



Appeal Decision

Site visit made on 14 October 2025

by **David Murray** BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2025

Appeal Ref: APP/A1530/W/25/3369134

Land adjoining 36 Barrack Street, Colchester, Essex, CO1 2LJ

- 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 Motin Miah against the decision of Colchester City Council.
 - The application Ref is 250590.
 - The development proposed is the demolition of the existing garage and erection of a 2 bedroom house with associated parking, bin storage, and cycle storage (self build) .
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect on the character and appearance of the area, including on existing trees;
 - The effect on ecology; and
 - The effect on the living conditions of the occupiers of adjacent properties, including new build.

Reasons

Background

3. The appeal site lies to the rear of an existing two storey property which has a hot food take-away on the ground floor and residential accommodation above. There is a vehicular access to the side of the property which leads to a detached garage/store which is in a poor state of repair. There is a group of mature trees to the rear and the side of the garage. It is proposed to demolish the garage/store and erect a two-storey house with a parking space to the side. I also noted at the visit that construction work is taking place on a site immediately to the west of the appeal site and a basement area was being dug out.

Effect on character and appearance

4. The removal of the existing garage/store would help improve the appearance of the area. There is also a group of mature trees sited on, or which in part overhang the appeal site. Although not the subject of a preservation order, the trees contribute positively to the wider character of the area. They are seen through the access to

the site from Barrack Street and from the footpath and circulation space around the adult learning centre to the rear.

5. The new dwelling proposed would help improve a scruffy back land area, however I am concerned that there is insufficient land available within the appeal site for a new detached dwelling. The one proposed would appear very cramped and squeezed into the narrow confines of the site. The lack of space around it would not be visually attractive or sympathetic to local character. There would be little land around it for amenity and to reflect the wider character of the area and little land left for the existing property. The form of tandem development on this backland site served off a narrow driveway would also be at odds with the general pattern of development locally which comprises frontage development, development off highway like Providence Place, and large scale institutions. The inadequacy of the site and the siting of the detached dwelling proposed would not help achieve a well-designed place as set out in section 12 of the National Planning Policy Framework (the Framework) and particularly parts (a), (b) and (c) of paragraph 135.
6. Moreover, although the site plan indicates that a mature tree would be retained the proposed house would appear to intrude into a large part of the likely root protection area. I note that the appellant says that only minor trimming of the canopy is necessary, however, even if this tree could survive direct building work, I have concerns over the closeness of the tree to the house and rear facing windows, and the degree to which it would overhang the small rear garden. Consequently, there is likely to be pressure from subsequent occupiers for the tree to be removed or for the crown of one of the trees to be severely reduced.
7. On this basis I find that the proposal would not accord with Local Plan Policy DM15 as the house proposed on this limited site would not respect or enhance the context and surroundings of the site or retain arboricultural assets as set out in part (i) of the policy.

Effect on ecology

8. The Council says that the proposal lacks a proper ecological survey of protected species including bats and is therefore not able to assess the ecological impact of the proposal. The appellant's team have submitted photographs and observational evidence of the nature of the building and which is said to show a lack of ecological activity. While this does not amount to a proper ecological assessment, given the small scale of the structure and its current dilapidation I am satisfied that there is not likely to be significant harm to biodiversity caused by its demolition and replacement with a new dwelling. There is no clear conflict with part (C) of Policy ENV1.

Effect on living conditions

9. The Council's objection under this issue is about the relationship of the new dwelling proposed with the flatted development being built off Providence Place. The footprint of the building said to have been approved under ref. 242268 is shown on the submitted block plan. No drawings of the elevations of the permitted building have been submitted or internal floor layouts but I understand that there will be rear facing windows which look towards the appeal site.
10. The appeal scheme house has windows facing front and back and there are no flank windows on the side elevation facing west. In terms of overlooking there may be an oblique view from the front facing windows but the one nearest the boundary with the

development under construction is to a bathroom and is likely to be obscure glazed. I am therefore satisfied that the appeal scheme will not result in the overlooking of the permitted flatted development.

11. In terms of the effect on the outlook and aspect from these permitted flats, the block plan shows that the south-west corner of the proposed house would be about 4m away of which 3.3m is the parking space to the side of the proposed house. If the permitted flats have windows to habitable rooms facing east then these would look towards the bare flank wall of the house or the parking and manoeuvring area rather than the main private garden located to the rear. The proposed house and garden would therefore not be materially overlooked by the flats in the permitted scheme.
12. In relation to whether the permitted flats would suffer from a loss of light I do not have details of the scale and massing of the permitted building to consider this.
13. Overall, on the evidence submitted, I find that there would not be an unreasonable physical relationship between the adjacent development permitted off Providence Place and the new detached dwelling on the appeal site and the proposal would not result in overlooking or a lack of privacy. No conflict with the provisions of Policy DM1 has been demonstrated.

Planning balance

14. On the main issues I have found that the detached dwelling proposed would appear cramped and squeezed in on this limited backland site and this would not maintain or enhance the character and appearance of the area. The proposal would also be likely to result in the direct or subsequent loss of the existing trees on site which positively contribute to the character and appearance of the area. This local harm means the development does not accord with the provisions of the development plan as set out above. Notwithstanding this, the proposal would be unlikely to result in significant harm to biodiversity nor have an unsatisfactory relationship with the development already permitted on a neighbouring site.
15. This policy conflict and local harm have to be balanced with other considerations. I acknowledge that the proposal will be likely to tidy up part of a dilapidated site and also be likely to reduce anti-social behaviour by having a residential presence close to a neighbouring footway. In policy terms there is also national support for the principle of making effective use of land.
16. However these benefits are likely to be relatively short term compared to the permanent harm that arises with the new house being cramped on this back land site. The proposal conflicts with the development plan and national guidance when these are both read as a whole. The other considerations do not outweigh the policy conflict and local harm and this indicates that the appeal should not be allowed.

Conclusion

17. For the reasons given above the appeal should be dismissed.

David Murray

INSPECTOR