



Appeal Decision

Site visit made on 17 December 2024

by Jonathan Price BA(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2025

Appeal Ref: APP/A1530/W/24/3345863

43 Seaview Avenue, West Mersea, Colchester, Essex CO5 8HE

- 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 William Sargeant against the decision of Colchester City Council.
 - The application Ref is 231103.
 - The development proposed is for the retention of an existing building for use as a residential annex and adjustment to residential curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for the retention of an existing building for use as a residential annex and adjustment to residential curtilage at 43 Seaview Avenue, West Mersea, Colchester, Essex CO5 8HE in accordance with the terms of the application, 231103, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the appeal was made, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. My decision reflects this, including the amended paragraph numbers. I have not invited further submissions from the parties over the revised Framework as the policy revisions have no significant implications for the main issues in this case.

Main Issue

3. The effect of the proposal on the functional, landscape and amenity value of planned public open space (POS) provision in this area.

Reasons

4. The proposal relates to the temporary sales office associated with the well-advanced Sanderling Reach development of 101 dwellings. The sales office is just beyond the end of No.43's back garden, occupying an area previously part of its curtilage. An access into the new development runs alongside No.43 which, on scheme completion, will just be for pedestrians and cyclists.
5. The sales office occupies a small parcel of the consented POS adjacent to this entrance to the new development. It is approved as species rich grassland containing four trees, backed by hedging. The proposal is to reclaim this as back garden to No.43, allowing the sales office to be repurposed as annex accommodation. The larger garden would reflect the extent of others along

Seaview Avenue, some of which contain similar ancillary buildings. The low-level timber building, within an enlarged back garden, would therefore not be out of character within rear views of Seaview Avenue.

6. The proposal would enclose the planned open space at one side of the pedestrian/cycleway leading into Sanderling Reach from Seaview Avenue. However, immediately beyond this, the remaining open space offers broad views of the new housing. The extended curtilage would match adjacent back gardens and, subject to suitable means of enclosure and landscaping, cause little material harm to the townscape quality in this location.
7. The appellant refers to the permitted Sanderling Reach scheme providing well in excess of the amount of POS required under Policy DM18 of the Section 2 Local Plan¹ (LPS2). This is a minimum requirement and so I do not infer the scheme to be 'in credit' over POS supply, such as to automatically support any further reductions. However, the loss of this relatively small amount of POS would have no appreciable impact on the wider functioning of the green infrastructure supporting this new housing development.
8. For the above reasons, the proposal would satisfy the place shaping principles in Policy SP7 of the Strategic Section 1 Local Plan². This includes by responding positively to local character and not threatening the delivery of an integrated POS network in the new development as a whole. By the same token, the proposal satisfactorily addresses LPS2 Policy DM15 by respecting the character of the surroundings and allowing for an adequate network of green infrastructure as part of the wider development.
9. The Sanderling Reach development would continue to satisfy policy requirements for POS provision and the loss involved in this proposal would have no future shortfall implications. Therefore, I find little conflict with Policy WM 10 of the West Mersea Neighbourhood Plan, which otherwise resists the unreplaced loss of existing open space.
10. The proposal would not gain the full support of LPS2 Policy DM17 because it does not compensate for the loss of POS by alternative and improved provision at an appropriate location elsewhere. Other criteria of this policy are satisfied, including in respect of amenity, green infrastructure contributions and any potential shortfall implications.
11. Noting the degree of conflict with LPS2 Policy DM17, I find that this proposal would have no materially harmful effect on the functional, landscape and amenity value of planned POS provision in this area.

Other Matters

12. With regard to concerns raised by interested parties, this proposal does not include any new access and, as annex accommodation, would be served by the entrance and car parking already provided at No.43. The proposal has no bearing on the intention for the adjacent temporary vehicle access to be for pedestrians and cyclists only, once the housing has been completed.

¹ Colchester Borough Local Plan 2017-2033 Section 2, adopted July 2022.

² Colchester Borough Local Plan 2013-2033 North Essex Authorities' Shared Strategic Section 1 Plan, adopted February 2021

13. The reduced site area, as amended at the application stage, would preserve the access point to maintain the landscaping along this side of the new development.

Conditions and conclusion

14. I have considered the conditions recommended by the Council, and the appellant's comments on these, against the tests set out in paragraph 57 of the Framework. In addition to one setting the standard three-year time limit for commencement (1), a condition is necessary defining the plans approved (2). In the interests of the character and appearance of the area, a condition is necessary requiring the implementation of a scheme of hard and soft landscaping (3). The extended curtilage will require means of enclosure, and so I have amended the suggested landscaping condition to include this. This is to enable the Council to retain control over this and removes the need for the condition suggested removing permitted development rights for means of enclosure.
15. The permission is for ancillary annex accommodation and so a condition is needed limiting occupation on this basis (4). In the interests of adequate on-site parking at No.43, I have applied a condition requiring this to be provided as approved, in line with local highway authority recommendations (5). For certainty, a condition is necessary ensuring no further means of access is permitted to the annex, which is to be shared with that currently serving No. 43 (6).
16. The proposal would make beneficial use of an existing building and comply with LPS2 Policy DM13 on residential annex accommodation. There would be no countervailing harm sufficient to outweigh this. Therefore, subject to the conditions discussed, I conclude that the appeal is allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan CC-43-SA-SS-1250 Rev A; site plan CC-43-SA-SS-100 Rev A; proposed plans and elevations CC-43-SA-SS-201.
- 3) The annexe hereby permitted shall not be occupied until a scheme of hard and soft landscaping works, including the means of enclosure and a scheme for implementation and future management, has been submitted to and approved in writing by the local planning authority. The hard and soft landscaping shall be carried out prior to the occupation of the annexe hereby permitted and be thereafter retained and maintained in accordance with the approved scheme.
- 4) The annexe hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 43 Seaview Avenue, West Mersea.
- 5) The annexe hereby permitted shall not be occupied until car parking arrangements at 43 Seaview Avenue have been provided in accordance with details that shall

have had the prior written approval of the local planning authority. These car parking arrangements shall thereafter be retained.

- 6) There shall be no further means of access provided to the annex hereby permitted other than that presently serving 43 Seaview Avenue.
