
Appeal Decision

Site visit made on 3 May 2019

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/P1560/W/18/3218389

Land adjacent to Willowell, Spring Valley Lane, Ardleigh CO7 7SD

- 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 & Mrs N Moorcroft against the decision of Tendring District Council.
 - The application Ref 18/01105/FUL, dated 3 July 2018, was refused by notice dated 17 August 2018.
 - The development proposed is single residential dwelling, cartlodge, landscaping and access.
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Decision

1. The appeal is allowed and planning permission is granted for single residential dwelling, cartlodge, landscaping and access at Land adjacent to Willowell, Spring Valley Lane, Ardleigh CO7 7SD in accordance with the terms of the application, Ref 18/01105/FUL, dated 3 July 2018, subject to conditions in the attached schedule.

Procedural Matter

2. An emerging plan, the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017), is currently under examination. It is not part of the adopted development plan. As it is not clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with National Planning Policy Framework (the Framework), I give them limited weight and they do not alter my conclusions.

Main Issues

3. The main issues in this appeal are:
 - whether the proposed development would be suitably located;
 - the effect of the proposed development on the character and appearance of the area, including as regards trees;

Reasons

Location

4. The appeal site is around 1.5 miles from the settlement development boundary of Ardleigh, on the fringes of Colchester. While there are agricultural fields nearby, the proposed dwelling would be associated with other detached dwellings in the area along Spring Valley Lane and would not constitute an isolated home in the countryside for the purposes of the Framework.

5. There is a bus stop at the junction of Spring Valley Lane with Bromley Road providing hourly services to Colchester and Frinton-on-Sea. Being on the fringes of Colchester, a bus journey from the appeal site to that town would not be unreasonably lengthy in order to access the large range of services and facilities that it provides. The appellant has also said that the appeal site is very close to a convenience store, a public house and schools but has not been explicit as to where these are located.
6. There is therefore some opportunity to access service and facilities without reliance on the motor car, although these would be modest. I also agree with the Inspector in the previous appeal APP/P1560/W/17/3169159 that the walk to access them down an unlit country lane with very limited footway provision would make that an unattractive option, particularly in poor daylight.
7. For the reasons I have given, there would be moderate harm caused through the location of the proposed dwelling. The proposal, being situated outside defined settlement development boundaries, would also be in conflict with Saved Policy QL1 of the Tendring District Local Plan 2007 (LP).

Character and appearance

8. Comprising of a design and materials which reflect elements of local vernacular architecture including red bricks, wooden joinery, weatherboarding and clay tiles the proposed dwelling would be in keeping with local built form and with the rural character of the area. I share the view of the Council's delegated decision officer report that the proposal would create a dwelling of good design and semi-rural appearance. Accordingly, it would not create an urbanising effect.
9. The proposed dwelling would be set back from the road to allow for landscaping and retention of existing hedgerows and trees along the frontage. It would therefore not dominate the country lane and views of the sympathetic design, which in any respect would be partially hidden and softened by the vegetation, would reinforce a sense of appropriately traditional residential development along the lane. Being between detached properties to its north and south, and broadly on the same building line, I do not consider that the development would encroach into the countryside. There is a material difference between the appeal proposal before me and that considered by the Inspector in APP/P1560/W/17/3169159, where three detached dwellings on the appeal site was considered to be an unacceptable incursion of development into the setting.
10. An Arboricultural Impact Assessment (AIA) has been submitted which shows that the development could take place without causing significant harm to trees, some of which are protected by a Tree Preservation Order (TPO).
11. The Council appears to accept the above conclusion but is concerned that, due to their proximity, the trees would reduce the amount of light reaching the windows and private amenity space of the proposed dwelling and would also produce debris and detritus that would affect the property. It is said that this would put pressure on future occupiers to prune the trees, with the risk of harming them.
12. However, the appellant has submitted evidence to demonstrate that approval has been given by the Council to reduce/prune trees to effectively mitigate

against the above problems occurring. The tree works are therefore being controlled by the Council, which will continue to have legal control over the management of the trees through the TPO, and therefore there would be no pressure as described by the Council which might cause harm to the trees.

13. Accordingly, for the above reasons, there would be no harm to the character and appearance of the area including as regards trees. As such the proposed development would not be in conflict with Saved Policies QL9 and EN1 of the LP which together seek to protect the character and appearance of places. It would also be in accordance with the design principles of the Framework.

Other Matters

14. The appeal site lies within the Zone of Influence of the Stour Estuary Special Protection Area (SPA) and Ramsar site which has been identified for its importance as a habitat supporting certain protected species. Within the Zone of Influence, an assessment has concluded that visitor pressure associated from new housing development is likely to have a significant effect (either alone or in combination with other schemes) on the SPA/Ramsar site unless it is properly mitigated. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) has identified a series of habitat management measures and advises that a tariff of £122.30 per dwelling would fund these measures.
15. A unilateral undertaking has been submitted offering these contributions and the Council has agreed that the terms of this are acceptable. Even the visits generated by one dwelling would be likely to have an incremental impact on the SPA/Ramsar site and in these circumstances the contribution would be necessary, directly related to the development and fair and reasonable in scale and kind. The mitigation strategy does not comprise the provision of infrastructure and the contributions do not therefore conflict with the limit of five or more obligations towards an infrastructure project. I am therefore satisfied that the proposed contributions would be both necessary and legitimate in this case.

Planning Balance and Conclusion

16. The parties are in agreement that the Council cannot demonstrate a 5-year housing land supply. Therefore the tilted balance in Paragraph 11d) of the Framework is engaged. This states that planning permission should be granted unless the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
17. The Council has said that the housing shortfall is relatively modest when calculated using the standard method in the Framework and that actual housing need is lower when calculated otherwise, taking into account the district's particular demographics. I have taken into account APP/P1560/W/17/3185776 which the Council uses in support of this position.
18. The proposed development would deliver an additional home which would be a benefit of the appeal scheme given the Framework's aim to make a more efficient use of land and significantly boost the supply of housing, which the Council are currently not achieving due to failure to provide a 5-year supply. Paragraph of the Framework says that small and medium sized sites can make

an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. The proposal would also create economic benefits during construction and through local spending by the new occupiers. Overall, the benefits of the proposal are matters of significant weight in favour of the development.

19. For the reasons I have given, there would be moderate harm caused by the location of the proposal and no harm caused by the effect of it on the character and appearance of the area. Even were I to find that the housing shortfall was as modest as stated as the Council, the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole.
20. I conclude that the appeal should be allowed with conditions. The proposed development would not accord with the development plan as a whole due to its conflict with Saved Policy QL1 but there are other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should succeed.
21. In addition to the commencement condition, I am attaching a condition specifying the relevant plans as this provides certainty. I am also attaching conditions necessary for highway safety, and in respect to landscaping to ensure a satisfactory appearance. The wording of pre-commencement conditions have agreed with the appellant as required under S100ZA of the Town and Country Planning Act 1990.

Andrew Walker

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: Drawing numbers 120, 121, 122, 123, 124, the document titled 'Arboricultural Impact Assessment' and the untitled Site Location Plan.
- 3) Prior to the first occupation of the proposed dwelling, the proposed vehicular access shall be constructed to a width of 4.8m and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority.
- 4) Prior to the proposed access being brought into use, minimum vehicular visibility splays of 90m by 2.4m by 90m as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be retained and maintained free from obstruction clear to ground thereafter.
- 5) Prior to the first use of the proposed access, details of the construction and future maintenance of the necessary bridging or piping of the drainage ditch/watercourse shall be submitted to and approved in writing by the Local Planning Authority.
- 6) No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.
- 7) The development shall not be occupied until such time as a car parking and turning area has been provided in accord with current Parking Standards. These facilities shall be retained in this form at all times and shall not be used for any purpose other than the parking and turning of vehicles related to the use of the development thereafter.
- 8) No development shall take place, including any ground works or works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing
 - iv. wheel and under body washing facilities.
- 9) Prior to the commencement of any above ground works, a scheme of hard and soft landscaping works for the site shall be submitted to and approved, in writing, by the Local Planning Authority. The scheme shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute

publication "BS 5837: 2012 Trees in relation to design, demolition and construction.

- 10) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.