



Appeal Decision

Site visit made on 17 January 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2020

Appeal Ref: APP/A1530/W/19/3239753

Land Adjacent Hospytts, The Causeway, Great Horkesley CO6 4AD

- 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 C Georgeson against the decision of Colchester Borough Council.
 - The application Ref 191449, dated 3 June 2019, was refused by notice dated 26 July 2019.
 - The development proposed is described as 'outline application for the erection of detached dwelling and garage (resubmission)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved except for access. I have had regard to the site and location plans and the proposed layout plan but have regarded all elements of these drawings as indicative apart from the details of the proposed access.
3. The Council 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 Issues

4. The main issues are (i) whether the proposed development would provide a suitable site for housing, having regard to the proximity of services and sustainable modes of transport; (ii) the effect of the proposal on highway safety and (iii) the effect of the development on existing trees.

Reasons

Location of development

5. The appeal site forms part of the side garden of Hospytts, which is an existing residential dwelling. The site is predominately grassed and contains a number of mature trees. It is proposed to erect a detached dwelling at the site.

6. Policy SD1 of the Colchester Borough Core Strategy (adopted 2008, amended 2014) (the 'CS') explains that growth will be located at the most accessible and sustainable locations in accordance with the Council's Settlement Hierarchy; and that development proposals will be expected to make efficient use of land and take a sequential approach that gives priority to accessible locations and previously developed land (PDL).
7. Policy H1 of the CS explains that the housing development will be expected to contribute to the achievement of sustainable development that gives priority to new development in locations with good public transport accessibility and/or by means other than the private car and PDL.
8. The appeal site is situated within a countryside location outside of the defined settlement limits for Great Horkesley. However, the appellant states that the appeal site is well served by public transport and that local facilities and services within Great Horkesley would be accessible on foot from the appeal site. Therefore, the appellant contends that the appeal site is a suitable location for residential development.
9. Great Horkesley benefits from a range of services and facilities, including a post office/shop and a public house, which are located approximately 750 metres to the south of the appeal site on The Causeway. The appellant explains that there is also a primary school within the village, which is about 1500 metres away from the appeal.
10. The appeal site is accessed from The Causeway, which features a pedestrian footway on the opposite side of the road from the site. The footway runs alongside the road and links the appeal site to the existing services and facilities within Great Horkesley.
11. The Causeway is a classified A-road (the A134). On my site visit I observed that the road was busy with high volumes of traffic travelling in both directions, including large vehicles such as lorries. The existing footway has no street lighting and is narrow, which forces pedestrians to walk in close proximity to the moving traffic. Given the distance between the site and local services and facilities, and the aforementioned road conditions, even if vehicle speeds were slower than the speed limit, the use of the footway by the occupiers of the proposed dwelling, especially during the winter months where daylight hours are limited, to walk to the local services and facilities would not be an attractive alternative to the use of the private motor vehicle for most journeys. This adverse matter would be amplified for those with mobility issues such as wheelchair and pushchair users, to whom the use of the narrow footway would be impractical.
12. In terms of the public transport options, the appellant explains that the appeal site is situated a short distance away from two bus stops on The Causeway which provide services between Sudbury and Colchester. The appellant argues that the bus service would enable local residents to use public transport to commute to work.
13. However, based on the timetable information provided by the appellant, I note that on weekdays outside of school time, the earliest bus service to Sudbury would be at 09:29. In terms of the service to Colchester, this would be at 07:51, but the next service would not be until 10:24. In addition, the service is very limited on Saturdays and does not operate on a Sunday. Therefore, the

limitations of the bus services are such that they would not provide an attractive alternative to the use of the private motor vehicle for most journeys.

14. My attention has been drawn to a recent decision, where the Council have granted planning permission for the erection of 22 dwellings on a nearby site, which is also outside of the defined settlement limits for Great Horkesley. The appellant states that the site is more remote from local services than the appeal site and would generate significantly more vehicular movements when compared to the current proposal, in part because the site is not served by a footway. The Council contend that the approved development is not comparable to the current proposal because it makes use of PDL and includes landscape enhancements to the surrounding Area of Outstanding Natural Beauty, which is not a matter being considered as part of this appeal. I do not disagree that the developments are not directly comparable, and, in any event, I have determined this appeal on its individual planning merits.
15. The appellant argues that the appeal site is PDL, whereas the Council state that the site is greenfield land. 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.
16. 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. In this instance, the appeal site forms part of the private residential garden of Hospytts. Whilst the appeal site is situated outside of the defined settlement limits for Great Horkesley, it is located to the side of an existing residential dwelling, which forms part of a small group of buildings on the eastern side of The Causeway. 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. As such, this is not a determinative point in this appeal.
17. In conclusion, for the reasons given above, I have found that occupiers of the proposed dwelling would be reliant on the use of the private motor vehicle for most journeys. Therefore, the proposed development would not provide a suitable site for housing, having regard to the proximity of services and sustainable modes of transport. As such, the proposal would not accord with Policies SD1 and H1 of the CS which direct new housing developments to the most accessible and sustainable locations, which have good public transport accessibility. For this reason, I also conclude that the proposal would not accord with Policy TA1 of the CS, which states developments that are car-dependent or promote unsustainable travel behaviour will not be supported.
18. 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. However, this is not a matter which overcomes the very weighty conflict with the identified development plan policies above.

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

Highway safety

19. The appeal site is served by an existing vehicular access from The Causeway. The appellant explains that the access is used on a regular basis for deliveries to the existing dwelling. However, the Council and the Local Highway Authority (LHA) state that the existing access had been closed up for many years and therefore it was deemed to have been abandoned. The LHA explain that a roadside hedgerow was removed to expose fencing and gates prior to the submission of the current application.
20. To this regard, the Council argue that the proposal should be treated as a 'new' access onto the highway and that visibility splays of 2.4m x 120m would be required in both directions to serve the new development. The Council contend that the appellant does not own sufficient land to provide the required visibility splays.
21. Even if I were to accept that the existing vehicular access was a lawful arrangement, no technical information has been provided by the appellant to demonstrate that the amount of vehicle movements associated with the use of the existing access would be comparable to the proposed residential use.
22. In terms of visibility splays, the appellant argues that by repositioning a part of the existing boundary fence visibility splays of 2.4m x 200m could be achieved to the south and 2m x 200m could be achieved to the north. However, no technical information has been put forward by the appellant to demonstrate that this would be the case. In addition, it is unclear whether the appellant has control over all of the land to provide the visibility splays.
23. In the absence of specific details to demonstrate that the vehicle access onto The Causeway would be appropriate to serve the proposed dwelling, I am unable to conclude that the proposal would preserve highway safety. As such, I cannot conclude that the proposal would accord with Criterion (iv) of Policy DP1 of the Colchester Borough Council Development Policies (adopted 2010, amended 2014) (the 'DP') which requires development proposals to create a safe and secure environment. In addition, I cannot conclude that the proposal would accord with Policy DP17 of the DP which states that access to all development should be created in a manner which maintains the right and safe passage of all highway users.
24. Given the above, the proposal would be inconsistent with paragraph 110(c) of the Framework, which states that developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles. In addition, paragraph 109 of the Framework advises that development should be refused if there would be an unacceptable impact on highway safety.
25. In considering the lack of technical information relating to the proposed access I cannot be sure if there would be a need to remove some of the existing mature landscaping to the front of the site, which may or may not have some consequences in terms of the effect of the development, in principle, on the character and appearance of the area.

Effect on existing trees

26. The appeal is supported by an arboricultural report and tree survey, which identifies the species, position and overall condition of the existing trees at the appeal site. The report recommends which trees should be removed to create a developable area in the centre of the site and sets out the 'general principles for arboriculturally sensitive design'.
27. Whilst I acknowledge that the scope of the report is limited, I am mindful that the current proposal seeks outline planning permission with all matters reserved except for access. Therefore, the layout of the proposed development is reserved for consideration at a later stage.
28. Based on the evidence before me, and my site observations, I am satisfied that there is a sufficient amount of land within the centre of the appeal site to accommodate a residential dwelling without causing harm to the health and longevity of the existing trees that would be retained as part of the proposal. Consequently, if I were minded to allow the appeal, I see no reason why a planning condition could not be imposed to secure the appropriate arboricultural details, including a tree protection plan, at the reserved matters stage.
29. Therefore, subject to the imposition of a planning condition, I conclude that the proposed development would provide a suitable site for housing, having regard to the effect of the development on existing trees. To this extent, I am satisfied that the proposal would be capable of according with Criterion (v) of Policy DP1 of the DP, Policy DP21 of the DP and Policy ENV1 of the CS, which require new development to respect or enhance the landscape and other assets that contribute positively to the site and surrounding area; to conserve or enhance biodiversity and geodiversity interests; and to conserve and enhance Colchester's natural environment.

Other Matters

30. The proposal would make some contribution to the vitality and viability of the facilities and services within Great Horkesley. However, any social or economic benefits associated with the erection of one dwelling would be modest. Such benefits would not be significant enough to alter or outweigh my conclusions on the main issues.
31. Hospytts is a Grade II listed building and the appeal site forms part of the garden area associated with the existing dwelling. In determining the application, the Council concluded that the proposal would preserve the setting of the listed building. Based on my site visit, which also included a consideration of the separation distance between the site and the listed building, and the extent of intervening screening, I have no reason to disagree with the Council in respect of this matter. However, this is a matter of neutral consequence in the overall planning balance.
32. The Council's officer report states that the development would need to provide a 'wildlife mitigation payment' towards the mitigation of potential impacts on the Essex Coast RAMS. However, no further information has been provided by either of the main parties as part of the appeal process. Nevertheless, as I have concluded that the proposed development would conflict with other development plan policies, and given my decision to dismiss the appeal, this is not a matter I need to address.

Planning Balance and Conclusion

33. Subject to the imposition of a planning condition, the proposed development would have an acceptable impact on the existing trees at the appeal site. In addition, the proposal would make some contribution to the vitality and viability of the facilities and services within Great Horkesley and provide a limited boost to the supply of housing in the area.
34. However, I have found that the proposed development would not provide a suitable site for housing having regard to the proximity of services and sustainable modes of transport. Furthermore, I have been unable to conclude that the proposal would preserve highway safety. These are matters of overriding concern and outweigh the limited benefits identified above. Therefore, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR