
Appeal Decision

Site visit made on 25 October 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 16th November 2016

Appeal Ref: APP/P1560/W/16/3152285

Wyldberry, Fox Street, Ardleigh, Colchester, Essex CO7 7PP

- 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 Harold Beresford against the decision of Tendring District Council.
 - The application Ref 15/01730, dated 12 November 2015, was refused by notice dated 24 December 2015.
 - The development proposed is demolition of old commercial chicken sheds and erection of detached bungalow and double garage.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of old commercial chicken sheds and erection of detached bungalow and double garage at Wyldberry, Fox Street, Ardleigh, Colchester, Essex CO7 7PP in accordance with the terms of the application, Ref 15/01730, dated 12 November 2015 and subject to the conditions set out in the attached schedule.

Procedural Matter

2. The Council's second reason for refusal relates to the lack of an obligation to secure contributions to public open space. However, the Council has subsequently confirmed that following recent changes to the Planning Practice Guidance that this no longer required and the Council no longer wishes to pursue this matter. I have not therefore considered it any further.

Main Issue

3. The main issue is whether the proposal would provide a suitable site for housing, having regard to the proximity of services and facilities and reliance on car based journeys.

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 boundaries, as defined on the proposals maps. Outside these boundaries, only development which is consistent with countryside policies will be permitted.
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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 Policy SD5 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.

Suitable site

8. The proposal would add to an existing group of houses which sit alongside Colchester Road and it would not therefore constitute a physically isolated dwelling in the countryside. However, it was evident from my site visit that there appeared to be limited services along this part of the road.
9. However, the appeal site is close to a bus stop which appears to provide a fairly regular service between Colchester and Harwich. Furthermore, any journeys by car would be relatively short and the number of trips associated with a single dwelling would not be significant. Moreover, I am mindful the Framework advises that all aspects of sustainability should be considered in planning decisions, and that opportunities to maximise sustainable transport solutions will vary from urban to rural areas (paragraph 29).
10. In my view, Colchester and Ardleigh would be within acceptable cycling distance of the site and would be a realistic travel option for future residents, accordingly there is some scope for travel by cycle and walking. Although it may not be suitable for all and even if the majority of journeys were to be made by the private car, nonetheless, there would be a choice of transport modes for future residents as envisaged by paragraph 35 of the Framework, which requires that developments are located where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities.
11. Given my findings in relation to Policy QL1, the appeal turns on whether, in accordance with section 38 (6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended) there are any material considerations which indicate that the

proposal should be determined other than in accordance with the development plan.

12. 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 economic, social, and environmental role. Paragraph 8 of advises that these should not be considered in isolation, because they are mutually dependant.
13. The construction of the development would bring some economic benefits during construction and would also provide a contribution to the supply of housing in an area with an acknowledged under supply. Whilst such a contribution would be very limited, nevertheless, it weighs in favour of the proposal and it would therefore fulfil the social and economic roles. Furthermore, the Council do not object to the proposal in terms of its effect on the character and appearance of the area and the proposal would remove somewhat old and dilapidated chicken sheds. On the evidence before me, I have no reason to disagree with the Council's assessment and the proposal would fulfil the environmental role.
14. Taking everything into account, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As such, the proposal would be the sustainable development for which the Framework indicates a presumption in favour.
15. Consequently, although the proposal would conflict with the development plan in terms of its location, in these particular circumstances I consider that there are strong material considerations that outweigh this conflict. The proposal would therefore provide a suitable site for housing, having regard to the proximity of services and facilities and reliance on car based journeys.

Conditions

16. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity. The Council make reference to two conditions relating to outline planning permission. However, this is not an appeal against the refusal of outline planning permission and I have not therefore imposed them.
17. I consider a condition is required to ensure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning. A condition requiring details of the external materials is also necessary, to ensure the satisfactory appearance of the development and in order to protect the character and appearance of the area.
18. Conditions requiring details of the soft and hard landscaping of the site, including boundary treatments, any changes to ground levels and retained trees are necessary to protect and enhance the character and appearance of the area and that such works are retained and replaced, where necessary. A condition is required to avoid the displacement of loose material onto the highway in the interests of highway safety. In the interest of highway safety a condition is also required that the access as shown on the approved plans is provided, prior to first occupation of the dwelling. Although the Council request that this is reconstructed to right angles and to a width of 3.7m, I find that this

is not necessary as the proposed access appears satisfactory to serve both dwellings. I also consider that a condition requiring a pedestrian visibility splay is not necessary, given the lack of a footway on this side of the road and the relatively open nature of the frontage and access. I have not therefore imposed it.

19. To ensure the proposed parking and turning facilities are satisfactorily provided and thereafter permanently retained, a condition is required for these to be laid out prior to occupation of the dwelling as opposed to prior to commencement, as suggested by the Council as I find this is unreasonable. I also consider that a condition requiring details of bicycle storage to be provided prior to commencement to be unnecessary as the dwelling will be served by a double garage and a large rear garden which would be entirely adequate for such storage. I have not therefore imposed it.

Conclusion

20. For the reasons set out above, having had regard to all other matters raised and given the particular circumstances of this case, I conclude that the appeal should be allowed.

Richard Aston

INSPECTOR

SCHEDULE

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: SPD033-PL-001 and SPD033-PL-002.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the soft and hard landscaping of the site, including the provision of boundary treatments, any proposed changes in ground levels and the identification, spread, girth and species of all existing trees, shrubs and hedgerows on the site and indication of any to be retained, together with measures for their protection which shall comply with the recommendations set out in British Standard BS 5837 (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) All planting, seeding, turfing and other details comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 7) The building shall not be occupied until a means of access for vehicles shall have been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 8) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing SPD033-PL-001 for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking and manoeuvring of vehicles.