



Appeal Decision

Site visit made on 23 November 2020

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Appeal Ref: APP/P1560/W/20/3257969

Crockleford Stud, Bromley Road, Ardleigh, Colchester CO7 7SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr & Mrs Grant against Tendring District Council.
 - The application Ref 20/00576/OUT, is dated 5 May 2020.
 - The development proposed is three dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs Grant against Tendring District Council. This application is the subject of a separate Decision.

Background

3. The application is for outline permission with all detailed matters reserved.
4. The Council did not determine the application within the prescribed period but has advised that, had it done so, it would have refused permission. Its statement provides two putative reasons for refusal.

Main Issues

5. The main issues in the appeal are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) the effect of the proposal on European designated habitats.

Reasons

Character and Appearance

6. The site is adjacent to a group of dwellings which is within the countryside and close to the urban area of Colchester. The existing dwellings are in a loosely spaced linear pattern along both sides of the road, with one property (Greystones) being set back and behind the frontage development. The site is adjacent to the drive to Greystones and forms part of a paddock which is used by an equestrian centre to the north-east. The frontage of the site is defined by a mature hedge.

7. On the same side of the road to the south-west of the pre-existing group I saw that there are four recently constructed detached houses. There are also two recently constructed houses on the opposite side of the road. The extent of both of those developments reflects the extent of the historic development on the respective opposite sides of the road.
8. The proposed development would differ in this respect in that it would extend the settlement into open countryside beyond its existing confines on both sides of the road. The site adjoins open land and there is similarly open land on the opposite side of the road. There are buildings to the north-east including a small group of dwellings, the equestrian centre and a garden centre but these are a significant distance away from the site.
9. There is a narrow footpath across the site frontage which the highway authority advise would require widening. It would also be necessary to provide visibility splays from the access. Details of the access have not been provided, but these works would require removal of at least part of the hedge.
10. The site is clearly in an open rural setting and the proposed development would be out of character and visually intrusive in that setting. The extension of linear development along the road would have the appearance of unrestricted sprawl and the intrinsic character and beauty of the countryside would be eroded.
11. Saved Policy EN1 of the Local Plan¹ (LP) requires protection of landscape quality and distinctive local character. Saved Policy QL9 of the LP similarly requires protection or enhancement of local character. For the reasons given the proposal would not accord with those policies.
12. Policies PPL3 and SPL3 of the draft local plan² have similar requirements to the above policies. The draft local plan policies attract little weight however because that plan is at an early stage in its adoption process.
13. The site is outside the settlement development boundaries as defined in the development plan. Saved Policy QL1 of the LP restricts the development that can take place outside those boundaries. The Council cannot demonstrate a five year supply of deliverable housing sites and on this basis saved Policy QL1 is out-of-date. The proposal conflicts with the policy but only limited weight can be given to that conflict.
14. A number of appeal decisions have been referred to. The circumstances of each individual case will vary, and each proposal has to be considered on its merits. Two of the appeals referred to concern sites that are adjacent, or very close to the urban area of Colchester. The site at Willowell, Spring Lane is an infill site between existing dwellings. The other appeals thus concern sites with differing characteristics to the appeal site.
15. I conclude on this issue that the proposal would unacceptably harm the character and appearance of the area. Because the effects on the countryside environment would be significant, I give significant weight to this harm.

¹ Tendring District Local Plan 2007

² Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017)

Effect on European Habitats

16. The site falls within a zone of influence whereby residential development is likely to have a significant effect on the Stour and Orwell Estuaries Special Protection Area and Ramsar site. This effect results from increased recreational pressure on those designated sites arising from new housing development considered alone and in combination. The emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) requires a proportionate financial contribution from new residential development which is to be used to fund mitigation measures. A unilateral undertaking (UU) has been submitted with the appeal, which secures payment of a RAMS contribution.
17. Saved Policy EN11a of the LP reflects the requirements of the Habitats Regulations³ and saved Policy EN6 of the LP requires protection and enhancement of biodiversity. The Council has not commented on whether the contribution secured by the UU is in accordance with the requirements of RAMS. However, on the basis that the requisite contribution has been secured, the effects of the proposal on European habitats would be mitigated and the proposal would accord with those policies. Policy PPL4 of the draft local plan has similar requirements although this carries limited weight.

Planning Balance

18. As the Council cannot demonstrate a five year housing land supply, saved Policy QL1 is out-of-date. However, saved Policies EN1 and QL9 are not out-of-date on this basis. The proposal does not accord with the development plan as a whole, but its conflict with saved Policy QL1 carries limited weight.
19. The proposed three dwellings would be of social and economic benefit in terms of boosting the supply of housing. They would, however, make a limited contribution towards addressing the housing shortfall. Employment would be provided during construction and the occupiers would be likely to spend money locally, supporting the local economy. The appellant has stated that the dwellings are intended to be bespoke units that would be appropriate as self-build or custom build projects. However, no detailed information is before me to demonstrate how the units would meet any identified local need, or how such provision would be secured. Because of the limited scale of the proposal I give limited to moderate weight to its social and economic benefits.
20. On the other hand, I have given significant weight to the identified harm. This significantly and demonstrably outweighs the benefits. As this indicates that permission should be refused, I shall not consider the requirements of the Habitats Regulations further.

Conclusion

21. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

³ Conservation of Habitats and Species Regulations 2017