



Appeal Decision

Site visit made on 16 January 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2020

Appeal Ref: APP/A1530/W/19/3239793

76 Coggeshall Road, Marks Tey CO6 1LS

- 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 Jeanes against the decision of Colchester Borough Council.
 - The application Ref 191813, dated 10 July 2019, was refused by notice dated 3 September 2019.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted by Mr L Jeanes. However, the applicant for the planning application was Mr Jeanes. The appellant's agent has confirmed in writing that the above parties are the same person. I have dealt with the appeal on that basis.
3. Outline planning permission is sought with all matters reserved. I have considered the indicative site plan solely on the basis of whether, in land use principle terms, it would be possible to erect one detached house on this site.
4. The main parties refer to the emerging Colchester Borough Local Plan 2017-2033. In accordance with paragraph 48 of the National Planning Policy Framework (the 'Framework'), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any substantive details of the status of the emerging plan, and therefore I attribute the plans and policies very limited weight as a material planning consideration.

Main Issue

5. The main issue is whether the proposed development would provide a suitable site for housing, having regard to the proximity of services and the character and appearance of the area.

Reasons

6. The appeal site is a parcel of land to the side of 76 Coggeshall Road. The site is largely grassed, and the boundaries are marked by timber fencing and a

mature hedgerow to the roadside boundary. It is proposed to erect a detached dwelling at the site.

7. Policy ENV2 of the Colchester Borough Core Strategy (adopted 2008, amended 2014) (the 'CS') aims to enhance the vitality of rural communities by supporting appropriate development of infill sites and previously developed land (PDL) within the settlement boundaries of villages. Outside of village boundaries, development may be supported to meet identified local affordable housing needs.
8. The appeal site is located outside of the defined settlement limits for Marks Tey. In addition, it does not form part of an allocated site for residential development. Therefore, for the purposes of Policy ENV2 of the CS the appeal site is within the countryside where new development will not normally be permitted, unless it meets identified local affordable housing needs. In this case, the proposal is for open market housing, which would not meet the exception test.
9. The appellant argues that the appeal site is PDL, which by virtue of the site's close proximity to the existing services and facilities, including a convenience store, a primary school and a village hall within the settlement of Marks Tey, it is a suitable location for residential development. Furthermore, the appellant states that the site is within walking distance of several bus stops, which provide services to Colchester and Chelmsford, and, Marks Tey railway station, which provides main line services towards London and Norwich and branch line services to Sudbury.
10. The Framework definition of PDL explicitly excludes "land in built-up areas such as private residential gardens"¹. The Courts have confirmed that this does not apply to private residential gardens in the open countryside. However, "built-up areas" are not themselves defined by the Framework. To this regard, I note that built-up areas are not synonymous with urban areas and may be found in rural locations if there is development around the site or within the wider area.
11. In this instance, the appeal site forms part of a private residential garden of No 76. Whilst the appeal site is situated outside of the defined settlement limits for Marks Tey, it is located to the side of an existing residential dwelling, which forms part of a group of buildings on the northern side of Coggeshall Road. Therefore, as a matter of fact and degree, I consider that the appeal site is situated within a "built-up area". In such areas, private residential gardens are excluded from the definition of PDL.
12. In terms of the proximity of services, on my site visit, I observed that the bus stops on Coggeshall Road and Marks Tey train station could be accessed from the appeal site on foot via the existing pavement network, which features street lighting. The bus timetables provided by the appellant demonstrate that the bus services provide a frequent service to a variety of destinations within the local and wider area throughout the week. Whilst no details of the train service have been provided, I am satisfied that the existing bus services would provide a suitable means to commute to and from work on a daily basis. On that basis, I consider that the bus service would provide an attractive alternative to the use of the private motor vehicle for most journeys.

¹ See Annex 2: Glossary – National Planning Policy Framework: February 2019

13. In terms of access to local services and facilities, the Council argue that there is a lack of such amenities within the local area, which would make occupiers of the proposed dwelling reliant on the private motor vehicle. However, I note that the appeal site is located immediately adjacent to the defined settlement limits for Marks Tey and would be no less accessible than many of the existing dwellings within the adjoining settlement, where the Council support infill development. Furthermore, I have found that the appeal site would be well-served by a public transport. Therefore, I am not persuaded that the occupiers of the proposed dwelling would be reliant on the private motor vehicle for most journeys.
14. Turning to the effect of development on the character and appearance of the area, the appeal site is located amongst a group of existing residential properties on the northern side of Coggeshall Road. The properties are typically set back from the highway behind well-proportioned front gardens and follow a clear building line. In addition, there are large gaps between properties, which create a fragmented pattern of development where glimpse views of the rural landscape, which is located to the rear of the properties, are visible from the street. As such, the properties on the northern side of Coggeshall Road have a semi-rural character.
15. The Council explain that the defined settlement limits of Marks Tey, as shown on the proposals map, have been deliberately drawn to exclude properties on the northern side of Coggeshall Road, where existing development is more sporadic in nature and the gaps in-between buildings create a positive contribution to the surrounding countryside.
16. The undeveloped nature of the appeal site contributes positively to the semi-rural character of the development on the northern side of Coggeshall Road, whereby the fragmented pattern of development provides a transition between the dense urban environment to the south and the rural landscape to the north.
17. Whilst I acknowledge that all matters are reserved at this stage, the proposal would nonetheless introduce a form of residential development onto an undeveloped site outside of the defined settlement limits of Marks Tey. In doing so, the proposal would erode the fragmented pattern of development on the northern side of Coggeshall Road by developing within the existing gap between the residential dwellings that are located either side of the appeal site. Consequently, the proposal would undermine the appeal site's semi-rural character, which would cause significant harm to the character and appearance of the area.
18. The appellant argues that a landscaping scheme could be secured at the reserved matter stage, which would respect the character of the surrounding area. However, the effectiveness of any landscaping in screening the proposal would be greatly reduced in the winter months when the trees and planting would lose their leaves, and, in any event, it cannot be relied upon in perpetuity to screen the development. Therefore, this would not outweigh or overcome the harm I have identified above.
19. In conclusion, for the reasons given above, the proposed development would provide a suitable site for housing having regard to the proximity of services. However, the proposal would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with Policy SD1

of the CS which seeks to sustain the character and vitality of small towns, villages and the countryside. In addition, the proposal would not accord with Policy ENV2 of the CS which sets out the Council's settlement strategy for development within rural communities. For this reason, I also conclude that the proposal would not accord with Policy H1 of the CS, which states that the overall distribution within the plan area will be guided by the Council's Settlement Hierarchy.

20. Given the above, the proposal would also be inconsistent with paragraph 127(c) of the Framework, which requires development to be sympathetic to the local character.
21. In reaching the above conclusion, I am cognisant of the fact that the proposal would not result in the creation of an isolated home in the countryside in the context of paragraph 79 of the Framework, in so far as that the dwelling would be in close proximity to a number of existing buildings and indeed the defined settlement of Marks Tey. However, these are not matters which overcome the very weighty conflict with the identified development plan policies above.

Planning Balance

22. The appellant has drawn my attention to a recent appeal decision² which concludes that the Council are unable to demonstrate a five-year supply of deliverable housing sites. However, the Council argue that the previous decision is no longer representative of the Council's current housing land supply position, which exceeds five years.
23. The provision of one dwelling would make a positive contribution to the Council's housing land supply which weighs in favour of the proposal, albeit that the contribution would be limited due to the quantum of development proposed. There would also be some limited benefits to the construction industry and from the spend of future occupiers.
24. Even if I were to accept the appellant's argument that the Council is unable to demonstrate a five-year supply of deliverable housing sites; the significant harm to the character and appearance of the area would be an adverse impact of the development at odds with the development plan and the Framework, and would significantly and demonstrably outweigh the proposal's limited benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, this is not a point that suggests the appeal should be determined other than in accordance with the development plan.

Other Matters

25. I note that the Parish Council support the proposal. However, this does not outweigh or alter my conclusions on the main issue.

Conclusion

26. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR

² Appeal Ref: APP/A1530/W/18/3207626