
Appeal Decision

Site visit made on 9 March 2020

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 March 2020

Appeal Ref: APP/A1530/W/19/3237414

59 Malting Green Road, Layer-De-La-Haye, Colchester CO2 0JJ

- 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 Morris against the decision of Colchester Borough Council.
 - The application Ref 191191, dated 3 May 2019, was refused by notice dated 16 August 2019.
 - The development is a proposed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline proposal with all matters apart from access reserved for future approval. The Council's reasons for refusal included one relating to the absence of measures to deal with the effects of the proposal on a nearby Special Protection Area. Since the application was refused by the Council, the appellant has made the appropriate financial contribution so that the effects of the proposal can be mitigated. The Council confirm that they no longer resist the proposal in relation to this particular matter.

Main Issues

3. The main issues in this appeal are;
 - The suitability of the appeal site for new housing
 - Whether the proposal would result in an isolated home in the countryside
 - The effects of the access on neighbours' living conditions
 - The effects of the proposal on the character of the area.

Reasons

The suitability of the site for housing

4. The appeal site sits just beyond the settlement boundary of Layer De La Haye, which runs immediately adjacent to the site to its west. Policy H1 of the Colchester Borough Council Core Strategy (2008 and revised in 2014) (CS) states that the majority of new housing will be located within regeneration areas in Colchester Town and provides a settlement hierarchy where new

- housing will be permitted. For the purposes of planning policy, the appeal site is within the countryside.
5. The site itself currently forms part of the plot of No 59 Malting Green Road. This property sits behind houses on Malting Green Road and has an access running between existing houses. The appeal site sits in front of the house at No 59 and behind the plot of No 57. There are houses on Millard Close to the west and open land to the east. Thus, the appeal site has residential development on 3 sides.
 6. I acknowledge that the appeal site is next to the settlement boundary, as set out above. However, as has been pointed out in some of the submitted appeal decisions, such boundaries have to be drawn somewhere and to do so does not devalue or indicate that lesser consideration of the effects on land next to the boundaries should be given.
 7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework states that where a planning application conflicts with an up-to-date development plan permission should not usually be granted. It adds that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
 8. Whilst I have taken full account of the characteristics of the appeal site, I find that the proposal gives rise to conflict with Policy H1.

Isolated home

9. The Council allege that the proposal would be contrary to Paragraph 79 of the Framework and would result in an isolated home in the countryside. Taking account of the adjacent land uses and the close presence of other residential properties, I do not consider that the proposal could be considered as resulting in an isolated home. In relation to the proximity of services available for residents, I consider that services within the village would be available to them and journeys to them could be undertaken by some on foot. Therefore, and without diluting what I have stated in the first issue, I consider that the proposal would not give rise to conflict with paragraph 79 of the Framework.

Living conditions of neighbours

10. The Council specifically identifies concerns in relation to the use of the driveway and the effects on residents at No 57. The existing drive serves a large single dwelling. It has verges to either side and is separated from the garden on No 57 by a fence. I accept that the proposal would increase the numbers of vehicles using the drive. However, the increase would be very limited in numbers, in my view. I took the opportunity to closely observe the relationship between the drive and No 57 and whilst I accept that the residents of No 57 may be aware of vehicles using the drive, my judgement is that any increase would be insufficient to cause undue disturbance to those residents.

Character of the area

11. The Council indicates within the reasons for refusal that the proposal would represent backland development by introducing a new dwelling into the long

rear garden of No 59 and that it would result in a cramped and awkward form of development. Firstly, it is worth noting that the proposal would not be formed within the long rear garden of this property, but within an area to its front. The proposal would sit between Nos 57 and 59 and also would have a visual relationship with the far denser development on the neighbouring Mallard Close.

12. I consider that the proposal would be sufficiently separated from Nos 57 and 59 so that it would not appear cramped. The plot size itself would be similar if not greater than plots on Mallard Close and so could not be said to be an exception, in my judgement. Whilst I acknowledge that the proposal would be on a much smaller plot than Nos 57 and 59, it would be capable of providing sufficient space around it for any future residents and sufficient distance from existing neighbouring properties. Therefore, I find no harm in relation to this matter.

Balance and Conclusion

13. The appellant indicates that new residents would help to support local shops and services and contribute to their viability and I have taken this into account, although I consider that this would only be to a very limited degree given that the proposal is for one house only. Whilst I have agreed with the appellant in relation to some issues, I consider that the proposal would give rise to clear conflict with the provisions of the development plan and there are no matters which are sufficient to outweigh that conflict. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR