
Appeal Decision

Site visit made on 22 August 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/A1530/W/24/3339111

Lychgate House, 145 Shrub End Road, Colchester CO3 4RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Piyoosh Amin against the decision of Colchester City Council.
 - The application Ref is 231791.
 - The development proposed is change of use of 147 Shrub End Road from C3(a) to C2 residential institution with a 1.5 storey link connection to existing 145 Shrub End Road, Lychgate Care Home. Creation of a single storey garden room, reconfigured main entrance along with loft conversion and other internal alterations creating 7No. new rooms with a net gain of 6No. rooms in total.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the appellant made a payment at application stage to address the mitigation required by the Council of the effect of the proposal on protected European sites.

Main Issues

3. The main issues are the effect of the proposed extensions on the character and appearance of the host buildings and the surrounding area; and the effect of the front extension on established trees.

Reasons

Character and appearance

4. No 145 is a detached two storey building in use as a residential care home, with front and rear gardens and access from Shrub End Road, a main route into Colchester city centre. No 147 next to it is a detached two storey dwelling in residential use, with an access shared with neighbouring properties to the side and rear. The surrounding area is predominantly residential in character, but also includes some shops and other facilities.
 5. Comparisons are drawn between the appeal proposal and earlier unsuccessful or withdrawn applications for similar forms of development. While I note these, I have considered the proposal before me on its individual merits.
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6. Policy SP7 of the Colchester Borough Local Plan 2013-2033 Section 1 (2021) requires development to meet high design standards, including that it should preserve and not harm local character. Policy DM15 of the Colchester Borough Local Plan 2017-2033 Section 2 (2022) requires that all development including extensions and alterations, must be designed to a high standard and positively respond to its context. Development must respect and, wherever possible, enhance the character of the site, its context and surroundings in terms of its layout, architectural approach, height, scale, form, massing, density, proportions, materials, townscape and/or landscape qualities, and detailed design features.
7. The twin-gabled rear extension to No 147 and raised roof to the original dwelling would materially alter the appearance and proportions of the building, particularly due to the additional bulk. However, the additional roof height would be seen in the context of the taller building, No 145, to one side and would not be unduly uncharacteristic in the context of other neighbouring dwellings.
8. To the rear the gables would be subordinate in height to the principal built form. The additional depth created by the rear extension would not be incongruous, particularly as it would be seen in profile against the rear of No 145, which has a deeper rear building line than No 147. As such, the changes to No 147 would not result in material harm to its character and appearance or that of the surrounding area.
9. The extension to the front to create a garden room would be of limited height and, therefore, not bulky in its own right. Moreover, its front building line would be broadly consistent with the line of dwellings to the west. Furthermore, the link between the two buildings would also be subordinate to the height of the existing buildings.
10. Taken as a whole, however, the extensions and their function in linking the existing buildings and creating additional space, would result in an incongruous and complex built form. This would be apparent from the range of different roof forms, the different heights of the various elements and the varied fenestration. Moreover, the forward projection of the single storey element would break the otherwise consistent front building line across the properties. As such, the building as a whole would be incoherent in its form and, therefore, the extensions would harmfully alter the simpler built forms of the two existing buildings.
11. The surrounding area includes a mix of residential properties, with detached, semi-detached and terraced dwellings all apparent within the street scene. There are examples of large built forms, such as the sheltered housing on the opposite side of the street and the terraced housing to the west of the appeal site on the same side of Shrub End Road. However, these larger buildings are more coherent in their overall height, fenestration patterns and uniformity of built form than would be the case with the proposed development. Consequently, the effect of the changes described above would also be uncharacteristic of the wider area.
12. The front boundary includes mature trees and other vegetation that partly screen the two properties from views into the site. However, it is possible to gain some views into the site from the road frontage and the extended buildings would be much more apparent during the autumn and winter. Views could also be readily gained from the shared driveway serving No 147 and other properties. From these

views to front and side the harmful effects of the extensions and overall built form would be readily apparent.

13. I have had full regard to the purpose of the proposed extensions, to create more living space for the residential care home, to position the garden room where it can best benefit from sunlight and to improve safety and access for residents. Moreover, I note that the proposal would comply with Policy DM10 of the Local Plan Section 2, which recognises the need to provide the type of residential accommodation proposed in support of a diverse housing stock; and it would re-use existing buildings rather than require a new building. However, for the above reasons, the harm resulting from the proposal in this instance is not outweighed by these considerations.
14. Therefore, for these reasons, I conclude that the proposal as described would have an unacceptably harmful effect on the character and appearance of the host buildings and the surrounding area. Consequently, the proposal is contrary to Policy SP7 of the Local Plan Section 1 and to Policy DM15 of the Local Plan Section 2, as described. It is also contrary to the National Planning Policy Framework, which advocates good design.

Trees

15. There is a row of mature trees to the site frontage and the Council's principal concern is that the proposed single storey extension to the front would design in a conflict with the trees. I agree that due to their height and prominence in the street scene the trees have considerable amenity value.
16. The appellant has submitted an arboricultural impact assessment, which considers in detail the likely effect of the proposed extension on the trees. This concludes that the proposal will have some impact on the root protection areas of the nearest trees, but also provides a method statement to mitigate the impact during construction. Implementation of this could be required by condition, which would overcome any concerns about harm in this regard. Given the height of the trees and particularly the height of the canopy above the single storey building, there is no reasonable basis to conclude that there would be undue need to prune the nearest trees; or that the extension would otherwise be harmful to their future existence.
17. Accordingly, for these reasons, I conclude that the proposal would not have a materially harmful effect on the established trees to the site frontage. Consequently, there is no conflict with Policies DM15 and ENV1 of the Local Plan Section 2, with regard to the effect on local character and on the natural environment.

Other Matters

18. I have had regard to all the representations made by interested parties. These raise matters already addressed under the main issues or that are outside the scope of this appeal, particularly access rights across the shared driveway. With regard to the effect of the proposal on neighbouring living conditions, I agree with the Council that there is sufficient separation between the appeal site and

neighbouring properties such that the proposed extensions would not harm neighbouring occupiers' living conditions.

Conclusion

19. While I have found in the appellant's favour with regard to the effect of the proposal on established trees, it would nonetheless result in material harm to character and appearance and, therefore, is contrary to the development plan. Accordingly, for the reasons given it is concluded that the appeal should not succeed.

J Bell-Williamson

INSPECTOR