
Appeal Decision

Site visit made on 16 January 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/A1530/W/23/3320268

32 Station Road, Tiptree, Essex 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 Nicholas Cooper against the decision of Colchester City Council.
 - The application Ref 222826, dated 10 November 2022, was refused by notice dated 5 January 2023.
 - The development proposed is described as 'demolition of existing structures and construction of two new bungalows'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. The Tiptree Neighbourhood Plan was made in May 2023, after the application was determined by the Council and shortly after this appeal was submitted. I have had regard to the made version of Policy TIP02. Since the relevant wording is the same as the emerging version quoted in the first reason for refusal, it has not been necessary for me to seek further submissions from the parties on the relevance of this policy.

Main Issues

4. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was provided with the appeal, in a signed deed dated 22 May 2023. This makes provision for financial contributions to mitigate the effect of the proposed development on European Sites¹ and on community facilities, open space, sports and recreation.
5. The Council has confirmed that the terms of the UU address the substantive matters raised in the second and third reasons for refusal.

¹ As defined in the Conservation of Habitats and Species Regulations 2017

6. Against that background, the main issues are:

- the effect of the proposed development on the character and appearance of the area,
- whether suitable living conditions would be provided for future occupiers of the proposed bungalows, and
- the effect on living conditions for occupiers of neighbouring properties.

Reasons

Character and Appearance

7. The site is in a residential area which includes a mix of bungalows and two storey houses along Station Road and mainly semi-detached, two storey houses along Coriander Road and Anchor Road. Generally speaking, dwellings address the street frontage, with larger gardens to the rear. However, some are set behind the main frontage or at an angle to the road, and the street scene has a generally varied character.
8. The appeal site is a larger than typical plot, containing a bungalow fronting the road and outbuildings in a substantial garden at the rear. It is in a line of bungalows along the north side of Station Road. This element of the street scene has a more leafy and spacious character than other nearby streets, largely as a result of the modest scale of the bungalows and the extent of garden land.
9. The proposed dwellings would occupy much of the rear part of the site and would be visible from Station Road, along the driveway and through gaps between nearby dwellings. They would have a degree of visual subservience, being modest in scale and set back behind other dwellings. However, they would be grouped tightly together and sited uncomfortably close to the rear of the existing dwellings on the frontage. Although they would reflect the design of other nearby bungalows, the combined massing of the two dwellings would significantly erode the sense of space behind the street frontage.
10. Although there are some fairly substantial outbuildings on the site, they are clearly of an ancillary domestic character and not visually intrusive. The proposed dwellings would be larger and more visible. They would increase the building mass in the rear part of the site to a degree that would appear harmfully cramped. I accept that the proposed plots would be within the spectrum of plot sizes found nearby and that there are other backland developments in the surrounding area. Nevertheless, the erosion of the garden setting behind this particular frontage to Station Road would undermine the spaciousness which is currently a positive feature of the street scene.
11. For the above reasons, I conclude that the proposal would have a harmful effect on the character and appearance of the area. As such, it would conflict with relevant requirements in Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan 2021 (Section 1 LP), Policy DM15 of the Colchester Borough Local Plan Section 2 2022 (Section 2 LP) and with Policy TIP02 of the Tiptree Neighbourhood Plan 2023. These policies, amongst other things, require that new development should respond positively to the local character and context. The proposal would also conflict with relevant paragraphs in the Framework, notably paragraphs 128 and 135 which advocate a balanced

approach between making more efficient use of land while maintaining an area's prevailing character and setting, including residential gardens, where appropriate.

12. The proposal would also conflict with guidance in the Council's Backland and Infill Development SPD² which amongst other things highlights that the loss of space between buildings can have an adverse impact and that, while regard should be had to plot sizes in the immediate locality, proposals that would have the appearance of cramming will be resisted.

Living Conditions: Future Occupiers

13. The proposed bungalows would be located roughly centrally within their plots, with parking areas to the front and private gardens to the rear. The appellant states that all three plots would include private amenity space exceeding the minimum required under Policy DM19 of the Section 2 Local Plan and I have not been presented with any evidence to the contrary. However, Policy DM19 also requires consideration of the siting, orientation and layout of private amenity space, which should make for usable space, with an inviting appearance for residents and avoiding significant overlooking.
14. In the case of Plot 1 in particular, the proposed rear garden would be rather limited in size. It would be on the north side of the dwelling and hemmed in by the existing close boarded fencing and a series of boundary trees. The main living room would face into this space and would have a rather limited and enclosed outlook.
15. Both rear gardens would also be overlooked by several properties to the rear, all of which have first floor windows. The Council's Officer Report states that the separation distance between the existing dwellings and the bungalow on Plot 1 would fall short of the 25 metres recommended in the Essex Design Guide. This has not been disputed, although the appellant describes the separation distance as being generally over 20 metres. In addition, the separation distance would vary, since the proposed bungalows would be set at an angle to the rear boundary.
16. Some degree of mutual overlooking is to be expected within a residential area of this nature. Taking into account the existing boundary screening, the orientation of the existing and proposed dwellings and the potential for further boundary planting, an adequate level of privacy could be provided within the interior of the proposed bungalows. However, their rear gardens would be more materially overlooked, being closer to the adjacent dwellings and limited in size, with little scope to provide more secluded or private areas. The introduction of further planting could enhance privacy but would also compound the level of enclosure referred to above. This would further erode the quality of the outdoor space for the enjoyment of future occupiers.
17. Taking all the above factors into consideration, the proposed layout would not provide a high standard of private amenity space, due to the limited extent of the rear garden areas and their hemmed in layout on the north side of the proposed dwellings.
18. For that reason, I conclude that the development would not provide suitable living conditions for future occupiers of the proposed bungalows. It therefore

² Colchester Borough Council Supplementary Planning Document: Backland and Infill Development, 2009

conflicts with relevant requirements in Policy SP7 of the Section 1 LP, Policies DM12, DM15 and DM19 of the Section 2 LP, and the Backland and Infill Development SPD. These policies, amongst other things, require that a high standard of private amenity space is provided for new residential development and that new development provides an acceptable level of amenity for future occupiers, including in relation to privacy.

Living Conditions: Neighbouring Occupiers

19. There is already a surfaced driveway between the existing bungalow on the appeal site and its neighbour, providing access to a hard surfaced parking area and garage in the rear garden. The parking area was in use at the time of my site visit.
20. The neighbouring dwelling also has a driveway alongside the boundary fence. There is a porch on the side of the dwelling, with what appear to be secondary windows facing the appeal site. However, the main window openings are to the front and rear, where they would not be significantly affected by vehicle movements along the side boundary. The rear garden is shielded by outbuildings along the boundary, which would provide some protection from disruption due to vehicle movements.
21. The existing bungalow on the appeal site has a conservatory overlooking the driveway, which would be more directly affected by any increase in vehicle movements. However, the level of potential intrusion could be mitigated by the introduction of boundary fencing or screening between the conservatory and the driveway.
22. Given that the area in question is already used by vehicles associated with the existing dwelling, the net increase in vehicle and pedestrian movement arising from the proposed development would be modest. It would not be at a level that would cause an unreasonable increase in noise or disturbance within the neighbouring dwellings, taking account of their layout and the intervening boundary screening, both existing and proposed.
23. That being the case, I conclude that the proposed development would not have a harmful effect on living conditions for occupiers of neighbouring properties. Therefore, this aspect of the proposal would not conflict with relevant requirements in Policy SP7 of the Section 1 LP, Policy DM15 of the Section 2 LP, or the Backland and Infill Development SPD. These policies, amongst other things, include that new development should not harm the amenity of neighbouring residents, including as a result of increased noise and disturbance associated with vehicle access and parking.

Other Matters

24. The first reason for refusal mentions that Policies DM12 and DM15 of the Section 2 LP include requirements relating to daylight and sunlight. However, the Council's Officer Report and Statement of Case do not allege any harm to daylight or sunlight in the existing or proposed dwellings. In my reasoning above, I have focussed on the aspects of the proposed development which the Council described as being harmful.
25. I acknowledge that pre-application advice was sought, although the Council's evidence indicates that aspects of that advice were not addressed.

26. The proposal would make a small contribution to the supply of housing, suitable for a range of occupiers, in an established residential area with good access to local services. There would be no identified harm to heritage assets and the harm to the character and appearance of the area would be relatively localised, given the proposed backland location. More efficient use would be made of a larger than average garden plot. However, the Framework's support for more efficient use of land is not at the expense of ensuring that all development is well designed.
27. The introduction of grasscrete on the front driveway would be of very limited benefit, given that the front garden already contains soft landscaping, and the site as a whole has a generally well-maintained appearance, consistent with the surrounding street scene. Use of external materials harmonising with those found in the local area is a neutral factor, since this would be required in order to comply with other aspects of the development plan.
28. The contribution to housing land supply would be very modest and there is no evidence before me indicating that the Council cannot demonstrate a deliverable five-year housing land supply or is otherwise failing to meet its housing targets. In that context, the modest benefits of the proposal do not outweigh the harm I have identified to the living conditions of future occupiers and the character and appearance of the area, or the associated conflict with the development plan.
29. With regard to the matters raised in the second and third reasons for refusal, I acknowledge that the UU purports to address these points. The Council has not presented any substantive evidence to the contrary, although a small increase in one of the required contributions has been highlighted. Since I am dismissing the appeal for other reasons, it is not necessary for me to consider these matters in any further detail.

Conclusion

30. For the reasons given above, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Jane Smith

INSPECTOR