



Appeal Decision

Site visit made on 18 February 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2020

Appeal Ref: APP/A1530/W/19/3241809

Land adjacent to Two Hoots, Distillery Lane, Colchester CO2 8EZ

- 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 Parrott against the decision of Colchester Borough Council.
 - The application Ref 190904, dated 2 May 2019, was refused by notice dated 28 May 2019.
 - The development proposed is an outline application for the erection of a detached dwelling, garage and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is for outline planning permission with all matters reserved. An indicative layout plan has been submitted, including an indicative point of access from Distillery Lane. It is proposed to retain a landscape buffer to the frontage with Distillery Lane. It has been agreed that the following drawings are the formal drawing set for the appeal: OP/1000; OP/1001; OP/1002; OP/1003.
3. The emerging Colchester Local Plan is still at the consultation stage and therefore has limited weight.

Main Issue

4. The main issue is whether the proposal would preserve or enhance the character or appearance of the Distillery Lane Conservation Area.

Reasons

5. The site is grassed with a large number of trees of varying species and sizes. There is a mixture of maturity of trees, with an attractive and pleasant character. The site slopes up relatively steeply from Distillery Lane to the rear. The front of the site is a tall bank of land adjacent to Distillery Lane, at approximately 1.5m in height, with a thick growth of trees on top of the bank.
6. The site is set on Distillery Lane, which is a private road. It is surrounded by and directly connected to much larger woodland areas. There are four existing detached houses in fairly substantial plots of land set along this part of the lane. These plots are more open, but due to the unbroken tree line to the north and the still significant tree cover to the south, the character and appearance

of the site itself and the wider area is primarily wooded. Despite being located within Colchester, the overall character is that of a country lane with sporadic housing in a woodland setting. The site and the area also provide an important heavily wooded background to the setting of the lake to the north.

7. A house with associated garage and access are proposed. All matters are reserved, including layout. The trees are set throughout the site and there is no area large enough to allow for the siting of a house, garage and access without felling a number of trees. By way of example, the appellant has produced indicative drawings and an associated Arboricultural Impact Assessment, which together reveal that in this indicative layout 4 Category B trees and 2 groups of Category C trees would need to be felled, and potentially a further tree may need to be felled in order to construct access.
8. Importantly, any conceivable proposed layout that provided sufficient space for a detached house, garage and access would inevitably lead to the substantial loss of existing tree cover. This would likely include at least some of the prominent boundary trees located along Distillery Lane in order to create the access. And, there would be pressure to fell even more trees in close proximity to a house in order to allow for a suitable amount of light into the proposed property to create a suitable quality of accommodation for the future occupiers, or whilst allowing for a garden of suitable amenity value.
9. Because of the extent of the loss of existing tree cover, the inevitability that this would occur in any proposed layout, and the importance I attach to the maintenance of a woodland character to the site due to its significance to the character and appearance of the conservation area, I do not believe that there is any landscaping scheme that could overcome the identified harm, or adequately replace the lost tree cover.
10. The appellant has stated that if the woodland were to be left unmaintained it would be detrimental to the setting of Distillery Lane and that the proposal would allow for the site to be appropriately managed. However, the proposal would result in the destruction of a significant part of the woodland. There is no evidence before me that the remaining woodland would be better managed as a result of the proposal, and even if this were so it would not mitigate for this loss.
11. The development would therefore substantially change the character and appearance of the site, creating a much more open feel and significantly reducing and domesticating its woodland character. In addition, this would reduce visual separation of development along the lane and thin out the woodland as appreciated from the area around the lake to the east, eroding the woodland character and appearance of this part of the conservation area. The proposal would therefore fail to preserve or enhance the character and appearance of the conservation area. I find this harm to be less than substantial, as defined in Paragraph 193 of the National Planning Policy Framework (the Framework).
12. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm to a conservation area, this harm should be weighed against the public benefits of the proposal. In this case, there would be public benefits from the proposal for a new house, through transitory economic benefits from construction and long term through use of local services, and the contribution to the Council's housing stock through a

family sized dwelling being provided. However, these public benefits are limited due to only one dwelling being proposed. As set out in Paragraph 193 of the Framework, I place great weight on the less than substantial harm to the character and appearance of the conservation area that I have identified, and this outweighs the limited public benefits.

13. For the reasons set out above, the proposal would fail to preserve or enhance the character or appearance of the Distillery Lane Conservation Area. The proposal therefore fails to comply with the relevant parts of Policies ENV1 and UR2 of Colchester Borough Council Core Strategy 2008 (CS), and Policies DP1, DP12 and DP14 of the Development Plan Policies 2010 (DP). Amongst other things, these policies seek high quality design that respects and enhances the character of the site, the landscape, the context and surroundings, and the preservation or enhancement of conservation areas.

Other Matters

14. The site falls within the Zone of Influence of the Colne Estuary Special Protection Area (SPA), Blackwater Estuary SPA, Dengie SPA, Stour and Orwell Estuaries SPA, and Essex Estuaries Special Area of Conservation. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission.
15. Letters of support have been received, including from neighbours to the proposed house, stating support for the principle of development, for additional/replacement tree planting being a benefit to the area, and for making use of an underused site that can suffer from fly tipping and unsociable behaviour. I have considered these factors and they do not outweigh the harm that I have identified from the other aspects of the proposal.

Conclusion

16. I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR