
Appeal Decision

Site visit made on 13 February 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 20th February 2017

Appeal Ref: APP/P1560/W/16/3161493

163 Wivenhoe Road, Alresford, Essex CO7 8AQ

- 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 Mr J Thompson against the decision of Tendring District Council.
 - The application Ref 16/00596/OUT, dated 15 April 2016, was refused by notice dated 9 June 2016.
 - The development proposed is the erection of up to 4 No. dwellings served via a private drive following minor demolition and restoration works to 163 Wivenhoe Road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 4 No. dwellings served via a private drive following minor demolition and restoration works to 163 Wivenhoe Road at 163 Wivenhoe Road, Alresford CO7 8AQ, in accordance with the terms of the application, Ref: 16/00596/OUT, dated 15 April 2016, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for subsequent approval. I have considered the appeal accordingly. I have treated the appeal drawings as an illustration of how the development could proceed rather than a firm proposal. I have referred to the appeal scheme drawings where necessary in considering the principle of development.

Main Issues

3. The main issues in this appeal are: 1) The effectiveness of local settlement policy and its implications for the proposal; 2) The effect of the proposal upon the character and appearance of the area; and 3) Whether any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits.

Reasons

The effectiveness of local settlement policy and its implications for the proposal

4. Saved Policy QL1 of the Tendring District Local Plan 2007 (LP) directs new development to sites within defined settlement development boundaries. This policy also confirms that countryside policies will apply outside these areas. The supporting text to saved Policy QL1 explains that the policy aims to protect the countryside from encroachment and to reduce car-borne journeys.
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5. It is a point of agreement between the appellant and Council that the appeal site is located partly outside of the current settlement boundary of Alresford and is partially within the countryside. The proposal would thus, in a modest way, urbanise the countryside. In this respect the appeal scheme would be contrary to the above policy and would undermine the broad strategy for housing and the protection of the countryside contained in the Development Plan. The Council's emerging settlement policies would include the site within the settlement boundary but they are not at an advanced stage of preparation and cannot be afforded anything more than very limited weight at this stage.
6. Saved Policy QL1 is broadly consistent with the National Planning Policy Framework (the Framework), which seeks to encourage development that supports the vitality of rural areas whilst recognising the intrinsic character and beauty of the countryside. Nevertheless, saved Policy QL1 relates to the supply of housing as it aims to generally restrict the construction of new homes outside of the defined settlement boundaries.
7. This is significant as it is common ground between the Council and appellant that the Council cannot currently demonstrate a five year housing land supply¹. In effect, the Council's housing settlement policies are failing to provide an adequate supply of housing. As a consequence, and in accordance with the Framework, Policy QL1 should be regarded as currently out of date and therefore of limited weight.
8. I therefore conclude that the effectiveness of rural settlement policy in the district is already undermined by reason of an undersupply of housing. The implications for the appeal scheme being, that in such circumstances Paragraph 14 of the Framework directs that planning 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. I have determined this appeal accordingly.

The effect of the proposal upon the character and appearance of the area

9. The appeal site encompasses the rearmost sections of the back gardens currently serving the occupants of 167 and 163 Wivenhoe Road (Nos 167 and 163). No 163 is a bungalow which occupies a wider than average plot. The appellant suggests that the curtilage of No 163 is an amalgamation of two plots and the Council does not dispute this. Another point that is not in dispute is that the north half of the garden serving No 163 is a small scale builder's yard. This is what I observed on site with building materials, skips and storage sheds evident. The garden serving No 167 is given over to lawn and shrubbery.
10. Wivenhoe Road is characterised by linear ribbon development as the village tapers off into the countryside. There is a discernable character to the layout of buildings along the road with the properties arranged in a clear building line behind front gardens. To the rear of the properties are long gardens with high levels of landscaping between and within plots. This affords the street a sense of space behind the building line. The architectural style and form of the buildings in the street is varied including a high number of bungalows.
11. The appeal scheme is for the erection of up to four dwellings. All matters of detail are reserved for future consideration. The indicative layout demonstrates

¹ As required by Paragraph 47 of the National Planning Policy Framework (the 'Framework')

that the four properties could be served from the existing access to No 163. It also shows that four houses could be accommodated in the site arranged around a central landscaped area and each of the houses could benefit from adequate gardens and off-road parking. There would also be space for landscaping and visitor parking. The Council are satisfied that the development need not be cramped and so I am. Nevertheless, the Council are concerned the 'backland' siting of the development would harm the character of the area.

12. As I have already established, the character of Wivenhoe Road is one of frontage development with verdant space behind. The appeal scheme would jar with the grain of development and would result in houses sited within notably smaller plots. This would result in some limited harm to the character and appearance of the area.
13. I have described this impact as being limited because it would be tempered to a significant extent by a number of factors. Firstly, the frontage development along Wivenhoe Road would screen the proposed development from public vantage points along the street². As such, the development would be reasonably inconspicuous thereby limiting the impact on the character and appearance of the area. Furthermore, the proposal would reuse the existing access. This would reinforce the low key nature of the development as an additional access would not need to interrupt the frontage. Moreover, the layout indicative suggests there would be ample space for soft landscaping within and between plots to soften the form of the development.
14. Additionally, whilst the proposal would depart from the broad pattern of development in Wivenhoe Road, it would echo the development in Furze Crescent, which is located behind the street's building line and is a dense form of development that is visible from Wivenhoe Road.
15. More significantly, the proposal has the potential to reflect the form, scale and layout of the development in Conifer Close, which is a subtle addition to the area that is screened in views from the street by soft landscaping. The landscaping also softens the driveway, which is an indication that a long driveway need not be flanked by fences or harm the character and appearance of the area. One of the properties is also a bungalow, which reduces the presence of the development in public views. A single storey scale is something that could be replicated within the appeal scheme, especially the properties that would be closest to Nos 163 and 169 Wivenhoe Road. This is however, a matter to be explored at the reserved matter stage.
16. Consequently, I conclude that the appeal scheme has the potential to be a subtle addition that would, overall, maintain the local character and appearance of the area. This is of course subject to a careful and imaginative design solution at the reserved matter stage. As such, the proposal would adhere to saved Policies QL9, QL11, HG3 and HG13 of the Tendring District Local Plan 2007, which seek to secure developments, including 'backland' developments, which are well designed and respectful of the area³. I afford these design policies significant weight as they are consistent with Paragraphs 58 and 60 of the Framework.

² The Council have not directed me to any other views of the proposed development

³ This is echoed in emerging Policy PE06 of the draft Local Plan but given its stage of preparation this policy can only be afforded very limited weight.

Whether any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits

17. The proposal is residential development partially in the countryside. The proposal therefore runs contrary to the broad aims of the development plan. An application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the lack of a five year housing land supply is a significant material consideration that renders saved Policy QL1, which relates to the supply of housing, as out of date and thus of limited weight. As such, the siting of the dwellings outside of a settlement boundary is not the determinative matter.
18. The proposal would result in some limited harm to the spatial character of the area but this is tempered by the discrete position of the site and can be mitigated to a significant extent by a sensitive design. Overall, I have found the proposal to be consistent with the design policies in the development plan and, more significantly in this instance, those of the Framework.
19. Weighed against the above is that the proposal would, in a modest way, support the rural economy through construction jobs and the circulation of funds as well as through the local spend of future occupants. The proposal would also boost housing supply and enable a situation whereby future occupants could support local facilities, thereby assisting the vitality of the local community. The proposal would also make use of previously developed land. As four dwellings are proposed these benefits accrue moderate weight.
20. Consequently, I do not consider the appeal scheme would have adverse impacts that would significantly and demonstrably outweigh its benefits when considered against the policies of the Framework taken as a whole. I therefore find the proposal to be sustainable development for which the Framework carries a presumption in favour. Therefore, whilst the proposal would conflict with the development plan, I have identified material considerations, namely the policies of the Framework, which would outweigh this conflict. Accordingly, the appeal should be allowed.

Conditions

21. I have had regard to the advice in the Planning Practice Guide and the list of conditions suggested by the Council. It is necessary to require the submission of reserved matters prior to the commencement of development in the interests of safeguarding the character and appearance of the area, highway safety and the living conditions of neighbours.

Conclusion

22. For the reasons given above I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall commence before the expiration of two years from the date of the approval of the last of the reserved matters to be approved.
- 2) The application(s) for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) Details, plans and particulars of 'access' 'scale', 'layout', 'landscaping' and 'appearance' (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development commences. The development shall be carried out in accordance with the approved details.

End of schedule