
Appeal Decision

Site visit made on 23 January 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/W1525/W/16/3160970

Land between Elmcote and Dove Cottage, Main Road, Bicknacre, Chelmsford CM3 4HW

- 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 Clive Attwell against the decision of Chelmsford City Council.
 - The application Ref 16/00957/OUT, dated 27 May 2016, was refused by notice dated 16 August 2016.
 - The development proposed is one detached four bedroom dwelling.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Chelmsford City Council against Mr Clive Attwell. This application will be the subject of a separate Decision.

Preliminary Matters

3. The planning application was submitted in outline with all matters of detail reserved for subsequent approval save for the access. I have considered the appeal on this basis.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. Policy CP5 of the DCP¹ seeks to protect the intrinsic character and beauty of the countryside by containing urban growth within the Borough to sites within the physical limits of the defined settlements of villages and town. As an exception to this broad strategy of restraint, Policy DC2 of the DCP permits residential infilling in villages in accordance with Policy DC12. This represents a local interpretation of the National Planning Policy Framework (the 'Framework'), including Paragraph 55, which relates to rural housing.
6. Policy DC12 is titled 'infilling in the countryside' and does not appear to relate to infilling within villages. As such, it is not entirely clear how Policies DC2 and DC12

¹ Chelmsford Core Strategy and Development Control Policies 2001-2021 - adopted in 2008 and reviewed in 2013

are intended to interact or how residential infilling in a village, which is permitted by Policy DC2, can be in accordance with Policy DC12, which is aimed at residential infilling within the countryside. Nevertheless, when the development plan is read as a whole it is apparent that the underlying intention is to permit some development beyond defined settlement boundaries when it would be accessible to local services and facilities and where it would safeguard the intrinsic character and beauty of the countryside. Policy DC12 sets out criteria to guide this assessment.

7. In accordance with Policy DC12, the appeal site must be a small gap in an otherwise built up frontage for the appeal scheme to be considered an acceptable infill. The appeal site is located in front of two commercial units and to the side of Elmcote, which is a detached dwelling. The development to the immediate north of the appeal site is comprised of randomly sited dwellings set in large plots and back from the road². There is also a high level of tree cover, which visually separates and distinguishes the plots from one another. This gives the development north of the appeal site a spacious and sporadic layout and character³. As such, these properties have an individual character rather than the appearance of a coherent built up frontage.
8. The appeal site abuts Elmcote, which is located next to Trio Lodge. Nevertheless, to the south of the appeal site, and north of Dove Cottage, is a dense area of trees. As such, Trio Lodge and Elmcote, when viewed from Main Road, are seen as a pair of dwellings. This is not a grouping of a sufficient size to have the visual and physical character of a built up frontage. There is a pair of bungalows and a farmhouse (Fairfield Farm) broadly opposite the appeal site but these appear as standalone features in Main Road and not part of a built up frontage that the appeal site would be 'read' as part of.
9. As stated above, to the immediate south of the appeal site is a parcel of land which is largely free of development save for a small storage structure. This parcel of land separates the appeal site from Dove Cottage. The consequence of this being that the appeal site is not viewed as part of any built up frontage stretching south. Therefore, the appeal scheme would not be part of a discernable built up frontage and would not be an infill within the meaning of Policy DC12.
10. Thus, the erection of a dwelling at the appeal site would harmfully intensify the sporadic development in this section of Main Road. This would detract from the spacious character of Main Road, and thus the countryside, found in the locality. This would amount to a harmful impact upon the character and appearance of the area, placing the proposal at odds with Policies CP5, DC2 and DC12 of the DCP. It would also be incompatible with the guidance in Paragraph 17 of the Framework.

Other Matters

11. The appellant has suggested that a large outbuilding, for which he has received building regulations approval, could be erected within the appeal site and without planning permission⁴. The appellant opines that this would erode the openness of the countryside and as a fall-back position, it justifies the appeal scheme. I have not been presented with a Lawful Development Certificate that demonstrates that planning permission is not required.

² Including Sticklemead and Trio Lodge.

³ In this respect I share the conclusion of a previous Inspector in determining APP/W1525/W/15/3131291

12. This is significant as I share the Council's scepticism over whether an outbuilding of the size described would be incidental to the enjoyment of the main dwelling house and thus whether planning permission is required. As such, this is a fall-back position which carries limited weight. In any event, an outbuilding would have a lesser impact upon the character of the countryside than a detached two storey dwelling, which is likely to be larger and thus more imposing and intensively used.
13. The appellant is also of the view that the appeal site's status as garden land means any impact upon the countryside from the appeal scheme would be diminished as it would not be an intrusion into 'open' countryside. I have not been directed to any distinction in the development plan between 'countryside' and 'open countryside'. Notwithstanding this, residential gardens, such as the appeal site, can positively contribute to the openness and visual amenity of the countryside, especially on an approach to a village. In this instance, the undeveloped character of the appeal site contributes to the spacious and verdant character along this part of Main Road, which the appeal scheme would harm. The commercial buildings to the rear of the appeal site are set back from the road and do not alter the site's positive contribution to local character.
14. The planning permission for the conversion of the barns at Woodham Hall⁵ does not justify the appeal scheme as the conversion of an existing building in the countryside has a materially different effect to the construction of a new dwelling. There is also the inherent benefit of reusing an existing building, which would apply to that proposal and not the appeal scheme. Consequently, my findings on the main issue are not altered.

Conclusion

15. The policies relied on by the Council are up to date, having been subject to a focussed review following the adoption of the Framework and there is nothing to suggest the Council does not have a five year housing land supply. As such, the policies cannot be considered to be absent, silent or out of date. The application should be determined in accordance with the development plan unless there are material considerations which indicate otherwise. I have concluded that the proposal would harm the character and appearance of the area and this is contrary to the development plan when taken as a whole as well as national policy. I afford this significant weight.
16. On the other hand, the proposal is not entirely without merit with some social and economic benefits. The development would increase housing supply and choice in an accessible location⁶ and there would be some economic benefits to the construction industry and the local economy. The development would also use land more efficiently. However, the development is very modest in scale. As a consequence, these benefits accrue only limited weight.
17. I therefore conclude that the benefits I have identified, as material considerations, are not sufficient to outweigh the conflict with the development plan. As such, the proposal is not sustainable development for which the Framework carries a presumption in favour. Accordingly, I conclude that the appeal should be dismissed.

⁵ Reference 15/00951/FUL

⁶ Being close to bus stops as well as a rail station and facilities in Bicknacre and South Woodham Ferrers

Graham Chamberlain
INSPECTOR