The Planning Inspectorate

Appeal Decision

Site visit made on 29 April 2019

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 May 2019

Appeal Ref: APP/P1560/W/18/3212705
Lamberts, Chapel Lane, Ardleigh CO7 7BJ.

- 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 and Mrs C Mead against the decision of Tendring District Council.
- The application Ref 18/00963/OUT, dated 14 June 2018, was refused by notice dated 7 August 2018.
- The development proposed is proposed erection of a dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters of detail reserved for future determination. Although detailed matters are not formally submitted for determination, the submission is accompanied by indicative details for a dwelling on plan 200-01 Rev A to which I have had regard.

3. Both main parties have referred to the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (ELP), while the appellant has also referred to an appeal decision[1] which addresses the ELP's status. The ELP has been submitted for examination, but not adopted. It is not clear what the level of objection is to ELP policies and they could be subject to change during examination. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework), little weight can be attached to ELP policies SP1 and PPL9 in determining this appeal.

4. The Council has submitted a 5 year housing land supply (5YHLS) position statement which refers to an appeal[2] which discusses exceptional circumstances to move away from the standard methodology. The appellant has had the opportunity to comment on this information.

Main Issues

5. The main issues in this appeal are (a) the effect on the setting of the Grade II listed building at Lamberts; and (b) whether the proposed development would be suitably located with regard to the development plan, and access to services and facilities.

[1] APP/P1560/W/16/3159703, decision issued 5 April 2017.
[2] APP/P1560/W/17/3185776, decision issued 13 September 2018.

Reasons

Listed building

6. The listed building at Lamberts is an 18th century or earlier cottage, with later alterations and additions. The cottage is timber framed and plastered, with a hipped thatched roof. The listed building is set within a generous plot with an extension to the rear, garage to the south, and gardens to the front and rear, with open paddocks to the north and west that form part of the listed building's setting. The listed building is slightly screened from Chapel Lane by trees, but there are glimpsed views nearer to the site on Chapel Lane. While a relatively new bungalow has encroached on the listed building's southern side and a further chalet bungalow[3] is under construction on the neighbouring paddock's northern corner next to Chapel Lane, I observed that intervisibility remains between the wider paddocks, Chapel Lane, the site, and the listed building.

7. The listed building's significance is informed by its architectural and historic interest as a building dating back several centuries with the survival of key features. The listed building's setting also contributes to its significance, and I have had special regard to preserving the setting as required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

8. The extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. The former cattle grazing land surrounding the listed building is now used for the grazing and keeping of horses and ponies. Despite the presence of a post and rail fence and some young shrubs and trees separating the site and the listed building, the site has inherent value as an area of undeveloped space to the side of Lamberts and within the setting of the listed building.

9. The proposed development would involve the erection of a dwelling in proximity to Lamberts' northern boundary, infilling existing open space between Lamberts and the chalet bungalow under construction to the north. Regardless of details at reserved matters stage, the proposed dwelling would limit views of the listed building from Chapel Lane to the north and it would diminish its setting bounded by open paddock. This would differ from the effect of the chalet bungalow on the setting of the listed building by reason of the increased proximity of the proposed development to Lamberts.

10. Restricting the proposed dwelling to single storey in height by means of condition or its size through reserved matters would not alter my findings about the effect on the setting of the listed building. While the Council did not consult its Conservation Officer on the scheme and the Council did not raise heritage concerns about the recently built bungalow to the south, this does not outweigh my concerns.

11. The appellant has drawn my attention to an allowed appeal[4] where the Inspector found that that proposal would secure listed buildings' long-term future. In this instance, however, the listed building remains in use and I have limited evidence that the appellants are unable to financially or physically maintain Lamberts and that the proposed development would secure Lamberts' long-term future through its sale.

[3] APP/P1560/W/17/3180509, decision issued 30 November 2017.
[4] APP/W0530/W/16/3152125, decision issued 1 November 2016.

12. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The harm to the significance of the listed building at Lamberts would be less than substantial, but still important given the proposed development's effect on the setting of the listed building. Paragraph 196 of the Framework provides for a balancing exercise to be undertaken, between less than substantial harm to the designated heritage asset, on the one hand, and the public benefits of the proposal, on the other.

13. The provision of a single new dwelling would help to meet local housing needs, local services and facilities would be supported in nearby Colchester, and there would be economic benefits during construction. The dwelling would be deliverable on land owned by the appellants and would deliver housing on a small site, bearing in mind paragraph 68 of the Framework regarding delivery of small and medium-sized sites and paragraphs 117 and 122 of the Framework about effective use of land.

14. The appellants wish to construct the dwelling to meet their own needs and those of their daughter who lives next door, with provision of support and childcare. While I have considered the limited information provided on the appellants' personal circumstances and those of their relatives, there is no clear indication of any immediate need. While I have accounted for paragraph 61 of the Framework with regard to housing for older people and people wishing to commission or build their own homes, I am mindful of the advice contained in Planning Practice Guidance[5] that in general planning is concerned with land use in the public interest. It is probable that the proposed development would remain long after the personal circumstances cease to be material.

15. I attribute very modest weight to the economic, social and environmental benefits to be provided by the proposed development. This would be insufficient to outweigh the harm identified to the significance of the listed building. I therefore conclude the proposal would fail to comply with national policy outlined in the Framework and referred to above.

16. Concluding on this main issue, the proposed development would harm the setting of the listed building at Lamberts. This would conflict with LP policy EN23, which states that development that would adversely affect the setting of a listed building, including long distance views, will not be permitted. It would be contrary to the Framework as it would not sustain the significance of the setting of listed buildings, and the public benefits would not outweigh the harm. In addition, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 would not be met.

Suitable location

17. The site lies outside Crockleford Heath and some 2 miles from Ardleigh's settlement development boundary. Ardleigh is described by the Council as having no defined village centre, employment area or train station, but the appellant has highlighted the presence of a post office/village shop, doctor's surgery, public houses, church, primary school and service station. Colchester's centre is some 4 miles distant, with the suburb of Greenstead situated approximately 1.6 miles from the site. Greenstead has a range of shops,

[5] Paragraph Reference: 21b-008-20140306: What is a material planning consideration?

library, pharmacy, schools and a community centre. There is a bus service along Bromley Road nearby.

18. Saved policy QL1 of the Tendring District Local Plan 2007 (LP) identifies a spatial strategy for development within the district. The spatial strategy directs most new development to the larger urban areas of Clacton and Harwich, with limited development permitted in smaller towns and villages where consistent with local community needs. LP policy QL1 also states that beyond defined settlement boundaries for towns and villages, only development that is consistent with countryside policies within the LP will be permitted. Ardleigh is listed as a village in LP policy QL1.

19. Located outside the Settlement Development Boundary for Ardleigh as defined by the LP, the proposed development would be located within the countryside and would therefore be in conflict with LP policy QL1. The Council has raised concerns about the proposed development's location with regard to the site's accessibility to services and facilities by different modes of transport.

20. I have been referred to a High Court judgement[6] and appeal decisions[7] regarding isolated development in the countryside. Given the proximity of other residential properties along Chapel Lane, the proposed new home would not be far away from other buildings or people, and would not be isolated in terms of paragraph 79 of the Framework.

21. The site is some distance from services and facilities in Ardleigh and Greenstead. While it is not impossible for journeys to take place on foot, by bicycle, or by public transport to access services and facilities, the rural roads have limited lighting and footpath provision. As a result, it would potentially feel physically isolated and unsafe for pedestrians or cyclists dependent on the time of day. I therefore consider that most journeys to and from the site would be made by car. Despite the limited number of trips generated by an additional dwelling, it would fail to minimise the need to travel by car. However, as noted in another appeal[8] in Great Bardfield, paragraph 103 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Therefore, although the site does not lie within a defined settlement boundary, a higher proportion of journeys by car may be expected within such rural locations.

22. Furthermore, given the findings of the Inspector dealing with the neighbouring chalet bungalow, I find that the chalet bungalow under construction and the recently built bungalow to the south would have a comparable level of accessibility to services and facilities to the proposed development before me. As such, I am not persuaded that there should be any differentiation between the proposed development and neighbouring properties in this regard.

23. Concluding on this main issue, while the development would be contrary to the spatial strategy set out in LP policy QL1 and paragraphs 15, 17, and 20 of the Framework with regard to the plan-led strategy for the pattern of development in an area, I consider that the policy conflict would not be of such significance as to warrant the dismissal of the appeal in this regard. I therefore find that

[6] Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)
[7] APP/Z1510/W/17/3189624, decision issued 20 February 2018 and APP/W3520/W/16/3152003, decision issued 6 October 2016.
[8] APP/Z1510/W/16/3148072, decision issued 25 October 2016.

the site would represent an appropriate location for a dwelling in relation to access to services and facilities.

Planning balance

24. At the time their decision was issued, the Council states that it could demonstrate a 5YHLS, but the appellant considers that the Council does not have a 5YHLS, and refers to 4.4 years' supply at application stage. If it were the case that the Council did not have a 5YHLS, this would require application of paragraph 11(d) of the Framework.

25. However, footnote 6 to paragraph 11(d) of the Framework sets out specific Framework policies which indicate that development should be restricted, including designated heritage assets. Given that I have found that the Framework's heritage asset policies indicate that development should be restricted, the presumption in favour of sustainable development does not apply.

26. The appellant has highlighted an allowed appeal[9] outside a settlement boundary, recognising the Government's objective of significantly boosting the supply of homes. However, I consider that the site-specific circumstances of that appeal and the appeal before me are not similar.

27. To conclude on the planning balance, while the proposed development would be in the countryside, it would have appropriate access to services and facilities. However, it would have a harmful effect on the setting of the listed building at Lamberts. This is a significant factor weighing against the proposed development and would render it contrary to LP policy EN23.

Other matters

28. The Council has provided information on development being proposed within the Zones of Influences for the Essex Coast Recreational disturbance Avoidance Mitigation Strategy. As I am dismissing the appeal for other reasons, I have not undertaken assessment in line with the Habitats Regulations.

Conclusion

29. For the reasons given above, the appeal is dismissed.

Joanna Gilbert

INSPECTOR

[9] APP/L2630/W/18/3197272, decision issued 7 September 2018.