
Appeal Decision

Site visit made on 5 August 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2020

Appeal Ref: APP/A1530/W/20/3251109

Land north of Long Road West and west of The Heath, Dedham Heath, Dedham

- 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 Edward Gittins against the decision of Colchester Borough Council.
 - The application Ref 192693, dated 17 October 2019, was refused by notice dated 9 January 2020.
 - The development proposed is for up to six dwellings and provision of village green.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original application was made in outline with all matters reserved and I have dealt with the appeal on this basis. I have therefore had regard to drawing 3235:003 but considered the layout shown as being for illustrative purposes only.

Main Issues

3. The main issues are:
 - whether the site represents a suitable location for the proposed dwellings, having regard to access to services and facilities; and
 - the effect of the proposed development on the character and appearance of the area, having particular regard to the location of the site within the Dedham Vale Area of Outstanding Natural Beauty.

Reasons

Suitable Location

4. Policy SD1 of the Colchester Borough Council Local Development Framework Core Strategy 2008 (CS) sets out the Council's approach for delivering housing, ensuring that developments are directed towards accessible locations. It also aims to ensure the character and vitality of villages is sustained and therefore it is a relevant consideration for both main issues. Policy H1 sets out how housing will be delivered with the majority of new development located in Colchester, with a smaller proportion within the villages. These policies are

intended to ensure the protection of the countryside and to ensure housing is located in areas which are accessible and sustainable. However, these policies do not prevent the development of land outside of settlement boundaries.

5. The appeal site is located adjacent to but outside of the defined settlement boundary of Dedham Heath and is therefore in the countryside for planning policy purposes. I have taken account that there are a number of dwellings located along both Long Road West and The Heath and therefore given its grouping with other dwellings, and its proximity to the settlement boundary of Dedham Heath, the site is not isolated in the context of paragraph 79 of the National Planning Policy Framework (the Framework).
6. Dedham Heath is a small settlement with limited facilities, although there are a number of services and facilities provided within the neighbouring settlement of Dedham. These include a school, doctors, Post Office and a small number of shops, but the centre of the village is approximately 2 km from the site and as such would not be convenient for pedestrians or cyclists. There is a bus stop directly outside of the appeal site which provides a limited bus service to Manningtree Station and Colchester, however these do not run regularly throughout the day and are therefore unlikely to be a realistic alternative to the convenience of a private car.
7. I consider that the site is poorly located in terms of access to services, facilities and amenities and there is limited choice of travel by modes other than the private car. Therefore, there would be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford significant weight.
8. The appellant submits that the site is included within the Council's Preferred Options Document, however as set out within the Council's delegated report following extensive consultation this allocation was not carried forward into the Emerging Local Plan. Based on the evidence before me the site is not allocated within, and neither document forms any part of, the adopted Development Plan and therefore I have not attributed this argument any weight.
9. I have also been provided with a copy of APP/Z1510/W/19/3226390 (Annex EGA5 of the appellant's statement) where the Inspector considers a policy restriction on development close to but outside of the village boundary. However, as I have already set out above, I do not consider that the policies set out within the CS prevent the development of land outside of settlement boundaries. In addition, the characteristics of each site are different and the circumstances that applied to other cases may not be directly comparable to the appeal proposal.
10. In conclusion, the appeal site is in an unsuitable location for housing having regard to access to services and facilities. The development would fail to comply with policies H1 and SD1 of the CS which together seek to direct growth towards sustainable and accessible locations where the countryside would be protected. It would also conflict with policy DP1 of the Colchester Borough Council Local Development Framework Development Policies 2010 (DP) which seeks to ensure that development demonstrates sustainability.

Character and appearance

11. The appeal site comprises an undeveloped parcel of land which is enclosed by existing trees and hedges and contains a number of trees within it. The site is a corner plot located on the junction of Long Road West and The Heath. Both roads are characterised primarily by frontage development on both sides with the appeal site providing an attractive green space between the developments.
12. The appeal site is within the Dedham Vale Area of Outstanding Natural Beauty (AONB). The National Planning Policy Framework (the Framework) places great weight on protecting and enhancing landscape beauty in AONB's which have the highest status of protection in relation to these issues.
13. The proposal is for six dwellings and the indicative block plan demonstrates how the dwellings could be accommodated on site. In particular it shows dwellings accessed off a single access point with the development sited towards the rear, with open space at the front. Whilst I note that the appellant considers that the scale and layout of the proposal has been developed to take into account the character of the area, as an outline application this detail is not before me for consideration.
14. I consider that the site positively contributes to the rural character of the village. This is further evidenced by the Colchester Borough Landscape Character Assessment which describes the character of the landscape and identifies characteristics of the area. It identifies that a smaller scale more intricate field pattern, comprising regular small fields enclosed by hedgerows containing mature deciduous trees is evident in proximity to small settlements such as Dedham Heath.
15. The appellant submits that the villages predominant character within this part of the AONB is made up of the suburban and modern form of residential development which surrounds the appeal site. However, the appeal site comprises 2 small green fields, with a semi-wooded character and is currently enclosed by a frontage hedgerow. This is classified as an 'Important Hedgerow' and therefore there is a presumption against any part of its removal under the Hedgerow Regulations 1997. It is for these reasons that I consider that the appeal site contributes to the landscape character of both Dedham Heath and the AONB.
16. The proposal would extend development along this part of Long Road West and the introduction of dwellings in this location would alter the character and appearance of this rural site replacing the semi-natural vegetation with residential development and associated infrastructure. The site is generally screened from public vantage points by the existing hedgerow and landscaping. Nonetheless, this would need to be reduced in order to accommodate development of the site
17. The appellant has put forward evidence, including an Arboricultural Impact Assessment and a Landscape and Visual Impact Assessment (LVIA). The LVIA shows how the proposals could result in a large section of the existing hedge being removed to facilitate the access. It also indicates that many of the existing hedgerows and trees required to soften the development would be within private gardens and therefore this would impact upon their longer term retention.

18. The LVIA accepts that the sensitivity of the site to change is high, having regard to its location within the AONB. Although the LVIA concludes that the proposals would have a slight impact on the immediate area, it is clear from a number of viewpoints the magnitude of the visual effects within the first year would be medium to high. Therefore, from localised viewpoints the development would in fact be noticeable, and this urban form would fail to enhance or protect the existing landscape beauty of the AONB.
19. The introduction of development in this location, would fail to recognise the intrinsic rural character of the countryside. The development would conflict with policies ENV1 and SD1 of the CS which seeks to ensure that development conserves and enhances Colchester's natural environment and that unallocated land outside of settlement boundaries will be protected and where possible enhanced and its character sustained. It would also fail to accord with policy DP22 of the DP which requires development to make a positive contribution to the special landscape character and qualities of the AONB and paragraph 172 of the Framework.

Other matters

European designated sites

20. The appeal site falls within a 'Zone of influence' for the European designated sites of the Essex Estuaries Special Area of Conservation, Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Colne Estuary SPA and Ramsar Site and the Stour and Orwell Estuaries SPA and Ramsar site (South Shore). Natural England has provided advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.
21. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Setting of Listed Buildings

22. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 193 of the National Planning Policy Framework ('the Framework') states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
23. I have considered the effect on the Grade II Listed Old Church House, a circa 1840/50 former school, its significance derived from its architectural features. Old Church House is set back from the road and contained within its own landscaping. As such, even developed, the site would not have a significant impact on how the listed building would be appreciated from within the street scene or the elements that form its setting. I conclude that the development would not result in harm to the setting of the listed building.

Five year housing land supply

24. It is a matter of dispute between the parties as to whether the Council is able to demonstrate a 5 year supply of deliverable housing sites, with the evidence putting current supply at between 4.7 and 5.4 years.
25. The appellant has put forward a number of benefits of the proposal, including the provision of a village green and the increased trade for the local shops and small businesses in Dedham. They have also cited an increase in local employment.
26. I agree that the site would give rise to some economic benefits during the construction phase and I consider that there would be modest social benefits arising from the provision of open space and the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. Whilst some modest social and economic benefits would arise they would not outweigh the combined harm arising in respect of the main issues identified above.
27. However, even if I were to accept the lower figure of 4.7 years, the tilted balance set out within paragraph 11(d) of the Framework is not engaged. This is because the policies in the Framework relating to an Area of Outstanding Natural Beauty provide a clear reason for refusing the development proposal.¹

Conclusion

28. For the reasons given above I conclude that the appeal should be dismissed.

G. Pannell

INSPECTOR

¹ National Planning Policy Framework Paragraph 11(d) Footnote 6