



Appeal Decision

Site visit made on 7 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2020

Appeal Ref: APP/A1530/W/20/3253450

Land adjacent to Godbolts Farm, Great Tey Road, Little Tey, CO6 1HZ

- 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 and Mrs Millin against the decision of Colchester Borough Council.
 - The application Ref 192953, dated 29 November 2019, was refused by notice dated 31 March 2020.
 - The development proposed is two detached four bedroom dwellings together with detached double garages, formation of a new access drive, landscaping and the provision of an extension of the public footpath from the junction of Coggeshall Road with Great Tey Road onto the formation of the new access off Great Tey Road, Coggeshall.
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Decision

1. The appeal is allowed and planning permission is granted for two detached four bedroom dwellings together with detached double garages, formation of a new access drive, landscaping and the provision of an extension of the public footpath from the junction of Coggeshall Road with Great Tey Road onto the formation of the new access off Great Tey Road, Coggeshall at Land adjacent to Godbolts Farm, Great Tey Road, Little Tey, CO6 1HZ in accordance with the terms of the application, Ref 192953, dated 29 November 2019, subject to the conditions contained in the schedule attached to this decision letter.

Main Issues

2. The main issues in this appeal are i) whether the proposal would be in an appropriate location having regard to planning policies which seek to achieve sustainable development and ii) the effect of the development on the character and appearance of the area.

Reasons

Location

3. It is accepted by all parties that the site is located outside of any settlement development limit boundary and as such, for the purposes of planning policy, it is defined as being in the countryside.
4. To the north of the site there is a large detached 2 storey dwelling and detached garage that was allowed on appeal in November 2016. Beyond this new dwelling and garage there are two further dwellings and an indoor swimming pool, which is used commercially for providing swimming lessons.

To the south of the site there is a further dwelling and to the south west there is an office development/business park.

5. The site lies close to the junction of Great Tey Road and the A120 Coggeshall Road. Opposite this junction there is a large garden centre and other commercial development. There is further residential, retail and commercial development along the A120, which despite being interspersed by fields, is served by a footpath and street lighting. Although there is currently no footpath along Great Tey Road, a footpath extension forms part of the proposed development. There is a street light close to the site, on Great Tey Road and the A120 is well lit. There are bus stops located close to the junction of Great Tey Road and I am advised that buses run hourly to Colchester Town Centre, Tollgate Retail Park, Chelmsford City Centre, Coggeshall, Braintree, Broomfield Hospital and to local railway stations.
6. Accordingly, the proposed dwellings would not be isolated and I am satisfied that future occupants of the development would not need to be reliant upon private car use to safely access a good range of local services and facilities. Moreover, the new footpath would encourage occupants of and visitors to existing neighbouring properties to utilise more sustainable methods of travel.
7. I therefore agree with the previous Inspector's decision relating to the adjacent dwelling and conclude that the appeal site is in an appropriate location for housing having regard to access to services and facilities. The development would comply, in this regard, with policies H1 and SD1 of the Colchester Core Strategy (adopted 2008, amended 2014) (CS), which 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 Local Development Framework Development Policies (adopted 2010 with selected policies revised July 2014) (DPD), which seeks to ensure that development demonstrates sustainability.

Character and appearance

8. The site comprises a frontage infill plot, which is largely undeveloped grassland with a timber building and a greenhouse in one corner. It is enclosed by hedges to the north and east and by walls and fences to the south and west. There are large detached dwellings to the north and south and there is an office building and a grass paddock to the west. The site makes no special contribution to the character and appearance of the area.
9. The proposed development would infill the existing road frontage gap between dwellings. The plot and dwelling sizes would be similar to those on either side with generous spaces retained between and around the buildings, which would be in keeping with the rural character of the area. The design, scale, form and materials of the proposed dwellings and garages is of high quality and would, in my view, reflect the character of the site, its context and surroundings and its landscape setting.
10. Although the hedgerow along the site frontage would need to be removed to provide the new vehicular access, footway and visibility splays, there is ample space within the site for new landscaping and hedge planting, which would compensate for this loss.

11. The proposal would conflict in part with policy ENV1 of the CS, which seeks amongst other things to protect unallocated greenfield land outside of settlement boundaries to conserve environmental assets and open character. The supporting text to this policy, as referenced in the decision notice, states that the policy aims to protect open stretches of countryside around and between existing settlements to prevent coalescence and retain settlement identity. The appeal site in this case is not an open stretch of land or countryside between settlements; it is a small infill gap in an otherwise built up residential frontage. As such the proposal would not result in any coalescence of settlements and would not adversely impact upon any settlement identity.
12. I therefore conclude that the proposal would not be harmful to the rural character of the area or its landscape setting and I find no conflict with DPD policy DP1, which seeks to ensure development is designed to a high standard and respects the character of the site, its context and surroundings and the landscape.

Other matters

13. The council has made reference to an appeal decision¹ in which a proposal outside of a settlement boundary was found to conflict with policies H1 and SD1 of the CS. A copy of that decision has been submitted by the Appellant. Whilst I do not have the full details of that case, it is clear from the Inspector's decision that the appeal site in that case was considered to be in an isolated and unsustainable location with regard to access to services and facilities. I have not found that to be the case in the appeal currently before me and as such the cases are not comparable.
14. I acknowledge that the council is currently able to demonstrate a 5 year housing land supply. However, this in itself is not a reason to resist further housing that is otherwise acceptable.

Planning balance

15. The proposal would conflict, in part, with CS policy ENV1, which seeks to protect unallocated greenfield land outside of settlement boundaries. This weighs against the proposal. However, in this particular case, for the reasons set out above, I have found that this conflict would not result in the harm it seeks to prevent. As such, the weight I have afforded to this partial conflict is limited.
16. I have found that the proposed dwellings would not be isolated and that future occupants would have good access to local services and facilities. I have also concluded that the proposal would not result in any material harm to the character and appearance of the area and would not result in the coalescence of settlements. In this instance the material considerations I have identified in favour of the development outweigh the partial conflict with CS policy ENV1.

Planning Obligations

17. The Appellants have provided a Unilateral Undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act. This deals with matters relating to community facilities and sport and recreation. I am satisfied that the obligations are related to the requirements of development plan policies

¹ APP/A1530/W/18/3207015

and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme in line with paragraph 56 of the Framework.

Conditions

18. I have considered the conditions suggested by the council against the Framework and Planning Practice Guidance. I note the appellants have raised no objections to these. Where necessary, I have made some minor amendments to the wording of conditions, in the interests of clarity.
19. I have attached the standard conditions relating to the time limit for commencement of the development and the approved drawing numbers, in the interests of certainty. I agree that conditions relating to materials, landscaping and boundary treatment are necessary to safeguard the character and appearance of the area. Due to the potential presence of underground archaeology, a written scheme of investigation is appropriate to ensure that any findings are suitably recorded.
20. In the interests of highway safety, I have imposed conditions to ensure that vehicle access, parking, turning, surfacing, visibility splays and a new footway are provided in accordance with the approved plans at the appropriate stages of the development and are thereafter retained. In relation to the new access and footway, these form part of the development proposals and are shown on the approved plans. I acknowledge that the council have suggested conditions for a wider access and a wider footway that extends beyond the site access. In my view these requirements would not relate fairly and reasonably to the scale of the development proposed. The 1.2m wide footway hereby approved would be sufficient to encourage and enable future residents to access nearby bus stops, services and facilities on foot. It is however reasonable to ensure that the approved access and footway are completed prior to the occupation of the dwellings.
21. Further conditions were suggested to control disturbance that may occur during the construction phase of the development. I have considered these matters carefully and have concluded that in this case, given the development relates to only two dwellings, which can be delivered quickly, no substantial demolition is required, the site is spacious and is not tightly adjacent to neighbouring dwellings, the suggested conditions are unnecessary.
22. I also consider that a condition to provide details of cycle storage is unnecessary given that both dwellings would have large garages and gardens in which to safely store bicycles.

Conclusion

23. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be allowed.

Rachael Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 003, 004, 005, 006, 007, 008, 009, 010, 011, 012, 013 and 014.
- 3) The external facing and roofing materials to be used shall be those specified on the submitted application form and the approved drawings.
- 4) No works shall take place above ground floor slab level until a scheme of hard and soft landscape works for site has been submitted to and agreed in writing by the local planning authority. This scheme shall include any proposed changes in ground levels and shall accurately identify positions and spread of all existing trees, shrubs and hedgerows on the site, all proposed planting, details of any hard surface finishes and external works, implementation of which shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscaping scheme shall be carried out in full prior to the end of the first planting season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed in writing by the local planning authority. Any trees, hedges or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. New landscaping along the site frontage shall be set back a minimum of 1m from the new footpath and visibility splays to ensure no future obstruction.
- 5) No works shall take place above ground floor slab level until details of all boundary walls, fences and gates have been submitted to and agreed in writing by the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the dwelling to which they relate and shall thereafter be retained in the approved form.
- 6) No development shall take place within the site until the implementation of a programme of archaeological work has been secured, in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - a) The programme and methodology of site investigation and recording.
 - b) The programme for post investigation assessment.
 - c) Provision to be made for analysis of the site investigation and recording.
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - e) Nomination of a competent person/organisation to undertake the works.The site investigations shall thereafter be completed prior to development, or in such other phased arrangement agreed in writing by the local planning authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of

investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 7) Prior to the commencement of any other part of the development, the vehicular access shall be provided in accordance with the approved drawings.
- 8) Prior to the approved vehicular access being brought into use, the visibility splays of 63m x 2.4m and 70m x 2.4m, as shown on the approved drawings, shall be provided and shall be thereafter retained and maintained free from obstruction at all times.
- 9) No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the public highway boundary.
- 10) No dwelling shall be occupied until such time as the parking and turning areas for that dwelling has been completed in accordance with the approved drawings. The parking and turning areas shall thereafter be retained for their intended purpose.
- 11) Prior to the occupation of either of the approved dwellings, a new footway shall be completed along the frontage of Great Tey Road, between the vehicular access to the new development and the existing footpath at the junction of Coggeshall Road. The footpath shall be a minimum of 1.2m in width and shall be kerbed, drained and surfaced in accordance with details that shall first be submitted to and approved in writing by the local planning authority.