



Appeal Decision

Site visit made on 8 March 2022

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/W1525/W/21/3279718

Land east of Myjoy, Woodhill Road, Sandon, Chelmsford, Essex CM2 7SE

- 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 Dyer MacKay Developments Ltd against the decision of Chelmsford City Council.
 - The application Ref 21/00554/FUL, dated 12 March 2021, was refused by notice dated 26 May 2021.
 - The development proposed is erection of three detached dwellings with garages, 2no. accesses and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues relate to whether the proposal would be acceptable with regard to
 - the spatial strategy for the location of new housing in the development plan;
 - the character and appearance of the area;
 - the setting of the adjacent Grade II listed building at Woodhill Cottages;
 - the interests of highway safety; and
 - satisfying the requirements of the Habitats Regulations.

Reasons

Spatial strategy for the location of new housing

3. The three dwellings would occupy a quite wide undeveloped gap along this side of the road, which separates a short section of housing and a single dwelling at Woodhill Cottages. The land is fenced in as a paddock, with recent planting along its far sides and more established trees lining the road. To the opposite side there is a more continuous stretch of ribbon housing development. The site is outside the main village of Sandon, which is about a mile away.
4. The Spatial Principles in Strategic Policy S1 of the Chelmsford Local Plan of 2020 (LP) are to focus development on well connected, sustainable locations, optimising the use of previously developed land in the main urban area of Chelmsford and higher order settlements. Strategic Policy S7 applies this spatial strategy by

focusing new growth in amounts proportionate to the available range of services and facilities, based on the categories of centre in the settlement hierarchy.

5. The appeal site is outside this settlement hierarchy and in the Rural Area defined by the LP. Here Strategic Policy S11 is to carefully balance development requirements to meet identified needs and support thriving rural communities, whilst ensuring that this would not adversely impact on the identified character and beauty of the countryside. LP Policy DM8 is permissive of housing in the Rural Area in specified circumstances; in this case if comprising infilling in accordance with Policy DM9 and not having an adverse impact on the identified intrinsic character and beauty of the countryside.
6. Where a site comprises a small gap in an otherwise built-up frontage in the Rural Area, LP Policy DM9 is permissive of infilling. The supporting text in paragraph 8.67 clarifies that a gap is normally regarded as 'small' if it is capable of accommodating no more than one property or building. The appeal site could physically accommodate at least the three dwellings proposed and so is significantly more than a small gap. However, the supporting text refers to some circumstances where the context and character of the development pattern of the immediate area will allow for more than one property or building within such gaps.
7. Apart from a short section of housing to one side of the appeal site, the context and character along this side of the road is that of open farmland with sporadic development, such as Woodhill Cottages. The proposal would link the short section of housing with Woodhill Cottages, almost doubling the length of development along this side of the road. By doing so, the scheme would substantially alter the prevailing settlement pattern, which is mainly one of open countryside with very limited and sporadic development. In my judgement, the context and character of the development pattern of the immediate area would not support this proposal as acceptable infill.
8. This open gap provides a view over agricultural land towards woodland. It is part of the Little Baddow and Danbury Wooded Farmland landscape character area. Whilst this does not provide it any special protection, it assesses its key characteristics, which include arable farmland fringing the outer edges of patches of woodland. Although intensively cultivated, as the appeal site once was, this area holds intrinsic character and beauty as undeveloped countryside. This proposal would clearly detract from the open views of this wooded agricultural landscape.
9. Whilst the loss of a private view from a window might not of itself be regarded as a planning matter, in this case there would be a public interest in the protection of the character of this area, adversely affected by this proposal. This view might be a more prolonged experience from the bus stop or a shorter and more kinetic one, as experienced by those passing on foot, bicycle, car or bus. In any event, the development would cause tangible harm to the intrinsic character and beauty of the countryside at this location.
10. The proposal would conflict with the spatial strategy of the LP, as applied through LP policies S1, S11, DM8 and DM9. The LP is quite recently adopted and consistent with the National Planning Policy Framework (the Framework), and notably paragraph 105. This is through its spatial strategy focusing significant development on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health.

11. Although the Framework requires taking account of opportunities to maximise sustainable transport solutions varying between urban and rural areas, this does not promote housing in the countryside where there is no specific need for this. The spatial strategy of the LP also remains consistent with Framework paragraph 174, which requires planning policies to recognise the intrinsic character and beauty of the countryside.
12. There is a bus stop immediately outside the site, and a park and ride facility could be reached by cycle. Nevertheless, the location remains comparatively inaccessible by sustainable modes of travel and lacking in nearby services. Future occupiers of the proposed dwellings might not be entirely dependent upon private car use to meet daily needs. However, this would not weigh decisively against a finding of harm through a conflict with the spatial strategy for the location of new housing, as applied through the LP.

Character and appearance

13. I find no particular harm from the designs proposed for the three dwellings, which are all of an intrinsically satisfactory standard given the mixed character of the housing in this area. However, I have found the proposal for housing here to generally have a harmful effect, through interrupting views of the rural landscape and detracting from the intrinsic character and beauty of the countryside. For this reason, the proposal would fail to respect the character and appearance of the area in which it is located and be in further conflict with LP Policy DM23 for this reason.

Setting of grade II listed Woodhill Cottage

14. The dwelling at Woodhill Cottages is screened from the appeal site by mature trees and set away from the common boundary. However, the setting of this Grade II listed building extends beyond any visual containment provided around its curtilage. The wider setting of undeveloped countryside forms part of understanding and appreciating this building's historical significance as originally a pair of late 18th/early 19th Century farm worker cottages.
15. The proposal would result in ribbon housing development encroaching nearer to this listed building. This would alter the surroundings in which this heritage asset is experienced, detracting from its historic context. Having special regard to the desirability of preserving this listed building's setting is a legal duty incumbent upon me. The harm would be less than substantial, but I must nonetheless give this considerable importance and weight in reaching a decision on this matter.
16. LP Policy DM13, following Framework paragraph 202, would mean the less than substantial harm to the significance of Woodhill Cottages being weighed against the proposal's public benefits. This scheme's help towards boosting housing supply and supporting the local economy, through the construction work and future additional household spend, are quite limited public benefits. They would not outweigh the harm found to the significance of this Grade II listed building, to which I must give considerable importance and weight. The proposal would be within the setting of listed Woodhill Cottages, adversely affecting the significance of this listed building in respect of its land use and historic associations, and so would conflict with LP Policy DM13 and the protection this affords the historic environment.

Highway safety

17. In this location Woodhill Road has a width of about 6m, is without street lighting or footway provision, other than that offered by the grassed highway verge. The road is subject to a 40mph limit and, being of a relatively straight alignment, vehicle speeds are likely to be at or more than this. I agree with the local highway authority that 2.4m x 120m visibility splays in both directions should be demonstrated for the two new access points, so as to meet the recommendations in the Design Manual for Roads and Bridges. Those shown appear not to meet this standard, with trees blocking the required visibility.
18. The appellant considers the plans accompanying the application show a visibility splay in excess of the local highway authority's requirements and, were there any doubt in this regard, an appropriate condition could be imposed requiring this be provided prior to commencement. However, given my conclusions on the other main issues, I have not pursued this matter any further. On the basis of the plans submitted, Framework paragraph 111 would indicate the appeal be dismissed on access grounds, due to its unacceptable impact on highway safety.

Habitats Regulations

19. As the Council's decision letter notes, the final refusal reason, in relation to the lack of mitigation for increased recreational pressure on a European designated site, could be overcome. This would be through a financial contribution, or legal agreement to secure such, towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). I understand that a RAMS payment has been made by the appellant, thus potentially overcoming that reason for refusal. Again, given my conclusions over the other main issues in this appeal, I have not found it necessary to progress this matter any further with the parties.

Conclusion

20. From the evidence provided, I am satisfied that the Council can currently demonstrate more than a five-year housing land supply and that the LP is otherwise up to date. This proposal would be in clear conflict with a spatial strategy for the location of new housing established by the LP. It would also have a harmful effect upon the character and appearance of the area, including failing to preserve the setting of the adjacent listed building at Woodhill Cottages. Furthermore, the access details submitted do not show this scheme to be suitable on highway safety grounds. For these reasons, there would be conflict with the LP when considered as a whole.
21. The proposal would provide some limited benefits both through supporting the local economy and by boosting housing supply. However, these benefits would not amount to material considerations of such weight to indicate my decision be otherwise than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Jonathan Price

Inspector