
Appeal Decision

Site visit made on 12 July 2016

by D M Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 29 July 2016

Appeal Ref: APP/A1530/W/16/3148226

Land at Hillcrest, Layer Breton Hill, Layer Breton, Essex CO2 OPP.

- 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 Mr J Chamberlain against the decision of Colchester Borough Council.
 - The application Ref 152783, dated 15 December 2015, was refused by notice dated 8 February 2016.
 - The development proposed is the removal of the existing mobile home and erection of detached two bedroom single storey dwelling with parking, turning and landscaping. Alterations to existing outbuilding to provide double garage.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of the existing mobile home and erection of detached two bedroom single storey dwelling with parking, turning and landscaping. Alterations to existing outbuilding to provide double garage at land at Hillcrest, Layer Breton Hill, Layer Breton, Essex CO2 OPP in accordance with the terms of the application, Ref 152783, dated 15 December 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J555/100, J555/102, J555/103, J555/104, J555/105 and J555/106.
 - 3) All existing trees and hedgerows shall be retained throughout the development construction phases, unless shown to be removed on the approved drawing and all trees and hedgerows on and immediately adjoining the site shall be protected from damage as a result of works on site in accordance with the Local Planning Authority's guidance notes and the relevant British Standard. All existing trees and hedgerows shall then be monitored and recorded for at least five years following contractual practical completion of the development. In the event that any trees and/or hedgerows die, are removed, destroyed during such a period, they shall be replaced during the first planting season thereafter to specifications agreed, in writing, with the Local Planning Authority.

Main Issue

2. The main issue is the effect of the development upon the character and appearance of the area.
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Reasons

3. The application site, accessed via a private driveway from Layer Breton Hill, comprises a plot of garden land to the rear of Emfield, a large detached bungalow. Whilst I do not know the exact history of the site, it is evident that it has for some time been used in connection with Hillcrest, which lies a short distance to the north-east. The site is mainly laid to grass but contains an assortment of domestic buildings and paraphernalia including a garage/workshop, a greenhouse and a mobile home.
4. To the south-west, separated from the site by a post and rail fence, is a paddock area which affords far reaching views of the surrounding countryside. The remaining site boundaries are delineated by mature conifer hedges, all of which would be retained. Based on my observations, I consider the site has a predominantly domestic character despite its setting on the edge of open countryside.
5. The surrounding area is characterised by large, mostly single-storey properties which are open fronted and setback generously from Layer Breton Hill behind grass verges. Spacious gardens extending rearwards towards the open countryside are also distinguishing features of the locality. There is however considerable variety in the design and age of buildings which whilst not unattractive are not particularly notable in architectural terms. Nonetheless, overall the area has a spacious and semi-rural quality which is enhanced by occasional views of the countryside to south.
6. Rather than the design and appearance of the dwelling itself, the Council's case rests largely on the fact that the dwelling would be sited to the rear of existing properties fronting Layer Breton Hill and would therefore constitute tandem development in an area where such development is unusual. Whilst I acknowledge that there is little or no evidence of back-land development in the locality, this in itself is not a sound reason for dismissing the appeal unless the dwelling would cause demonstrable harm to the character and appearance of the area.
7. The rear boundary of the site does not extend beyond the village envelope which is demarked by the rear boundaries of those properties to the south. Accordingly, there would be no physical encroachment into the countryside. As I have already noted and as the Council accept, the site is well screened from both public and private viewpoints. Indeed, there is no evidence before me to demonstrate the dwelling would even be visible from Layer Breton Hill and therefore the argument that it would fail to maintain or enhance the wider street scene is abstruse.
8. I concur with the Council that there would be some loss of openness over the site as a whole. However, whilst I give this argument some weight, the scale of the dwelling would be modest and it would be sited and orientated in roughly the same manner as the unsightly mobile home which has occupied the land for approximately 15 years. Additional planting to the south-west boundary is proposed and consequently, the visual impact of the dwelling and its effect on the character and appearance of the surrounding countryside would be marginal and not at a level sufficient to justify dismissal of the appeal.
9. I therefore conclude that the proposed dwelling would not harm the character or appearance of the area. It would thus accord with the design aims Policies

SD1 and UR2 of the "*Local Development Framework - Core Strategy (2008 revised 2014)*" and Policies DP1 and DP12 of the "*Local Development Framework Development Policies (2010 revised 2014)*" which collectively seek good design and development that positively contributes to the character and appearance of an area and takes the opportunity to remove existing unsightly features. I am also satisfied that the development would amount to high quality design and add to the overall quality of the area as required by the "*National Planning Policy Framework*" (the Framework). Finally, I consider the scheme has been carefully designed and accordingly there would be no conflict with the aims of the "*Backland and Infill Supplementary Planning Document 2009*".

Other Matters

10. It has been stated that the appeal scheme could set a precedent for other proposals in the area. However, no directly comparable sites to which this argument might apply have been put forward. In any event, any such proposals would be judged on their merits and this is not a matter to which I have attached any great degree of weight.
11. I have noted concerns from adjacent occupiers regarding the potential for noise disturbance from the coming and goings to the dwelling. However, the site is already in domestic use and hence generates car movements in its own right. There is nothing before me to suggest the amount of noise generated by future residents including vehicle movements would exceed that which takes place currently.
12. Finally, local residents have expressed a wide range of concerns including; the effect on outlook, drainage and highway safety. However, whilst I understand the concerns of local residents, there is no compelling evidence before me which would lead me to conclude differently to the Council on these matters.

Conditions

13. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
14. In addition to the standard time limit condition, I have also specified the approved plans as this provides certainty. A condition regarding the retention of the existing landscaping is necessary to protect the living conditions of adjacent occupiers and to ensure the satisfactory appearance of the development. I am not persuaded that a separate condition relating to external materials is necessary as these are shown on the approved plans and therefore captured by the plans condition.
15. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. Similarly, the PPG advises that conditions restricting the future use of permitted development rights "*will rarely pass the test of necessity and should only be used in exceptional circumstances*". On the evidence before me, I am not persuaded that the Council has demonstrated that such circumstances apply in this instance. I have therefore omitted this condition accordingly.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I consider the appeal should succeed.

D. M. Young

Inspector