
Appeal Decision

Site visit made on 15 March 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2021

Appeal Ref: APP/A1530/W/20/3262247

Land adjacent Appletrees, School Road, Messing CO5 9TH

- 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 Sutton against the decision of Colchester Borough Council.
 - The application Ref 201372, dated 30 June 2020, was refused by notice dated 17 September 2020.
 - The development proposed is described as one dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal relates to an outline proposal and all matters are reserved for future consideration. However, the appeal submission confirms that access to the site would be immediately off School Road. The appeal is determined on that basis.
3. The appeal site falls within the Zone of Influence of a European designated site relating to the Essex Coast. I have a statutory duty as the competent authority to ensure that there are no adverse effects on the integrity of this area. The appellant has submitted an Unilateral Undertaking as part of the appeal, which is intended to mitigate any effects on this designation. I will return to this matter later in my decision.
4. Since the Council made its decision, Part 1 of the Council's new Colchester Borough Local Plan (the CLP) has been adopted. Part 2 of the CLP is still emerging and has not yet reached a stage where any significant weight can be afforded to it. The submitted evidence indicates that Policy SD1 of the Council's adopted Local Development Framework Core Strategy (the Core Strategy) has not yet been superseded by the emerging plan and remains relevant, alongside Policy SP1 of the CLP. For the same reason, Policy H1 of the Core Strategy remains relevant alongside Policies SP3 and SP4 of the CLP.
5. Since the appeal was lodged a revised National Planning Policy Framework (the Framework) has been published. The main parties have been given the opportunity to draw my attention to any implications of this on the appeal. The appeal has been determined accordingly.

Main Issues

6. The main issues are:

- whether or not the appeal site represents an appropriate location for housing, having regard to the level of accessibility to services and facilities by sustainable modes; and
- the effect of the appeal proposal on local infrastructure, with particular regard to the provision of sport and recreation and community facilities.

Reasons

Accessibility

7. The appeal site forms part of a substantial garden area of an existing dwelling known as Appletrees. It is served directly off an existing access from School Road, a main route through Messing. The appeal site is located just beyond the settlement boundary for Messing as defined on the Proposals Map of the Colchester Borough Council Local Development Framework. It is therefore a countryside location.
8. Overall, that policy approach seeks to promote sustainable patterns of development which includes ensuring reasonable accessibility to services and facilities. The appeal proposal is not a development type that the plan identifies as requiring a countryside location. Consequently, the site does not fall within a location where new housing is supported by Policy SD1 of the Core Strategy.
9. Paragraphs 79 and 80 of the Framework recognise that housing should be located where it will enhance and maintain the vitality of rural communities and isolated homes in the countryside should be avoided unless certain circumstances apply. As the appeal site falls on the outskirts of Messing, it would not be isolated for the purposes of applying the Framework. However, neither does the appeal proposal represent any of the exceptions cited.
10. The number and range of services, facilities and job opportunities in Messing itself are very limited. The school is in easy reach of the appeal site. However, the occupiers of the proposed dwelling would need to walk to the other side of Messing to access the existing public house, village hall and church. The same would be true of accessing the local bus service. Details of the frequency of the bus service and its duration to reach necessary services and facilities have not been submitted to this appeal. Furthermore, reaching those services and facilities would rely on walking on the vehicular highway for a distance given the absence of public footpaths in this part of School Road. Although School Road is relatively straight and is subject to a residential area speed restriction, this could discourage travel by alternative modes to the car and reinforces the low level of accessibility to services and facilities required to support the daily needs of occupants of the appeal proposal.
11. Paragraph 105 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision making. The submitted evidence does not adequately demonstrate that future occupants would not rely heavily upon the car to meet their requirements for day to day living here. The fact that there are existing dwellings nearby that already endure a similarly low

level of accessibility and the limited scale of development proposed do not justify further unsustainable patterns of growth.

12. Consequently, the appeal site would not represent an appropriate location for housing, having regard to the level of accessibility to services and facilities by sustainable modes.
13. Policy SD1 of the Core Strategy seeks housing growth to be located at the most accessible and sustainable locations. Policy H1 of the Core Strategy seeks to ensure that the majority of housing development is located within the regeneration areas in Colchester Town. Housing development is expected to contribute to the achievement of sustainable development which gives priority to new development in locations with good public transport accessibility or by means other than the private car.
14. For the reasons given, the appeal proposal would conflict with these policies. Notwithstanding their age, they remain extant and relevant. Moreover, the approach of directing development to those areas that provide reasonable levels of accessibility to services and facilities does not conflict with the Framework. Consequently, the conflict with these policies attracts full weight.

Local infrastructure

15. The disputed requirement for a contribution towards local infrastructure is a policy requirement of Policies SD2 and SD3 of the Council's Core Strategy and also Policy DP3 of the Council's Local Development Framework Development Policies document (the LDFDP) in terms of community facilities. The submitted evidence indicates that it is also a policy requirement of Policies SD2 and PR1 of the Core Strategy and Policies DP3, DP15 and DP16 of the LDFDP in terms of leisure and open space.
16. The policy context and rationale for these requirements, along with the relevant calculations and confirmation as to how the committed sums will be invested, are clearly set out in the Council's adopted 'Community Facilities Supplementary Planning Document' and also the 'Provision of Open Space, Sport and Recreational facilities Supplementary Planning Document'. The Council has advanced 2 potential projects in their evidence. The Council's approach here is consistent with this local planning policy and guidance. The policy requirements are fair and reasonable in this instance. They would relate to facilities which could be used by the prospective occupants of the appeal proposal. Overall, these requirements meet the relevant tests for planning obligations.
17. Moreover, although limited in scale, the appeal proposal is a development type identified as having the potential to place further demands upon local infrastructure. Therefore, in the absence of any mitigation or substantive evidence to the contrary, it can only be concluded that the appeal proposal would have an unacceptable impact on the capacity of local infrastructure, with particular regard to the provision of sport and recreation and community facilities.
18. Consequently, in the absence of the required mitigation, the appeal proposal conflicts with these development plan policies. The appellant has indicated that if I were to find such arrangements to be necessary then a Unilateral Undertaking could be provided. However, it is not the role of the appeal

process to advance proposals, and a mechanism to secure those planning obligations is not before me.

Other Matters

19. The appellant has advanced that no technical reasons have been raised that would render the appeal proposal unacceptable. However, this is of neutral consequence in the planning balance.
20. Since the appeal was lodged the national Housing Delivery Test results have been published. These show that there has been no shortfall in delivery and that the test is met. Neither has a shortfall in the 5 year housing land supply been demonstrated. Paragraph 11 (d) of the Framework is not engaged in this instance.
21. Nonetheless, the appeal proposal would make a very small contribute to the housing land supply and to the supply of larger self-build dwellings in an instance where no undersupply has been substantiated. Consequently, these benefits attract limited weight as considerations in favour of this appeal proposal.
22. My attention has been drawn to other decisions to support the respective stances of the matters in dispute. However, it has not been clearly demonstrated that the circumstances surrounding them are sufficiently comparable to the appeal scheme. Neither do they justify the harm and conflict with the development plan that I have identified. Therefore, they attract no material weight.

Planning Balance

23. This appeal proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. Having regard to the submitted evidence, there are no matters weighing in favour of the appeal proposal that would outweigh the identified harm and subsequent conflict with the development plan when taken as a whole.

Habitats Regulations

24. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 requires an Appropriate Assessment to be carried out where the competent authority is minded to give consent for the development. As the appeal proposal is unacceptable for other reasons there is no need for me to carry out an Appropriate Assessment in this instance.

Conclusion

25. For the reasons given, the appeal should be dismissed.

C Dillon

INSPECTOR