
Appeal Decision

Site visit made on 18 April 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/A1530/W/17/3166839

Whitehouse Farm, Whitehouse Lane, West Bergholt, Colchester CO6 3EW

- 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 Richard Hayes against the decision of Colchester Borough Council.
 - The application Ref 162249, dated 3 September 2016, was refused by notice dated 9 November 2016.
 - The development proposed is the change of use of outbuilding to single dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of outbuilding to single dwelling house at Whitehouse Farm, Whitehouse Lane, West Bergholt, Colchester CO6 3EW in accordance with the terms of the application, Ref 162249, dated 3 September 2016, and the plans submitted with it, subject to the following conditions:
 - 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: RH03revA Proposed Plans; RH04revA Proposed Elevations, and; RH05 SITE LAYOUT.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling and no roof enlargements as provided for within Schedule 2, Part 1, Class A and Class B of that Order shall be constructed.

Preliminary Matter

2. The appellant has submitted a set of revised drawings that did not form part of the planning application determined by the Council. They show the omission of a first floor bedroom window in the flank wall. I have considered the omission under the principles established by the Courts in *Wheatcroft*¹. I am satisfied that it does not change the nature of the scheme to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal with regard to it.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

Main Issues

3. I consider the main issues to be:

- the effect of the proposal on the character and appearance of the area; and,
- whether it would be an acceptable form of development in the countryside for the purposes of the Development Plan and the National Planning Policy Framework (the Framework).

Reasons

The effect of the development on the character and appearance of the area

4. On the southern tip of the village of West Bergholt runs a short lane behind which the open countryside falls gradually towards the River Colne, a few hundreds of metres to the south. The settlement boundary runs along the lane. To its north is the denser development of the village and to its south, a few scattered dwellings which also address the lane.
5. The Council considers that the lane acts as a man-made marker to the extent of the settlement which is clear to the eye and that it is a clear and defensible boundary. My impression of the character of the lane is that it separates an area of smaller, higher density housing from an area of larger, lower density housing. There is no physical, historical, topographical, or other feature which I was able to identify which reflects the boundary as described by the Council.
6. I appreciate the concerns of the Council regarding the potential effect of the intensification of the site, in terms of domestic paraphernalia and further outbuildings. However, the land is already used for residential occupation, so its character would not change. The development would reuse an existing building, use an existing drive, and use an existing parking area. The main area for change would be the area allocated for the back garden of the house. However, this would be away from the lane and reasonably confined behind the proposed house. Given the substantial size of the overall site including the existing dwelling, the increase in domestic use of this area of land would be unlikely to be materially different from the use which may take place there without the development.
7. I acknowledge the Council's point that the development may result in the need for further outbuildings. However, the sites of both the proposed and existing houses are of sufficient size not to harm the character of the surroundings were outbuildings of the scale as defined under permitted development erected. Larger outbuildings would be under the control of the Council.
8. The proposal involves the conversion of an outbuilding which is already standing and which is sufficiently large to be converted into a house with only minimal, superficial alteration. In physical terms therefore, it would be little more intrusive in the countryside than the present form of building. In terms of the character of the area, the building already resembles a house in terms of its scale, materials and detailing. It would front towards the lane and its front and rear walls would have a similar orientation as the house a few metres to the east. Its access, albeit shared, would be off the lane. Given the location of the building close to the east neighbour, and the remaining breadth of the site

of the existing house, its use would not be incompatible with the surrounding pattern of development.

9. I note that there are views across the site from the lane towards the valley, but given that the building already exists, the development would not reduce those views. There is no reason why, if this proposal were to be allowed, the Council's ability to exercise its judgement in relation to similar proposals on similar sites would be undermined because each case is determined on its own merits and with regard to its individual circumstances. I have, in any event, found no harm to the character or the appearance of the area or any other harm.
10. I conclude on this issue that the proposed development would not harm the character or the appearance of the area. There would be no conflict with Policies DP1 and ENV1 of the Colchester Local Development Framework Core Strategy adopted December 2008 (CS), which requires development to respect or enhance the character of the site and its landscape setting, including maintaining settlement separation. Nor would the proposal be at odds with one of the core planning principles of the Framework, that planning should recognise the intrinsic character and beauty of the countryside.

Whether an acceptable form of development in the countryside

11. CS Policy SD1 seeks to sustain the vitality of small towns, villages and the countryside and states that growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy. Policy H1 indicates 50 new houses for the village of West Bergholt, and it gives priority to development with good public transport accessibility and to development on previously developed land.
12. While the settlement boundary of West Bergholt encloses the dwellings on the north side of White House Lane, but excludes those, including the appeal site, on its southern side, the Council accepts that given the site's location on the edge of the village it cannot be regarded as an unsustainable location. Moreover, the appellant presents evidence that demonstrates that the proposal is not isolated, either in physical terms or in relation to facilities and services.
13. In respect of its location, the proposed development would not be isolated from neighbouring dwellings or remote from services and facilities. It could not be regarded as an isolated new home in the countryside which the Framework says local planning authorities should avoid. It would contribute to the Framework's priority set out in paragraph 47, to boost significantly the supply of housing, and it would maintain the vitality of the village as set out in paragraph 55.
14. The Council draws my attention to the emerging Colchester Local Plan and Neighbourhood Plan which direct growth to the north of the village rather than to the south, where the appeal site lies. However, given the stage of their progress towards adoption or being made, in accordance with paragraph 216 of the Framework, I am unable to accord their policies significant weight.
15. I note the appeal decision² in Northumberland referred to by the Council. However, that appeal involved a site of rough grazing land immersed in fields and farmland and where the settlement boundary demarcated an evident

² Appeal Ref: APP/P2935/W/15/3141228

distinction between the village and the surrounding countryside. In this case the site already contains the building to become the house and the settlement boundary is far less distinct with several houses already beyond it. I am therefore unable to draw any meaningful parallel to this case.

16. Given the specific, physical circumstances of the proposal described above, and the lack of harm to the character and appearance of the area, I consider that the proposed development would not conflict with CS Policy ENV1 which aims to conserve and enhance Colchester's countryside. It would achieve the three dimensions of sustainable development sought by CS Policies SD1 and H1, and which the Framework promotes, and which justify the allowing of the appeal.

Other Matters

17. The occupier of the house to the east objected during the course of the planning application to the potential for overlooking from an upper floor, bedroom window proposed on the opposite flank of the proposal. However, the appeal submission included amended plans which omit the relevant window, which would undo the potential for harm to the living conditions of this neighbour.

Conditions

18. In addition to the statutory commencement condition, it is necessary in order to protect the character and appearance of the area, to apply a plans condition. The Council has suggested conditions to remove permitted development rights for extensions, outbuildings, roof alterations, a porch, and for openings above ground floor level in the east elevation.
19. Given the size of the proposed house and its location in the countryside, the potential to enlarge it without adversely affecting the intrinsic character and beauty of the countryside is limited. While the Planning Practice Guidance advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of permitted development rights for enlargements under classes A and B (enlargement of a house and additions etc. to the roof of a house) would be necessary. The modest scale of the building and the undeveloped character of its roof reduce its impact on the openness of its countryside setting. On this basis I consider the removal of rights under classes A and B would be reasonable, as the condition would not prevent enlargement, but would bring it under planning control.
20. Notwithstanding this, there is sufficient space around the proposal, as to make the withdrawal of rights under class E (buildings etc. incidental to the enjoyment of a dwelling house) unreasonable or unnecessary. Similarly, given the separation of the proposal from its neighbour to the east and the height and solidity of the boundary fence, I see no need to prevent the insertion of windows or roof lights above ground floor as provided for under permitted development. The minor roof alterations and porch as permitted under class C and class D would harm neither the appearance of the building, the character of the area, nor the living conditions of surrounding occupiers. A condition for their restriction is therefore unnecessary.

Conclusion

21. The proposed development would be physically well related to West Bergholt and to the surrounding housing, and its occupiers would have good access to facilities and services. There would be no harm to the character or to the appearance of the village or the countryside. Having regard to this and the modest benefit to housing supply and to the economy, I conclude that the proposal would be a sustainable form of development which outweighs any conflict with the development plan which arises from the site's location outside the settlement boundary. For the above reasons and having had regard to all other matters raised, the appeal is allowed.

Patrick Whelan

INSPECTOR