
Appeal Decision

Site visit made on 18 February 2025

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 18 March 2025

Appeal Ref: APP/A1530/W/24/3349929

Land to the rear of 3 Highfield Drive, Lexden, Colchester CO3 3QA

- 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 Marguerite Haddrell against the decision of Colchester Borough Council.
 - The application Ref 240223, dated 2 February 2024, was refused by notice dated 18 March 2024.
 - The development proposed is the demolition of the double garage, relocation of existing car parking and creation of a three bedroom detached house and a garage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the double garage, relocation of existing car parking and creation of a three bedroom detached house and a garage on Land to the rear of 3 Highfield Drive, Lexden, Colchester CO3 3QA, in accordance with the terms of the application, Ref 240223, dated 2 February 2024, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Marguerite Haddrell against Colchester Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.
4. Two further reasons for refusal were withdrawn following the submission of a unilateral undertaking, namely that the proposal failed to provide necessary financial contributions towards off-site infrastructure improvements and to mitigate against recreational disturbance to nature conservations sites.

Reasons

Character and appearance

5. The proposal is for a detached two storey three-bedroom house and adjacent single garage on a site at the end of Highfield Drive, a private cul-de-sac off Lexden Road. The site, to the rear of No 3, a detached house, has already

been granted planning permission¹ for a two-bedroom detached bungalow and the proposal is to substitute a two-storey dwelling instead. As in the approved scheme, the existing double garage on the site would be demolished with two replacement parking spaces provided to the front of No 3.

6. The Council argue that the scale, mass and bulk of the house would appear an overly dominant feature at the end of the lane. However, the dwelling would be a relatively modest three-bedroom house with a smaller footprint on the site than the bungalow. The garage and tandem parking to one side would allow for more green space in front of the dwelling and the layout provides for a larger garden to the rear. The illustrative street scenes show a dwelling slightly smaller than Nos 1-3 that would not unduly dominate the vicinity and would not significantly block views of the large trees behind, thus maintaining the verdant character of the area. Highfield Drive comprises two-storey houses and there is no reason why a further such dwelling would appear out of place given this context.

Other matters

7. The dwelling would not appear cramped on the site being located away from the site boundaries and some distance from nearby properties. The first-floor layout has been designed with only bathroom/ensuite and stairway windows on the southern and western elevations respectively, thus protecting the privacy of the occupiers of Nos 2 and 3. The distance from these two houses would also be sufficient to avoid any undue loss of outlook. Some large trees screen the proposed dwelling from the properties to the north-east and south-east. The detailed design of the dwelling would be acceptable.
8. The new dwelling would lie within the zone of influence of various Essex Coast European Designated Sites where visitor pressure from additional residents may adversely affect the integrity of the habitats concerned. However, the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has identified a series of suitable measures to address this issue and the necessary financial contribution has been secured by unilateral undertaking. There is consequently no objection to the proposal in this respect.
9. The unilateral undertaking also provides for financial contributions towards off-site sport, recreational and community facilities in order to comply with Policies SP6 and PP1 of the Colchester Borough Local Plan (CBLP) and the associated supplementary planning documents.
10. An undeveloped area of land adjacent to the appeal site and running alongside the flank wall of No 3 is overgrown and bounded by unattractive Heras style fencing. This area, which is controlled by the appellant but currently distinct from the rear garden, a close boarded fence separating the two, has been the subject of applications for a further dwelling which were dismissed on appeal in 2011 and 2015². It would appear this land has been disused and unkempt for many years, and permission for the bungalow was granted on the basis that this area would be landscaped and maintained to mitigate the visual impact of the proposal. This requirement is even more necessary to mitigate the visual impact of a two-storey house.

¹ Reference 231412

² References APP/A1530/A/11/2150040, APP/A1530/W/15/3005564 & 3005569

Conclusion

11. Contrary to the views of the Council, with suitable conditions, the proposal would not significantly harm the character and appearance of the area and would comply with CBLP Policies SP7 and DM15. These require development to meet high standards of urban and architectural design and to respond positively to local character and context.
12. The Council put forward twelve conditions should the appeal be allowed, in essence the same as those attached to the previous planning permission on the site. These have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans and the external materials to be used in the interests of certainty. Further conditions are necessary to ensure any archaeological interest is investigated and recorded, to remediate any contamination found on site to avoid pollution, to ensure the approved parking spaces are provided to limit on-street parking and to control the hours of building work to protect the amenity of nearby residents. Given the constraints of the site it is necessary to remove permitted development rights to control any future development of the site. Conditions to require suitable landscaping of the site and the adjacent land, together with its future maintenance, are necessary to ensure a satisfactory appearance for the development. Finally, although seen as unnecessary by the appellant, a condition is necessary to require an arboricultural impact assessment and its implementation due to the presence of important trees next to the site.
13. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of Conditions attached

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers OC206-PL-01 Rev 00, OC206-01-PL-02 Rev L, OC206-PL-03 Rev L, OC206-GR-01 Rev 00 and OC206-HT-01 Rev K.
- 3) No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved in writing by the Local Planning Authority.
The scheme of investigation shall include an assessment of significance and research questions; and:
 - a. The programme and methodology of site investigation and recording.
 - b. Provision to be made for analysis of the site investigation and recording.
 - c. Provision to be made for reporting, publication and dissemination of the analysis and records of the site investigation.
 - d. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - e. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - f. The scheme of investigation shall be completed as agreed and approved in writing by the Local Planning Authority.
- 4) The external facing and roofing materials to be used shall be those specified on the submitted application form and drawings, unless otherwise agreed in writing by the Local Planning Authority.
- 5) No works shall be carried out until an Arboricultural Implications Assessment, Arboricultural Method Statement and Tree Protection Plan in accordance with BS 5837, have been submitted to and approved in writing by the Local Planning Authority (LPA). Unless otherwise agreed, the details shall include the retention of an arboricultural consultant to monitor and periodically report to the LPA, the status of all tree works, tree protection measures, and any other arboricultural issues arising during the course of development. The development shall then be carried out strictly in accordance with the approved method statement.
- 6) No works shall take place until a scheme of hard and soft landscaping works for the publicly visible parts of the site (including the area of private open space shown edged in blue on the approved drawings) has been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include any proposed changes in ground levels, means of enclosure and also accurately identify positions, spread and species of all existing and proposed trees, shrubs and hedgerows on the site, as well as details of any hard surface finishes and external works, which shall comply with the recommendations set out in the relevant British Standards current at the time of submission.
- 7) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation

of the development or in such other phased arrangement as shall have previously been agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

- 8) No works shall take place until a schedule of landscape maintenance for a minimum period of ten years has been submitted to and approved in writing by the Local Planning Authority for the area of private open space to the north of No. 3 Highfield Drive shown edged in blue on the approved drawings. The schedule shall include details of the arrangements for its implementation and the development shall thereafter be carried out in full accordance with the approved schedule.
- 9) In the event that historic land contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with all relevant, current, best practice guidance, including the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.
- 10) Prior to the first occupation of the development hereby permitted, the four parking spaces shall have been laid out within the site in accordance with the approved plan OC206-PL-03 Rev J. The approved parking spaces shall thereafter be maintained free from obstruction and available for parking use at all times.
- 11) Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise approved in writing by the Local Planning Authority.
- 12) No demolition or construction work shall take place outside of the following times:
Weekdays: 08:00-18:00
Saturdays: 08:00-13:00
Sundays and Bank Holidays: No working.