
Appeal Decision

Site visit made on 16 March 2020

by S M Holden BSc MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/P1560/W/19/3243760

Land adjoining Whinstones, Crown Lane North, Ardleigh CO7 7RA

- 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 Michael Woods against the decision of Tendring District Council.
 - The application Ref 19/01176/FUL, dated 5 August 2019, was refused by notice dated 24 October 2019.
 - The development proposed is a proposed dwelling; part re-grading of existing lake edges; 2 No solar arrays; associated works including new landscape planting and new area of hardstanding.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Emerging Tendring District Local Plan 2013-2033 and Beyond (ETDLP) was published in 2017 and examined in 2018. The Inspector's findings raised concerns about the overall spatial strategy for the District which requires further work before the plan can be progressed. Consequently, only limited weight can be given to its emerging policies insofar as they relate to precise settlement boundaries. However, where other policies that are relevant to the proposal are consistent with the Framework, I have given them significant weight in my assessment of the scheme.

Main Issues

3. The main issues are:
 - (a) whether or not the site is a suitable location for a residential development having regard to local and national planning policy for the provision of housing;
 - (b) the effects of the proposal on the character and appearance of the area.

Reasons

Suitability of location

4. Saved Policy QL1 of the Tendring District Local Plan 2007 (TDLP) seeks to focus development in the larger urban areas and within settlement boundaries. In smaller towns and villages, residential development will be limited to where it

meets local needs and supports the provision of locally based services. This principle has been carried forward in the ETDLP. Emerging Policy SPL1 sets out a settlement hierarchy which again seeks to focus growth in existing settlements with good accessibility and the potential to offer a wider range of services. This approach is consistent with the Framework's aim of seeking to balance promoting a strong economy and supporting vibrant communities with protecting and enhancing the natural and built environment. I attach therefore significant weight to both saved Policy QL1 and emerging Policy SPL1.

5. The appeal site lies off a narrow country lane approximately 1.3km from the edge of Colchester and about 2.5km from Ardleigh, a village which has only a limited range of services. Given its proximity to Colchester the site cannot be considered to be isolated or remote. However, neither is it part of a village or in a location where any future residents would help to maintain or enhance the vitality of a rural community. For the purposes of planning policy, it is in the countryside where the development plan, both the TDLP and the ETDLP, is seeking to strictly control development.
6. As the lane provides a connection between Colchester and its rural hinterland, pedestrians and cyclists are likely to use it, particularly if undertaking recreational trips. Office workers from the existing and proposed commercial development along Old Ipswich Road may also choose to use it at lunch times. Children of existing residents may walk along it to gain access to bus services to go to school. However, it seems unlikely to me that future residents of a house on the appeal site would regularly choose to walk or cycle to access the services and facilities that they need. The practical reality is that the quickest and most convenient means of travel would be by car, particularly given the site's proximity to the A12 and A120. This choice is likely to be a function of the distance and time that would be taken to make those journeys, rather than any fundamental concerns about safety along the lane or further afield.
7. I am aware that the Inspector who allowed a development of two dwellings in Turnpike Close¹, Ardleigh, took the view that there was reasonable transport choice having regard to the particular circumstances of that case. However, the character of Turnpike Lane is different from Crown Lane North and his conclusion is therefore not one that I am bound to follow.
8. Taking all these factors into account, I conclude that the site is not a suitable location for a single dwelling, having regard to local and national policy for the provision of housing. The proposal would conflict with saved Policy QL1 of the TDLP and emerging Policy SPL1 of the ETDLP, both of which seek to focus development within existing settlements.

Character and appearance

9. Crown Lane North is a narrow, single track road with a strongly rural character. Along much of its length it is bordered by hedges and trees giving it a significant sense of enclosure. There are only a small number of individual dwellings along it. The majority have generously proportioned plots, are set back from the road and well-screened by intervening vegetation.
10. The appeal site is part of a larger area in the appellant's ownership, described as an agricultural holding. Much of this larger site is occupied by a lake, fringed

¹ APP/P1560/W/18/3217198

by trees. There is also an area laid out as a vegetable garden and an open sided barn. A new gravel driveway, which penetrates much of the depth of the site, provides access to the barn and vegetable garden. Its construction was permitted through the grant of a Lawful Development Certificate in 2018, Ref: 18/00196/LUPROP. It replaced the former access, which was more closely located to Whinstones, the adjacent property.

11. In dismissing a previous appeal for a very similar proposal², the Inspector concluded that a new access would cause significant harm to the character of the lane. At the entrance point there is now a bell-shaped area in front of a gate which leads into the site. The physical changes which the Inspector considered would cause harm to the lane's character have therefore already taken place. The extent of the new driveway is not visible from Crown Lane North as the site is well screened from the road. Similarly, I accept that the proposed dwelling would not be visible from the lane, as it would be some distance from it and the revised scheme includes additional planting and landscaping.
12. At present much of the appeal site is unkempt grassland, with the exception of the vegetable garden. There was no evidence that it is, or has been, used for any agricultural purpose. Nevertheless, the introduction of a dwelling of significant size, together with its associated garden and the additional access ways serving it, would result in a fundamental alteration to the site's character. This would take place regardless of whether or not it would be seen from any public viewpoint and would amount to a significant domestication of the appeal site as a whole. The upgrading of the access has already had an urbanising effect on the character of Crown Lane North; its use as a domestic access, rather than one serving an agricultural holding will also change its character, even without any further alteration to its appearance.
13. I acknowledge that the design of the house is high quality. It would include turf, wildflower and gravel roofs and various features to enable it to be carbon neutral such as solar panels, ground source heat pumps and electric car charging points. However, these are not exceptional or innovative elements in the design. Furthermore, in order to site the building overlooking the lake it would be necessary to remould about an acre of land around it and undertake engineering works and extensive landscaping to create a series of terraces leading to the water's edge. This would affect the existing flora and fauna even though the site does not qualify as a Local Wildlife Site.
14. The Design and Access Statement indicates an intention to carry out other landscape management in order to enhance and restore the site and the area around the lake. These works could promote biodiversity and enrich habitats. However, not all of them appear to be in within the appeal site and there were insufficient details about them to be certain of the benefits that they would provide. In any event to ensure their successful implementation would require a programme of long-term management, so they could not be adequately secured by means of conditions. In these circumstances, I can give only limited weight to these potential benefits.
15. I appreciate that the site as a whole is well screened. The visual impact of the proposal would not be apparent from outside it. However, I am not persuaded that the limited benefits arising from any habitat creation and enhancement

² APP/P1560/W/18/3203095

associated with the construction of a new dwelling would be sufficient to outweigh the harm to the rural character of the area arising from the domestication and change of use of the site.

16. Consequently, I conclude that the proposal would be harmful to the character of the rural landscape, contrary to saved Policies EN1 and EN6 of the TDLP and emerging Policy PPL3 of the ETDLP, which seek to protect the District's rural character and local biodiversity.

Other Matter

17. The appeal site lies within the Zone of Influence of the Stour and Orwell Estuaries Ramsar and Special Protection Area (SPA), a European designated site. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
18. Natural England has advised that while the effects of the development alone would be limited, additional recreational visitors to the protected area would be likely to have significant effects when considered in combination with other proposals. However, the Council has adopted the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) to address this matter. In this case, mitigation measures have been identified and the appellant has provided an executed Unilateral Undertaking (UU) which would secure a contribution towards their implementation.
19. The Council has stated that this provides certainty that the proposal would not adversely affect the integrity of the SPA. It will be seen below that I have had regard to the Council's approach and the UU in reaching my decision.

Planning balance

20. The Council acknowledges that it cannot currently demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, and planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
21. From the evidence before me the shortfall in the supply of housing land supply is only modest. In any event the social benefits arising from the construction of a single dwelling on the supply of housing would be minimal. The economic benefits would primarily be short term arising from the employment created during the construction period. These social and economic benefits therefore attract little weight.
22. On the other hand, the site's location in the countryside would be contrary to the Council's existing and emerging spatial strategy. There would therefore be environmental harm arising from locating development in an area which has not been identified as suitable for accommodating additional housing, which would perpetuate unsustainable patterns of movement, but would not contribute to the maintenance or enhancement of the vitality of a rural community. Furthermore, I have found there would be harm to the rural character of the area arising from the extensive domestication of the site. These factors weigh against the scheme.

23. In my view these adverse environmental impacts amount to cumulative environmental harm which would significantly and demonstrably outweigh the very limited social and economic benefits of the proposal, when assessed against the policies in the Framework as a whole. It therefore follows that the presumption in favour of sustainable development therefore does not apply in this case.
24. If I had come to a different conclusion, it would have been necessary for me to undertake an AA and give further consideration to the likely effectiveness of mitigation measures associated with the Stour and Orwell Estuaries Ramsar and SPA. In so doing I would also have had regard to the provisions of the UU as I would have to be certain that the integrity of the protected site would not be adversely affected. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

25. I have found that the proposal would conflict with the development plan when taken as a whole. There are no other considerations, including the advice of the Framework, that outweigh that conflict.
26. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR