does not result in excessive noise, activity or vehicle movements.
22. Policy DM26 of the Local Plan is not applicable to this main issue, as it provides a design specification for new dwellings and does not relate to the living conditions of neighbouring properties.

Other Matters

23. Reference is made to an appeal decision from 2004¹, which was for a new 3 bedroom dwelling and garage to the rear of No 37A. The previous appeal decision pre-dates the development plan and Framework and would have been assessed against a different policy context. It is therefore not comparable. Since that appeal was dismissed, Victoria House has been constructed and the surrounding context is also materially different. As a result, I give the previous scheme limited weight in my decision.
24. The appellant argues that the extent of urbanisation would not be appreciably greater than a permitted development outbuilding, with associated driveway and parking area. There is no lawful development certificate or alternative scheme before me to consider. Nevertheless, the appellant acknowledges that it would not be possible to construct a building as high as the proposed bungalow under permitted development rights. An independent dwelling is also materially different than an outbuilding. I therefore give this argument limited weight in my decision.

¹ Appeal Ref: APP/W1525/A/04/1142843

25. I appreciate that small sites and windfall sites can make an important contribution towards the housing requirement of an area. However, the provision of housing should not come at the cost of good design and providing acceptable living conditions. Even, if I had been provided with evidence of an undersupply of housing land, which I have not, the adverse impacts of approving the proposed development would significantly and demonstrably outweigh the benefits of providing one new, small dwelling.
26. The appellant has drawn my attention to the Women's Institute Hall scheme in East Hanningfield. The scheme is materially different as it was for a replacement building that fronted the highway. It is therefore not comparable to the proposal before me, which I have considered on its own merits and site specific circumstances.
27. The site lies within the zone of influence for the Blackwater Estuary Special Protection Area and Ramsar and the Essex Estuaries Special Area of Conservation, which are European protected sites. However, there is no need for me to consider the implications of the proposed development on European protected sites because the scheme is unacceptable for other reasons.

Conclusion

28. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR