
Appeal Decision

Site visit made on 18 October, 2016

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 8TH November, 2016

Appeal Ref: APP/A1530/W/16/3151584

Apex Roofing Services, Apex Lodge, Great Tey Road, Little Tey, Colchester, Essex, CO6 1HZ

- 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. R. Leader against the decision of Colchester Borough Council.
 - The application Ref 160388, dated 18 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is new dwelling on domestic garden land to south of Apex Lodge.
-

Decision

1. The appeal is allowed and planning permission is granted for new dwelling on domestic garden land to south of Apex Lodge at Apex Roofing Services, Apex Lodge, Great Tey Road, Little Tey, Colchester, Essex CO6 1HZ in accordance with the terms of the application, Ref 160388, dated 18 February 2016, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Main Issue

2. The main issues in this case are whether this development would constitute sustainable development in the countryside having regard to the National Planning Policy Framework (the Framework) and the development plan, and its effect on the character and appearance of the area.

Reasons

Whether the development would constitute sustainable development in the countryside having regard to the National Planning Policy Framework (the Framework) and the development plan

3. The appeal site is located just off the busy A120 in Little Tey, just outside the defined settlement boundary of Marks Tey and in an area identified as countryside in the development plan. Great Tey Lane at this point is relatively quiet rural lane, bounded on either side by high natural hedges. The area is one with a limited number of facilities and services, including a garden centre, a petrol station, churches, pubs and restaurants. There are a number and variety of businesses in the vicinity.
-

4. Paragraph 55 of the Framework states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, avoiding isolated locations. While outside the defined settlement boundary of Marks Tey, the appeal site is close to it. It could not be said to be isolated, being close also to other dwellings and businesses. The proposed dwelling would have some benefits in enhancing the or maintaining the vitality of the area by supporting local services close by, and in that respect would provide some limited benefit in supporting the aims of paragraph 55 of the Framework.
5. There are bus stops within walking distance on the A120 on either side of Great Tey Lane, with bus services connecting the site to Colchester or Marks Tey, which has a mainline railway station. While the volume of traffic and numbers of large lorries on the A120 are potentially off putting, all the stops are accessible by a footway alongside that road. Although there is no footway on Great Tey Lane, I noted that at the time of my site visit on a weekday morning only infrequent vehicle movements and the presence of verges which would make walking the relatively short distance between the appeal site and the junction with the A120 reasonably safe and convenient. The volume and speed of traffic on the A120 and relative narrowness of its lanes, however, render it potentially extremely off putting and even hazardous for cyclists.
6. Therefore the appeal site presents some opportunities for use of sustainable transport modes, including walking to local services and use of public transport, which would serve to reduce car use by occupiers of the proposed dwelling. It is likely that there would nonetheless be some use of private cars arising from the creation of a dwelling on the site, to access facilities such as schools or shops. While not desirable in sustainability terms, this would not however be likely to present a significant increase in the context of the local road network where there is overall a great deal of traffic movement.
7. I conclude therefore that this appeal proposal is capable of being considered sustainable development in the countryside in terms of location and accessibility. The Council's spatial strategy for the borough is articulated in the policies in the Core Strategy 2008, revised in 2104 (the CS). Policy SD1 sets out the Council's approach to achieving sustainable development, and seeks to ensure that growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy. Although the proposal would conflict with this because of its location outside the defined settlement boundary, it would be reasonably accessible by public transport, and within walking distance of a small range of local services and facilities, and would not conflict with paragraph 55 of the Framework. It would present opportunities for reduced dependency on private car journeys and would not therefore conflict with Policy TA1 of the CS which sets out the Council's intention to promote sustainable travel and change travel behaviour to reduce car-dependency.

Effect on character and appearance of the area

8. The appeal site sits within a small group of substantial dwellings in large garden areas, including Apex Lodge, Britannia House to the north, and Godbolts Farm to the south. It is in an area where dispersed houses and businesses are set in close proximity to the open countryside. The site itself is an area of closely mown grass located to the south of the large bungalow, Apex

Lodge, and takes in part of the adjoining yard to the rear, formerly used for a roofing business. The front boundary to Great Tey Lane and the south boundary are enclosed by high natural hedges, supplemented in the grassed garden area by a series of semi-mature specimen trees.

9. The appeal proposal is for a large, two-storey house in a vernacular style, set towards the front of the site, across a shared driveway with Apex Lodge. It would include the retention as an outbuilding of an existing low weather-boarded building formerly associated with the roofing yard as an office building. It is not at issue between the parties that the conversion of this building to residential use has been secured by the prior approval process.
10. The likelihood of the existing office building being converted to residential use under permitted development rights has been raised as a fall-back position should the appeal be dismissed. The dwelling thereby created, as permitted development, would by definition be of an order which would be low key in appearance with a modest impact on the site. I note the Council's argument that the creation of a new dwelling under the prior notification process does not necessarily mean that a new dwelling of a different size and nature would be granted following a different procedure. It is not necessarily instructive therefore to compare the appeal proposal with a converted office building, and I have considered the appeal proposal on its own merits.
11. I note also the Council's concern that the proposal would set a precedent for further residential development based on exploitation of the prior notification process, but have not been provided with any evidence of where the particular circumstances of this case are likely to be repeated. In any case applications should be determined on their own merits.
12. As the conversion of the office building has not taken place, it is not appropriate to consider the appeal proposal as a replacement dwelling. I do not, therefore, consider that the requirements of Policy DP13 of the Council's Development Policies 2010, revised in 2014, relating to replacement buildings are applicable to this case.
13. The open grassed area around Apex Lodge is large, even in the context of the large domestic curtilages of the area, and sufficiently large to accommodate further built form without compromising the open nature of the area. The proposed dwelling, while large, would not appear excessively so in relation to adjoining dwellings, to which it relates in height and footprint, would have associated garden space in proportion with its size, and would be clearly separated from the other houses along Great Tey Lane, thus retaining the open texture of this small group of dwellings. Its location towards the front of the site would bring it out to a building line consistent with that of the group, and would provide more useable private outdoor amenity space away from the front boundary. It would not therefore represent a discordant element in the settlement pattern of the group, nor an urbanising element in its rural location.
14. Being well screened to the east and south, and partially buffered from the open fields by the former roofing yard to the west the development would only be glimpsed from outside the site, as is the currently open grassed area. It would not therefore have a significant effect on views of the site from Great Tey Lane or the open countryside. I consider therefore that it would not appear as an intrusive element in the countryside and would not have a harmful effect on the character and appearance of the area.

15. I conclude therefore that the appeal proposal would not conflict with policy ENV1 of the CS which seeks to conserve and enhance Colchester's countryside, nor would it conflict with Policy DP1 of the Council's Development Policies which seeks to ensure that development proposals respect and enhance the character of the site and its context, and the landscape, and requires that development outside development boundaries is appropriate in terms of scale, siting and design.

Conclusion

16. I conclude therefore, for the reasons given above and taking into account matters raised, that the appeal should be allowed.

Conditions

17. I have taken into account the conditions suggested by the Council, and the requirements of the Framework. In the interests of clarity, a condition is attached requiring implementation in accordance with the approved plans.
18. Conditions are attached relating to the protection and replacement of retained trees and hedgerows, and to the standards to be followed in any work affecting them in order to protect the character and appearance of the area.

S J Buckingham

INSPECTOR

SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9844/01, 9844/02, 9844/03, 9844/04, 9844/05 and 9844/06.
- 3) All the trees and hedgerows shown on the approved plans as to be retained and any trees or hedgerows adjoining the site shall be protected from damage by measures complying with the guidance notes of the Local Planning Authority and the relevant British Standard.
- 4) If, within a period of five years from the date of planting, any retained tree or hedgerow is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, they shall be replaced during the first planting season following the removal, uprooting, destruction or death of the original tree hedgerow to specifications first agreed in writing by the local planning authority.
- 5) All tree work shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations.