
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: 2nd September 2020

Appeal Ref: APP/A1530/W/20/3250816

Nightingale Corner, The Folley, Layer De la Haye, CO2 0HZ

- 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 Mrs B Ellender and Mr M Buse against the decision of Colchester Borough Council.
 - The application Ref 192975, dated 3 December 2019, was refused by notice dated 28 January 2020.
 - The development proposed is the erection of two dwellings with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was made in outline with all matters and I have had regard to the Site Plan 1:1250 and drawing 5532/19/1. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and whether the site represents an appropriate location for the proposed dwellings, having regard to access to services and facilities by a choice of modes of travel.

Reasons

Character and appearance

4. The appeal site comprises an undeveloped parcel of land which is partly enclosed by existing trees and hedges. The rear boundary of the site runs parallel to the boundary of the existing residential dwellings which front High Road.
 5. The site is located close to the junction of High Road and The Folley, the latter of which is characterised by dispersed development on both sides with areas of open fields such as the appeal site in between. The dwellings opposite the appeal site are set back from the frontage and largely screened by existing landscaping.
 6. The majority of development along The Folley is clustered together on the east side of the road such that the character of that part of The Folley is very
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different to that of the appeal site, due to its open, undeveloped nature and mature trees along its frontage. These characteristics give the site, and its immediate context, a contrastingly open, rural feel to this part of The Folley.

7. The proposal is for two dwellings. An indicative block plan demonstrates how the dwellings could relate to the other developments which sit along The Folley. Whilst I note that the appellant considers that the scale and layout of the proposal has been formulated to take into account the character of the area, as an outline application this detail is not before me for consideration.
8. The proposal would extend development along this part of The Folley. The introduction of dwellings in this location would significantly alter the character and appearance of this rural site. This would have an urbanising effect, intruding beyond the edge of the current settlement into the countryside. In addition, the proposed dwellings would lead to a more intensive use of the site. In addition to the built form, this would include an associated increase in domestic paraphernalia, with the effect of eroding the open and rural character of the immediate area to its marked detriment.
9. I have had regard to a proposed housing allocation to the south of the appeal site, for 50 dwellings within the emerging Submission Colchester Borough Local Plan 2017-2033. However, the details provided indicate that this would be located close to the existing cluster of housing and as such has a significantly different character to the appeal site. In addition, this is not yet an adopted part of the development plan and as such it may be subject to change. Consequently, it carries limited weight.
10. For the foregoing reasons, therefore, the proposed development would have a significantly harmful effect on the character and appearance of the area. The development would conflict, in this regard, with policies UR2, ENV1 and ENV2 of the Colchester Borough Council Local Development Framework Core Strategy 2008 (CS) which seeks to ensure that development is compatible with and enhances the character of the locality and policies DP1 of the Colchester Borough Council Local Development Framework Development Policies 2010 (DP) which requires development to respect and enhance the character of the site and its context.
11. The Council have also directed me to policy DP12 of the DP which sets out the required standards for design, construction and layout. However, as an outline application with all matters reserved these details are not before me and therefore it is not directly relevant to this appeal.

Suitability of location

12. The appeal site is located adjacent to but outside of the defined settlement boundary of Layer De La Haye and is therefore in the countryside for planning policy purposes. I have taken account that there are a number of dwellings located along The Folley and therefore given its grouping with other dwellings, and its proximity to the settlement boundary of Layer De La Haye, the site is not isolated in the context of paragraph 79 of the National Planning Policy Framework (the Framework).
13. Policy SD1 of the Core Strategy sets out the Council's strategy for delivering housing ensuring that developments are directed towards accessible locations and also to ensure the character and vitality of villages is sustained. Policy H1

sets out how this will be delivered with the majority of new housing development located in Colchester with a smaller proportion within the villages. Policy ENV2 states that development outside but contiguous to village settlement boundaries may be supported, primarily as an exception for affordable housing needs. 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, the policies do not prevent the development of land outside of settlement boundaries.

14. The village of Layer De La Haye benefits from a range of services, including a school, shop and 2 public houses. Despite these facilities occupiers of the proposed development would also have to travel onwards to the services and facilities within the nearby town of Colchester to access a wider range of shopping, healthcare, leisure and entertainment facilities.
15. There are several bus stops within walking distance of the appeal site and during peak times an hourly service operates to Colchester and therefore it would be possible for these services to be accessed via means other than the private car. Therefore, I consider that the site is well located in terms of access to services, facilities and amenities and this would ensure sufficient choice of travel by modes other than the private car.
16. In conclusion, the appeal site is an appropriate location for housing having regard to access to services and facilities. The development would comply, in this regard, with policies H1, ENV2 and SD1 of the CS which together seek to direct growth towards sustainable and accessible locations where the countryside would be protected. The development would also accord with Policy DP1 of the DP which seeks to ensure that development demonstrates sustainability.

Other Matters

17. 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.
18. 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.

Conclusion

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

G. Pannell

INSPECTOR