
Appeal Decision

Site visit made on 18 October 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 9th November 2016

Appeal Ref: APP/P1560/W/16/3150453

Land known as Abbott Cottages, Opposite Nursery, Mill Lane, Bradfield, Manningtree, Colchester, Essex CO11 2QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Miss Megan and Ashley Malekmian against the decision of Tendring District Council.
 - The application Ref 16/00058/OUT, dated 4 January 2016, was refused by notice dated 6 April 2016.
 - The development proposed is described as '*Outline application for 2 residential development at 8 habitable rooms per 0.8 hectare. With primary access of public right of way adjoining farm. With some matters reserved*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline form. Whilst it is clear on the application form that all matters are reserved for future consideration the description refers to '*with primary access of public right of way adjoining farm*' and '*with some matters reserved*'. I sought clarification from the parties and the appellant subsequently confirmed that '*there is not any matters to reserve*¹'. I have therefore dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the proposal would provide a suitable site for housing, having regard to the effect on the character and appearance of the area.
 - The effect on highway safety.

Reasons

Policy context

4. Policy QL1 of the Tendring District Local Plan 2007 ('LP') sets out a 'Spatial Strategy' for the period up to 2011. It requires that most new development be concentrated at the larger urban areas of Clacton and Harwich and development to be concentrated within the settlement development

¹ Email from appellant dated 28 October 2016.

boundaries, as defined on the proposals maps. Outside these boundaries, only development which is consistent with countryside policies will be permitted. The proposal falls outside of such boundaries and in this respect there would be conflict with the LP.

5. However, the policy seeks to restrict development in the countryside and forms part of the Council's strategic approach to the distribution and location of housing. It is a relevant policy for the supply of housing and given the Council has confirmed that it does not have a five year supply of housing land it cannot be regarded as being up to date.
6. In such cases paragraph 14 of the National Planning Policy Framework ('the Framework') states (unless material considerations indicate otherwise) that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. I have determined the appeal on this basis.
7. I have also been referred to Policies SD5, SD8, SD9 and PE04 of the Tendring District Local Plan Proposed Submission Draft 2012, as amended by the Tendring District Local Plan Pre-Submission Focussed Changes 2014 ('ELP'). However, I have no information to suggest the plan is likely to be adopted in the near future and as the Inspector has not yet delivered their findings and the policies do not form part of the development plan I have given them only limited weight in my decision

Character and appearance

8. The appeal site is a narrow parcel of land and despite the presence of other development within the vicinity of the appeal site, it is clearly seen as land falling beyond existing development further along Mill Lane. It is situated in between a large arable field and Mill Lane, a quiet and narrow rural lane. When combined with the openness and undeveloped appearance of the site, it forms part of a rural landscape with a setting of open fields interspersed with rural buildings, copses of trees and native hedgerows that positively contributes to the character and appearance of the area.
9. The proposal would result in an intensification of built form in an area where such openness contributes positively to the locally distinctive settlement pattern. It would introduce a pair of relatively large two storey dwellings that by virtue of the combination of engineering works and the scale, form and siting of the dwellings would result in a suburbanisation of the site that would appear unduly dominant and overly prominent. In my judgement, it would be at serious odds with the character and appearance of the area.
10. For these reasons, the proposal would cause significant harm to the character and appearance of the area and would conflict with Policies QL1, QL9 and EN1 of the LP which seek, amongst other things, to ensure that development protects or enhances local character, respects locally important features, minimises any environmental impacts and does not harm landscape quality or character.
11. Although the blanket protection of the countryside is not supported by the Framework I find these policies are consistent with the Framework insofar as

the need to recognise the intrinsic character and beauty of the countryside, local character and that good design is indivisible from good planning.

Highway safety

12. There is an existing right of way that runs along the bank that currently forms the site's boundary with the adjoining arable field where access for pedestrians would be taken. However, the proposal does not include any provision for the parking of vehicles and access is not a reserved matter. The appeal form also refers to primary access from public right of way and the closure of all old entrances on Mill Lane.
13. The site is well screened from Mill Lane by a mixture of native hedging and semi-mature trees and because of its alignment and position at a lower level than the site, there are limited opportunities to provide a suitable and safe access for future occupiers. On the evidence before me, the proposal does not demonstrate that satisfactory access can be provided for vehicles that are likely to be required by future occupants, given the site's location.
14. For these reasons, the proposal does not demonstrate that it would not harm highway safety and it would therefore conflict with Policies TR1a and QL10 of the LP which, amongst other things, require that development reduces and prevents road hazards and inconvenience to traffic, including the physical and environmental capacity to accommodate traffic generated and makes provision for functional needs.

Other Matters

15. The evidence before me suggests that land may have been previously developed. However, it was evident from my visit that there are no remains of any previous permanent structure and the site has blended into the landscape in the process of time. It would not therefore be 'previously developed land' as defined in Annexe 2: Glossary to the Framework and is not therefore a consideration that I have given any weight to.
16. The Council's delegated officer report refers to a completed Unilateral Undertaking being provided to secure a contribution towards play provision. However, I have not been provided with such an undertaking and therefore I have not considered this matter any further.

Planning balance and overall conclusions

17. The Framework at paragraph 7 defines there to be three dimensions to sustainable development, expressed as a need for the planning system to perform an environmental, economic, social, and environmental role. These roles are highlighted as mutually dependent and not to be undertaken in isolation.
18. Two dwellings would create some limited economic and social benefits and would provide a limited contribution to the supply of housing in an area with an acknowledged under supply. However, the proposal would cause significant harm to the character and appearance of the area and harm to highway safety. It would conflict with Policies QL1, QL9, EN1, TR1a and QL10 of the LP, albeit that QL1 carries reduced weight, in this particular case. I give greater weight to this and overall, the proposal would fail to fulfil the environmental dimension of sustainable development.

19. Taking everything into account, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As such, the proposal would not be the sustainable development for which the Framework indicates a presumption in favour.
20. For the above reasons, the proposal would conflict with the development plan, when read as a whole and the Framework. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR