
Appeal Decision

Site visit made on 9 April 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/A1530/W/25/3358333

119 Nayland Road, Colchester, Essex CO4 5EW

- 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 Mrs V Mills against the decision of Colchester City Council.
 - The application Ref is 240398.
 - The development proposed is provision of 1 Bed residential dwelling including first floor extension and conversion of part conversion of existing ground floor.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application a revised National Planning Policy Framework (the Framework) has been published. I have considered the revised Framework in my decision.
3. I have taken the description of development above directly from the application form. It includes a possible contradiction (*'and conversion of part conversion of'*). I have determined the appeal on the basis that it is proposed to convert part of the ground floor at the appeal site to residential use, leaving part in commercial use, as shown on the plans.
4. I have been provided with two plans showing proposed elevations and floor plans, drawing no P002 (dated Feb 2024) and no P002 Rev A (dated April 2024). The latter includes amended gable end detailing, proposed car parking arrangements, and sets out the relationship between parking and amenity spaces. It is unclear which plan the Council had regard to when reaching its decision. Even if it were the earlier, I have received no objection to the inclusion of the latter in the appeal. Whilst it provides a greater level of detail, I do not consider it to make a substantial difference or fundamental change to the application, and shall include plan P002 Rev A in my determination.

Main Issues

5. The main issues are:
 - Whether acceptable living conditions for future occupiers of the proposed dwelling would be provided, with particular regard to the amount of internal space and the amount and quality of external amenity space;

- The effect of the proposed development on the character and appearance of the area, including the neighbouring building at 121-123 Nayland Road, identified by the Council as a non-designated heritage asset; and
- Whether the proposed development would make appropriate provision for (i) electric vehicle charging, (ii) cycle parking, and (iii) refuse storage.

Reasons

Living conditions

6. The appeal site includes a single storey building in use as a hair salon, along with land to the front and rear. Adjoining it to the north is a pair of semi-detached dwellings at 121-123 Nayland Road (Nos 121-123). To the south is an open track.
7. It is proposed to erect a first-floor extension which, along with part of the existing ground floor, would be used to create a one-bed dwelling. In such circumstances Policies DM12 and DM13 of the Colchester Borough Local Plan (2017) (the Local Plan) require, amongst other things, accordance with nationally described space standards regarding Gross Internal (floor) Area (GIA), meaning a GIA of 58m².
8. Disagreement exists between the main parties as to the GIA the appeal scheme would provide. The Council consider it to be 52m², comprised of 20m² on the first floor, and 32m² on the ground; Whether the stairs and lobby have been included in its calculations is unclear. The appellant provides the same figures but puts the total GIA at some 57.5m² once 'additional circulation space' is included. It is indicated that this means 'the stairwell and service space', which I take to mean the stairs and lobby, as labelled on the plans.
9. The technical housing standards define GIA as the total floor space measured between the internal faces of perimeter walls that enclose the dwelling, including partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs. Thus, the stairs and lobby should count towards the GIA.
10. The plan shows internal dimensions for the first-floor rooms, but does not provide them otherwise. Based on my reading, the stairs and lobby provide scarcely more than 4m². Furthermore, it is not evident that the remainder of the ground floor provides 32m²; indeed, my reading is that the total GIA for the ground floor, lobby, and stairs is closer to 33m². In the absence of more detailed evidence, and based on the plans before me, I find the proposed dwelling to fall short of the required GIA by around 5m², a significant shortfall given the modest size of the proposed dwelling, and one resulting in unacceptable internal living conditions.
11. Policy DM19 of the Local Plan requires easy access to private amenity space of a high standard, which is secure and usable, and has an inviting appearance. For one bedroom houses the amenity area must be at least 50m², for flats it is 25m² per flat, provided communally. Whilst it is stated that reduced garden sizes for houses may be acceptable in accessible locations, 25m² of useable private amenity space is the minimum in any event.
12. The area immediately outside the entrance to the proposed dwelling would be given over to parking and external storage. It is open to the track. These features mean that this area would not be private amenity space. Beyond this would be a garden amenity area. Even if, as the appellant contends, the amenity area need only be 25m², at 21m², the proposed garden is undersized.

13. Moreover, the proposed layout does not provide private amenity space of a high standard, secure and usable, with an inviting appearance. In cutting the garden off from the dwelling, the proposed layout would discourage easy and frequent movement between the two. Given the open nature of the track, tall enclosures would be required to ensure privacy and security in the garden. Such enclosures would, however, prevent intervisibility between the dwelling and the garden; Given both would be accessible from the track, this would likely require that the door to the dwelling be locked when one used the garden, and that the garden be locked when one left it. This level of inconvenience would discourage use of the garden further. Overall, the arrangement would result in unacceptable external living conditions.
14. The appellant has suggested the commercial unit WC could be altered in size to increase the GIA of the dwelling, and that arrangements varying from two parking spaces at the rear of the site to none, and possibly including residential parking on the commercial forecourt, could be agreed via condition. I have determined the appeal on the basis of the plans before me. That said, based on the above I have no reason to believe that altering the WC would provide sufficient additional floorspace to the dwelling, and no information as to the implications for the operation of the commercial unit.
15. Insofar as parking arrangements are concerned, the Council has reached its decision, which did not cite an inadequate number of parking spaces, on the basis that one would be provided to the rear of the site. To have no parking spaces to the rear would make a substantial difference and fundamental change to the scheme the Council consulted on. It would be unfair for me to bring about such an outcome, therefore.
16. In order to impose, via conditions, that the main parties agree a rear garden and parking arrangement different to that shown on the plans be
17. areas, differ to that shown on the plan, be agreed I would need to be certain that an acceptable one could be achieved. Even setting aside the size of the garden area, I have no evidence, and it is not self-evident, that an adequate garden can coexist with a safely accessible parking space, considering the possibility a driver may need turning space. Even if only on this basis alone, I find that such a condition would be unreasonable.
18. I recognise that the appellant would occupy the proposed dwelling in conjunction with the commercial unit and is content to do so. I do not see that a live/work arrangement justifies substandard residential accommodation. Even if the appellant is willing to accept it personally, I am mindful that others would occupy the proposed dwelling in future and be subject to inadequate living conditions.
19. The proposed development would result in unacceptable living conditions for future occupiers of the proposed dwelling, with particular regard to the amount of internal space and the amount and quality of external amenity space, contrary to Policies DM12, DM13, and DM19 of the Local Plan.

Character and appearance; heritage

20. The part of Nayland Road around the appeal site includes several dwellings over 100 years old. Many of these are in red brick and display traditional features. Whilst the road overall also includes other, more modern buildings, these older dwellings are largely pleasant, characterful, and indicative of the historic development of the street. Nos 121-123 are two such dwellings.
21. The Planning Practice Guidance (PPG) states that non-designated heritage assets (NDHAs) may be identified through processes such as local and neighbourhood plan-making though, in some cases, they may also be identified as part of the decision-making process on planning applications. Nos 121-123 are not locally listed but have been identified as an NDHA by the Council.
22. The proposed development would affect the balance and symmetry of Nos 121-123, which is largely intact, and conceal decorative brickwork on the southern gable end. However, different roof tiles, windows, front doors and forecourt materials have already eroded the symmetry of Nos 121-123 to a notable degree, as has the existing, single storey building at the appeal site. Moreover, terraces of three are common locally, including directly opposite the appeal site, and I see no reason why broadly similar decorative detailing could not be achieved in the gable end of the proposed extension.
23. The appeal site includes a flat roofed building. It has locally appropriate red brick in its frontmost elevations, in which some care has been taken with the detailing. Whilst these aspects mean the appeal site is not harmful to the street, its flat roof is nevertheless incongruous locally. The proposed development would improve the appearance of the appeal site in these regards.
24. Overall, I find that the proposed development would not have a harmful effect on the character and appearance of the area, including the neighbouring building at 121-123 Nayland Road, identified by the Council as a non-designated heritage asset, and would comply with Local Plan Policies SP7, ENV1, and DM15 in those respects.

Facilities

25. The plans show the broad location of bin and cycle storage to the rear of the site. The creation of an electric vehicle charging point (EVCP) could serve the parking space shown therein. These, however, are part of a scheme I have found to be inadequate in respect of the size and quality of garden space provided.
26. In respect of what may be reasonably be agreed via planning conditions, I have found it unclear that an acceptable arrangement of garden and parking areas could be delivered in the space available. As such, it is not evident that cycle and bin storage, which would place further strain upon a small area, or an EVCP, could be accommodated either.
27. In the context of the external spaces overall, the proposed development would not make appropriate provision for (i) electric vehicle charging, (ii) cycle parking, and (iii) refuse storage, contrary to Local Plan Policies DM12, DM21 and DM22.

Other Matters

28. A previous planning permission at the site¹ was approved under a different development plan, and did not incorporate residential use. As a result, it carries no weight in my determination.

Planning Balance

29. The benefits of the scheme are material in my determination. The proposal would provide one new dwelling towards the Governmental aim of significantly boosting supply and could be built quickly. The supply of new housing carries significant weight but is tempered in this case by the modest scale of the scheme. There would be some temporary economic benefits associated with the construction phase as well as the prospect of work-related training for site operatives. Thereafter, there would be ongoing local economic and social activity relating to the occupation of the site to the benefit of local facilities and services, as well as to the local community.
30. Nevertheless, given the relatively modest scale of the proposal and the small number of new residents brought about, these benefits would be minor, and not sufficient to outweigh the harm resulting from the conflict with the development plan described above.

Conclusion

31. Whilst I have not found the effect of the proposed development on the character and appearance of the area to be harmful, the effect on living conditions and the absence of adequate facilities would be such that the proposal conflicts with the development plan when read as a whole. Material considerations do not indicate that the appeal should be determined other than in accordance with it.
32. The appeal is dismissed.

A Knight

INSPECTOR

¹ Application Ref 1996/0856.