



Appeal Decision

Site visit made on 11 June 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2019

Appeal Ref: APP/A1530/W/19/3225095

179 Colchester Road, West Bergholt, CO6 3JY

- 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 Caro (DF Homes) against the decision of Colchester Borough Council.
 - The application Ref 182761, dated 6 November 2018, was refused by notice dated 31 December 2018.
 - The development proposed is the construction of 2 No houses.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2 No houses at 179 Colchester Road, West Bergholt, CO6 3JY in accordance with the terms of the application, Ref 182761, dated 6 November 2018, subject to the conditions in the attached Schedule.

Procedural Matter

2. The submission version of the West Bergholt Neighbourhood Plan 2018 – 2033 (the Neighbourhood Plan) has been through examination and, subject to the amendments recommended by the Neighbourhood Plan Examiner, is able to proceed to referendum. A date for the referendum has not yet been set. The Neighbourhood Plan does not yet form part of the development plan but carries considerable weight and I have had regard to it in reaching my decision.

Main Issue

3. The main issue is whether or not the appeal site is an appropriate location for housing having regard to the character and appearance of the area and access to services and facilities.

Reasons

4. There is no dispute between the main parties that the site lies outside any development limits prescribed by the Local Plan and thus for the purposes of planning policy it is in the countryside. According to Policies H1 and SD1 of the Colchester Borough Council Local Development Framework Core Strategy December 2008 (selected policies revised July 2014) (the Core Strategy), housing should be directed towards settlements and key development areas as guided by the settlement hierarchy contained within Policy H1. These policies are intended, amongst other matters, to ensure the protection of the countryside, and to ensure that housing is located in areas which are accessible and environmentally sustainable. Even though the Council have not referred

to specific Neighbourhood Plan policies in the decision notice, I have been provided with extracts from Policies within it by West Bergholt Parish Council. The focus in the Neighbourhood Plan is to direct new housing towards the settlement boundary and housing allocations. However, like the National Planning Policy Framework (the Framework), there is nothing within any of the Policies I have been referred to either within the development plan or the emerging Neighbourhood Plan which would preclude housing outside development limits and in the countryside.

5. The appeal site, comprising the garden area associated with 179 Colchester Road, lies amidst a run of a small number of properties which lie generally to the east of, and are detached from, the settlement of West Bergholt. The proposed dwellings and associated gardens would infill a gap between existing dwellings without encroaching into the countryside beyond the extent of either end of the row of existing dwellings. Due to this, the proposal would retain the area of generally open countryside between the appeal site and West Bergholt, and the settlement of Braiswick to the south east. It would not increase the coalescence between West Bergholt and Braiswick.
6. A combination of existing vegetation and built form means that views of the dwellings from beyond the site boundary to the south would be limited. Whilst there would be obtainable views of the proposed dwellings from Colchester Road, they would be set-back from the road and partially screened by vegetation. The layout of the proposed dwellings would follow the linear pattern of development which fronts Colchester Road. Even though there is a bungalow to one side of the appeal site which has a different design to the appeal proposal, dwellings along the row vary in terms of height, design and appearance, and set in this context the proposal would not be out of keeping. Furthermore, there would be sufficient space between the proposed dwellings and the bungalow so that the appeal scheme would not appear obtrusive in the street. I am satisfied that the urbanising effect of the proposal, in addition to the existing built form, would not result in harm to the character and appearance of the area.
7. On my site visit I walked from the site into West Bergholt via a footpath on the opposite side of the road to the appeal site. Part of the route is unlit, but there is footpath provision along the entirety of its length which at the very least appears suitable for pedestrian access during the day. There is disagreement between the main parties concerning the distance of the site from services and facilities. Even if I am to accept the worst-case scenario put forward by the Council, that the site is 0.6 miles¹ from the main services, amenities and facilities of West Bergholt, the Council's evidence suggests that this distance means that the site falls outside the 'desirable' walking distance, which to my mind differs from a distance which might be considered unacceptable.
8. Notwithstanding this, on my site visit I found the local convenience store within West Bergholt to be within an acceptable walking distance of the appeal site. Furthermore, the dwellings would benefit from easy access to bus stops which are located close to the appeal site on either side of Colchester Road. The appellant has provided evidence to demonstrate that buses run approximately every 30 minutes in either direction from the nearby bus stops, servicing both West Bergholt and Colchester. Therefore, it seems to me that any services and

¹ 0.6 miles is the equivalent of approximately 966 metres

facilities which would not be reasonably accessible by foot would be regularly serviced by a relatively short bus journey to nearby serviced settlements, thus ensuring a range of sustainable travel options for future occupiers of the proposal to meet their day-to-day needs.

9. Having regard to the foregoing, and the proximity of the proposal to a number of other dwellings, I am satisfied that it would not constitute an isolated home in the countryside in terms of the Framework². Despite the fact I have found that the site is reasonably accessible to nearby services and facilities, I nevertheless accept that its countryside location means that future occupiers would be more likely to favour private car travel more so than if it were located within a development limit boundary. However, paragraph 103 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It is to be expected, therefore, that some travel by private vehicle is likely in rural areas such as this. In this context, the relationship the site has to local services, facilities and amenities would ensure sufficient choice of travel by modes other than the private car, thus it is not an environmentally unsustainable location for housing.
10. In conclusion, the appeal site is an appropriate location for housing having regard to the character and appearance of the area and access to services and facilities. The development would comply with Policies H1, ENV1 and SD1 of the Core Strategy which together seek to direct growth towards sustainable and accessible locations where the countryside would be protected. The development would comply with Policy DP1 of the Local Development Framework Development Policies October 2010 (selected policies revised July 2014) which requires proposals to be designed to a high standard, demonstrate environmental sustainability and have regard to the landscape and character of the site. There would be no conflict with the emerging Neighbourhood Plan. In accordance with paragraph 170 of the Framework the development would not harm the intrinsic character and beauty of this countryside location.

Other Matters

11. It has not been necessary for me to clarify the Council's five-year housing land supply position in relation to the Framework, as I find that the development would be acceptable for the reasons given.
12. A third party has referred to concerns that properties in the area are not on mains drainage, and that gardens are often underwater and there are subsidence issues. I have no evidence before me to clarify the exact nature of the concerns raised, and I note that the Council's officer report considers that the risks of flooding on the site are low. The concerns raised do not lead me to a different conclusion on the main issue.
13. I have been provided with extracts from a number of Policies in the West Bergholt Village Design Statement. I am not clear on the current status of this document but it is put to me by West Bergholt Parish Council that it was adopted by Colchester Borough Council in 2011. It does not form part of the development plan. In any event, I do not find conflict with the Policies I have been referred to, the substance of which is covered in my reasoning.

² Paragraph 79 of the National Planning Policy Framework

Conditions

14. The Council have not provided me with a list of suggested conditions in the event that the appeal was allowed. However, I have received copies of consultation responses which were made in response to the planning application, and I have considered any conditions suggested in these responses against the Planning Practice Guidance (the PPG).
15. I have applied the standard '3 year' time limit condition and the 'approved plans' condition in the interests of certainty. I have applied a 'materials' condition which will give the Council an opportunity to agree an appropriate palate of materials.
16. I have considered the comments made by Colchester Borough Council Archaeology, and given the potential for findings of archaeological importance within the site, I have attached planning conditions in the interests of understanding the significance of any findings, with the potential for proper recording of any such findings. As any act of development undertaken on site has the potential to disturb findings of archaeological importance, the conditions are framed as 'pre-commencement'.
17. I have amended the conditions suggested by the Council's highways consultant relating to vehicular access, visibility splays and the dropped crossing in the interests of highway safety. Even though the Council's highways consultant is satisfied that visibility splays can be achieved, the submission of a plan would allow visibility splays to be clearly defined and retained thereafter. I have omitted the suggested condition relating to parking as there is sufficient room within the appeal site to accommodate vehicles, so the suggested condition is unnecessary and contradicts the PPG.

Conclusion

18. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Matthew Woodward

INSPECTOR

Schedule of 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: 885/01, 885/02, 885/03, 885/04, 885/05, 885/LOC, and TPSarb8350418.
- 3) No development of any building shall take place until details of the materials to be used in the construction of the external surfaces has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
- 4) No development shall take place until a Written Scheme of Investigation of archaeological features has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation.
- 5) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4.
- 6) Prior to the first occupation of any dwelling, details of the dropped kerb vehicular crossing of the highway verge shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any dwelling the development shall be constructed in accordance with the approved details.
- 7) No unbound materials shall be used in the surface treatment of vehicular accesses throughout.
- 8) No dwelling shall be occupied until visibility splays at the site access have been submitted to and approved in writing by the Local Planning Authority. The approved visibility splays shall be provided prior to the occupation of any dwelling and retained thereafter.