
Appeal Decision

Site visit made on 6 May 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2025

Appeal Ref: APP/Z1510/W/24/3352917

25 Colchester Road, Coggeshall, Essex CO6 1RP

- 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 Andrew Wilton-Baker against the decision of Braintree District Council.
 - The application Ref is 23/02710/FUL.
 - The development proposed is removal of existing tractor shed to be replaced with a 2 bedroom detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - i) whether the proposal would provide satisfactory living conditions for the future occupiers of the dwelling with particular regard to outdoor amenity space;
 - ii) the effect of the proposed development upon the living conditions of existing occupiers at No 25 Colchester Road, with particular regard to outlook;
 - iii) the effect of the proposed development on the character and appearance of the area; and
 - iv) the effect of the proposed development upon the living conditions of existing occupiers at No 25 Colchester Road, with particular regard to outdoor amenity space.

Reasons

Proposed occupiers – outdoor amenity space and overlooking

4. The Essex Design Guide 2005 (EDG) sets out minimum garden areas, stating that an area of 50sqm is required for a two-bedroom property.
5. The proposed dwelling would be provided with an outdoor amenity space to its western elevation. This would be located to the rear of the existing dwelling, No.25. The side garden for the proposed dwelling would fall short of the advisory garden sizes as set out in the EDG, however, the shortfall would be modest. Additional outdoor areas would be provided to the front of the property, which reflects the arrangement of the adjacent property at No. 27. Although this would not be private amenity space being highly visible from the public highway.
6. A tall close board fence along the shared boundary would prevent direct overlooking from ground floor windows of No 25. I observed first floor windows to the rear elevation of this existing dwelling. Given the limited separation distance, between the rear elevation of the existing dwelling and the shared boundary, the side garden of the proposed dwelling would be overlooked.
7. The orientation of the proposed dwelling within the plot, and the internal layout of it, leads me to the view that the garden to the side of the proposed house would be the most important in providing a private space for the future occupiers of the dwelling. Accordingly, due to overlooking from existing windows I am not satisfied that the future occupiers of the proposed development would be provided with a satisfactory private outdoor space.
8. For the reasons stated I conclude that the proposal would fail to provide satisfactory living conditions for the future occupiers of the proposed dwelling with particular regard to outdoor amenity space. I therefore find conflict with Policy LPP52 of the Braintree District Local Plan 2013-2033 (LP) which requires residential developments to provide a high standard of accommodation and amenity for all prospective occupants. Conflict also arises with Policy LPP35 of the LP insofar as it requires on-site amenity space to be provided in accordance with the adopted guidance.

Existing occupiers – outlook

9. The proposed dwelling would be two-storey, positioned towards the rear of the plot, beyond the rear elevation of No 25. Given its height, massing and close relationship to the rear of the existing dwelling, and its retained rear garden, the proposal would have an unacceptable overbearing effect on the outlook of the occupiers of No 25 when seen in views from their rear habitable room windows and garden. This would be to the detriment of their living conditions.
10. Whilst the proposed dwelling would occupy a similar position to the existing tractor store, the scale of the building differs significantly and is therefore not comparable in terms of its impact.
11. I therefore conclude that the proposal would have a harmful impact upon the living conditions of the occupiers of No 25 by reason of outlook. Conflict therefore arises with Policy LPP52 of the LP, which, amongst other things requires that development proposals do not have an unacceptable impact on the amenity of any

nearby properties including on privacy, overshadowing, loss of light and overbearing impact.

Character and appearance

12. The existing dwelling comprises a two-storey semi-detached dwelling positioned to the front of a relatively wide and elongated plot. I observed variations in plot sizes and the positioning of dwellings and gardens within their respective plots.
13. The proposed dwelling would be substantially larger than the existing tractor store, with a footprint comparable to that of the host dwelling. As such, it would add considerable built form into the site, which would undermine the open character of this part of the site, resulting in a cramped form of development. Furthermore, because of its close proximity to existing built form a number of windows, including those to habitable room windows, are shown to be obscure glazed. This reinforces my view that the scale of the property represents an overdevelopment of the appeal site.
14. In the vicinity of the appeal site, I observed an eclectic mix of properties. Having regard to the site's context in respect of the proposed design and materials of construction I am satisfied that it would not be harmful to the character and appearance of the streetscene. However, this would not overcome the harms identified in respect of the overall cramped appearance of the proposal within the limited plot.
15. For these reasons, this draws the proposal into conflict with Policies LPP35 and LPP52 of the LP and Policy 14 of the Coggeshall Parish Neighbourhood Plan July 2021. Collectively, and amongst other things, these policies seek to ensure the density and massing of residential developments relate to the character of the site and its immediate surroundings, as well as the wider locality.

Existing occupiers – outdoor amenity space

16. I observed dwellings in the locality to have varying garden sizes, with many having extensive front and side gardens.
17. While the sub-division of the plot would reduce the garden size of the existing dwelling a rear garden area would remain. The evidence before me indicates that a rear garden of approx. 45.7sqm would be provided with a further 38.1sqm to the side of the dwelling. The garden would be bound by a 1800mm tall close boarded timber fence that would afford privacy to the existing occupiers. Owing to the size and location of the garden, I am satisfied that the occupiers of the existing dwelling would be provided with sufficient useable private amenity space.
18. Due to the orientation of the first-floor side elevation and front elevation windows of the proposed dwelling I am satisfied that there would be no unacceptable loss of privacy by reason of overlooking of these retained garden areas.
19. Accordingly, the proposal complies with Policy LPP52 of the LP and the principles of the EDG. Collectively, and amongst other things, these policies require residential development to provide sufficient functional space for everyday activities and to meet people's needs and expectations from their home.

Other Matters

20. It is not disputed that the proposal would provide for satisfactory internal space standards in accordance with the National Described Space Standards.
21. The appellant has referred to other developments proximate to the appeal site¹, which he considers are similar to the appeal proposal in respect of garden spaces. While I do not have the full details of these cases before me, it is understood that these meet the Council's space standards. In any event, each case must be assessed on its own merits and the presence of other schemes does not justify the harms which I have identified that the appeal proposal would cause.
22. The appellant advances that the proposal would be a sustainable form of development. It is not disputed that the appeal site is within a sustainable location. Whilst achieving a high level of sustainability through design and construction is something the government seeks to encourage there is nothing before me to indicate that its design would include new, or original, methods or be otherwise exceptional or innovative. Consequently, the sustainability credential of the proposal carries limited weight in favour of the proposal.
23. I understand that the site falls within the Zone of Influence of one or more European Sites comprising the Essex Coast Recreation Disturbance Avoidance and Mitigation Strategy (RAMS). The Conservation of Species and Habitats Regulations 2017 require the Competent Authority to consider whether the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans. A financial contribution is understood to have been secured by way of a RAMS payment to mitigate the additional recreational pressure on the European Sites arising through the proposed development. As I am dismissing the appeal for other substantive reasons, it is not necessary for me to further consider the implications of the proposal for the Habitats site.
24. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me.
25. The Council has confirmed that it can demonstrate a 5-year housing land supply. This has not been disputed by the appellant. Nevertheless, the proposed development would make a contribution of one additional dwelling to housing supply and would make efficient use of previously developed land. There would be some social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of trade to nearby services and facilities upon completion. However, these benefits would inevitably be limited given the scale and nature of the development proposed. These matters do not, therefore, outweigh the harm that has been identified.

Conclusion

26. The proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, which would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

R. Gee INSPECTOR

¹ 22 Minkin Close and 65 West Street