



Appeal Decision

Site visit made on 30 November 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th December 2021

Appeal Ref: APP/P1560/W/21/3269249

White House, Jubilee Lane, Ardleigh CO7 7RY

- 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 & Mrs Day against the decision of Tendring District Council.
 - The application Ref 20/01012/FUL, dated 29 July 2020, was refused by notice dated 4 December 2020.
 - The development proposed is described as Proposed new 4 bedroom dwelling to the land adjacent to White House (host dwelling).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I am advised Hearing sessions have taken place into the emerging Section 2 Local Plan (2017) (the S2LP). I have allowed the Council and appellant the opportunity to comment upon this matter. I have not been provided with further details of the Hearing sessions or a potential date for adoption by the Council. Therefore, having regard the evidence before me, I attribute its policies little weight.
3. Since permission was refused the North Essex Authorities Shared Strategic Section 1 Local Plan (2021) (the S1LP) has been adopted, which replaces some of the policies and parts of policies of the Tendring District Local Plan (2007) (the TDLP). This is reflected in my findings in respect each main issue below.
4. A completed signed Section 106 Unilateral Undertaking has been submitted to secure a contribution towards mitigation measures in relation to the European designated Colne Estuary and Stour & Orwell Estuaries Special Protection Areas (the SPAs) in accordance with the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (2018) (the RAMS). I return to this matter.

Main Issues

5. The main issues are:
 - whether or not the development would be in a suitable location for housing having regard to its location within the countryside and the accessibility to services and facilities; and,
 - the effect of the development upon the character and appearance of the area.

Reasons

Suitability of location

6. Policy SP3 of the S1LP states development will be accommodated within or adjoining settlements according to their scale, sustainability, and role in the area. Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment. Therefore, the S1LP seeks to direct development to the more sustainable locations and settlements, and like the Framework, does not impose a blanket ban on development in the countryside. Policy SPL1 of the S2LP sets out a settlement hierarchy in which Ardleigh is a Smaller Rural Settlement (SRC). It recognises SRCs have less in the way of job opportunities, services, facilities, and infrastructure, with residents often reliant on neighbouring towns and villages for work, shopping, and services.
7. Ardleigh is some considerable distance north of the appeal site. While the appeal site is adjoined by the host dwelling to the north, a bungalow to the south and some commercial premises further south it is within the open countryside. Even if I were to share the appellant's view the proposal would not constitute an isolated dwelling, there are few facilities required for day to day living within the vicinity of the appeal site. Jubilee Lane and Bromley Road do not have footways in this location and roadside verges were narrow in parts, so I do not regard these as being conducive to pedestrian movements.
8. A limited range of facilities that could meet some day to day needs of future occupiers such as a primary school, takeaway, convenience stores, pubs, a post office, medical surgery, village hall and places of worship, are located at Ardleigh. Many facilities were in excess of 2.5km from the appeal site by road. Vehicle speed, absence of lighting and the width and alignment of some roads, is such that walking and cycling would neither be attractive or convenient.
9. For other retail outlets such as larger supermarkets, clothing stores, as well as professional and financial services, dentistry services, access to secondary education, employment opportunities, and the railway network, trips to larger settlements such as Colchester are likely to be frequently required. The majority of such facilities are in excess of 2.5km from the appeal site. Bus services run regularly in both directions from Bromley Road accessed along sections of highway with no lighting or footway. The bus journey duration would be relatively limited, but the distance and route to the stops means it would have limited appeal as a travel option for future occupiers.
10. The development is likely to result in a significant number of vehicular miles generated each year and associated emissions to access all necessary services and facilities. I recognise that sustainable transport opportunities between rural and urban areas vary. However, given the transport options and distances to local services and facilities, the development would have moderately harmful effects in respect of sustainable transport objectives.
11. For the reasons set out above the development would not be in a suitable location for housing having regard to its location within the countryside and the accessibility to services and facilities. It would conflict with Policy SP3 of the P1LP which seeks to direct new dwellings to be provided at existing settlements and sustainable locations. It would also be in conflict with paragraphs 15, 17 and 20 of the Framework insofar as these state that the planning system

should be plan-led through policies that set out priorities including an overall strategy for the pattern and scale of development. The development conflicts with Policy SP1 and SPL1 of the S1LP although this has not been determinative in my assessment.

12. I have not concluded against Policy QL1 of the TDLP as Appendix A of the S1LP states this has now been superseded by Policy SP3.

Character and appearance

13. The appeal site comprises a section of primarily grassland and small amount of paraphernalia forming part of the larger grassed plot of White House. There are sizeable agricultural and commercial premises to the south. However, these are occupied by generally low level development and buildings, set within clearly defined boundaries. By virtue of the strong boundaries and largely verdant and undeveloped nature, the plot of No 181 is distinctly different in character and appearance. This plot and much of the wider surrounds are predominantly characterised by occasional dwellings and farmsteads within what is an inherently rural and verdant landscape.
14. The appeal site provides a wide gap between White House to the north and a bungalow to the south allowing clear views across the rural area and landscape to the east and west. The appeal site makes a minor positive contribution to the inherently rural character and appearance of the area. It is highly appreciable from Jubilee Lane on which there was only limited screening and hedging at the appeal site, as well when looking east across the site.
15. The proposal would introduce a new sizeable 4 bedroom detached dwelling access drive, parking and circulation areas, paraphernalia, and associated increase in the intensity of activity. The development would significantly urbanise the appeal site and this section of Jubilee Lane. It would result in infilling of open land to create a row of three dwellings along this section of Jubilee Lane obscuring the currently rural vistas. As a consequence, the development would neither preserve or enhance, and would be significantly harmful to the character and appearance of the area.
16. The appellant and Council are both in agreement the design and appearance would be in keeping with other buildings in the area. Based upon the evidence before me, I see no reason to disagree. However, for the reasons already outlined the dwelling would have a harmful effect, and its design and appearance would not overcome this. Any future planting is likely to take some considerable time to establish. Even then, this and other planning conditions could not fully mitigate the harm I have found.
17. For the reasons set out above the development would be significantly harmful to the character and appearance of the area. It would conflict with Policy SP7 of the S1LP and Policy EN1 of the TDLP. Amongst other things these seek to ensure that development responds and relates positively to local character and context, including protecting the local rural landscape, and preserves and enhances the quality of existing places and their environs. There would also be a conflict with Policy PPL3 and SPL3 of the S2LP which have similar objectives. By reference to the word 'including' in PPL3 this is not a closed list of criteria, although the S2LP policies have not been determinative in my assessment. The development would also conflict with paragraph 130 of the Framework

which amongst other things expects development to be sympathetic to local character including the surrounding built environment and landscape setting.

18. I have not concluded against Policy QL9 of the TDLP as Appendix A of the S1LP states this has now been superseded by SP7.

Other Matters

19. I have been provided with details and decision letters of appeals in the area¹. The Inspector for Ref 3218389 found the location moderately harmful, and the tilted balance applied. In Ref 318509 the Inspector found that development would result in a high level of car dependency in conflict with relevant policies, but a recently approved bungalow was a significant material consideration. In Ref 3212705 the Inspector reached a similar conclusion in respect of the conflict with locational policies. My findings in relation this proposal based upon the evidence before me do not significantly differ in respect of this matter and these three decisions pre-date the adoption of the S1LP. In Ref 3267254 the locational suitability of that appeal site was not a main issue.
20. The appeal decisions referred to by the Council² differed in respect of their context and effect of the character and appearance of the area. However, both were found not to be in a suitable location having regard to their lack of sustainable transport options, and pre-date the adoption of the S1LP. Therefore, none of the decisions I have been provided with are directly comparable to the appeal proposal, which I have considered on its own merits based upon the evidence before me.
21. A proposal for the Colchester Borders Garden Community (the CGC) is understood to form part of the S1LP. The evidence suggests if it were approved and built out, it would provide a considerable level of housing, services, facilities, and transport Infrastructure. I acknowledge its proximity to the appeal site and that it might alter the site's context in the future. Notwithstanding the approval of funding for the A120-A133 Link Road, the evidence before me does not suggest there is any certainty it will be built-out as set out in the indicative proposals in the short to medium term. Therefore, this matter attracts little weight at the present time.
22. A completed and signed Section 106 Unilateral Undertaking proposes a contribution towards mitigation measures for the SPAs in accordance with the Essex Coast RAMS. The contribution would mitigate impacts from recreational disturbance on these designated sites. It has not been put to me the contribution secured by the Unilateral Undertaking would have benefits that would weigh in favour of the scheme. Therefore, in light of my findings on the main issues above, it is not necessary to look at this matter in detail, given the proposal is unacceptable for other reasons.

Planning Balance

23. At the time of determining the application, the Council could not demonstrate a deliverable housing land supply (HLS) of 5 years. However, with the adoption of the S1LP with a lower annual figure the Council is able to demonstrate a 5 year HLS. Although the appellant suggests they may not agree, there is no

¹ Refs APP/P1560/W/18/3218389, APP/P1560/W/18/3180509, APP/P1560/W/18/3212705 and APP/P1560/W/21/3267254.

² APP/P1560/W/19/3241656 and APP/P1560/W/19/3241635.

evidence this figure is not robust, and an alternative figure suggested. Therefore, based upon the evidence before me, the Council can demonstrate a HLS of 5 years and the tilted balance in paragraph 11d) of the Framework does not apply, although a 5 year HLS does not represent a ceiling to delivery.

24. The proposal would result in a small economic benefit during construction, once complete some small on-going spend in the local economy and a small contribution to the vitality of rural communities and services. The social benefit and contribution from one dwelling to the supply is a small benefit. The infilling of the gap to secure the open space, would be at best a small benefit whether or not the site constitutes previously developed land. Overall, the benefits of the development attract limited weight in favour of the scheme. Compliance with policies in respect matters such as of the living conditions of neighbouring occupiers, biodiversity and existing trees and hedgerows would be neutral matters in the planning balance.
25. However, the development would be significantly harmful to the character and appearance of the area, and the countryside location conflicts with recently adopted policies for the location of new development and sustainable transport objectives of the development plan. The harm is such that these matters attract significant weight against the scheme, and they significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

26. The development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR