
Appeal Decision

Site visit made on 22 February 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/A1530/W/21/3274335

Land to the west of Bower Hall Lane, 11 East Mersea Road, West Mercia, Colchester CO5 8SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Craig Sestak against the decision of Colchester Borough Council.
 - The application Ref 210583, dated 24 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is described on the application form as 'residential development'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Planning Practice Guidance (the PPG) explains that the Town and Country Planning (Permission in Principle) (Amendment) Order 2017, is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle for development, from the technical detail. This consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second (technical details consent) stage, is when the detailed development proposals are assessed. This appeal relates to an application under the first stage for a residential development of between 2 and 3 dwellings.
3. The PPG explains that the scope of the considerations for permission in principle (PiP) is limited to location, land use and the amount of development. I have approached the appeal on that basis. Other matters are considered as part of a subsequent Technical Details Consent (TDC) application if PiP is granted.
4. The main parties have had opportunity to comment on the revised National Planning Policy Framework 2021 (the Framework). I have had regard to it in this decision.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and amount of development.

Reasons

Location and Land Use

6. Core Strategy¹ Policies H1 and SD1 set out the aim to focus new residential development in regeneration areas in Colchester, as well as in accordance with the settlement hierarchy. These policies highlight that new development should be located in accessible locations with good public transport accessibility or where there is means to travel other than by use of the private motor vehicle.
7. The appeal site is not located within a settlement. Indeed, there are no significant services or facilities within close proximity to the appeal site, with the settlement of West Mersea located approximately 1km to the south west. The appellant highlights that there is a bus stop approximately 260 metres from the site and a public footpath within 200 metres. However, there are no footways along much of East Mersea Road within the vicinity of the appeal site. Given the significant walking distance and the danger posed by oncoming vehicles, it is unlikely that future occupiers would travel to West Mersea on foot or via public transport. In any case, the evidence before me indicates that bus services within the locality are limited in frequency. As a result, future occupiers of the development would be largely reliant on the private motor vehicle to access services and facilities to meet basic day-to-day needs. The appeal site would therefore not be a suitable location for the proposed development.
8. The site has poor access to services and facilities and as such, the proposed residential land use would not be acceptable in this location. The proposal therefore conflicts with Core Strategy Policies H1 and SD1.
9. The appellant refers to Development² Policy DP10, but this relates to tourism, leisure and culture and it is not therefore directly applicable to the proposed development.
10. The proposed development would also conflict with Framework Paragraph 92, which states in part that decisions should ensure healthy and inclusive places, including through providing access to local shops. In addition, there would be a conflict with Framework Paragraph 105, which states that significant development should be focused on locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

Amount

11. The appeal site comprises a grass field adjacent to East Mersea Road. A mature hedgerow provides fairly effective screening of the site, although partial views into the site would be possible when travelling from the west. The surrounding area has a predominantly rural character. However, there are residential properties on either side of the appeal site and there is further sporadic residential development in the immediately surrounding area.
12. Given the relatively contained nature of the appeal site and the presence of other residential properties in close proximity, it is not necessarily the case that

¹ Colchester Borough Council Local Development Framework – Core Strategy (Adopted December 2008)

² Colchester Borough Council Local Development Framework – Development Policies (Adopted October 2010, revised July 2014)

development of the appeal site would lead to a harmful impact on the character and appearance of the surrounding area or upon the coastal protection belt (within which the site is located). Indeed, given the characteristics of the surrounding area and the size of the site, the amount of development proposed would be acceptable in principle with more detailed consideration of the design of the development (and impact on the character of the surrounding area) possible at TDC stage.

13. For these reasons, the proposed development would not conflict with Core Strategy Policy ENV1 nor Development Policies DP1 and DP23, which require in part that development is in-keeping with local character and would not be significantly detrimental to the character of the Coastal Protection Belt.

Other Matters

14. The proposed development would include social and economic benefits as a result of the increase in the housing stock and it is recognised that the development could potentially provide 2 and/or 3 bedroom dwellings, which the appellant suggests are needed within the Borough. However, given the small scale of the proposed development these benefits can only be afforded limited weight and they would not outweigh the harm caused by the poor access of the site to services and facilities.
15. The application site is within a 'Zone of influence' for the European designated sites of the Essex Estuaries Special Area of Conservation, Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Colne Estuary SPA and Ramsar Site and the Stour and Orwell Estuaries SPA and Ramsar site (South Shore). It is sufficiently clear that as the development proposal is for new dwellings, these areas would be likely to come under pressure for recreational purposes from future occupiers thereof. This would be a likely significant effect on habitats and areas protected by these designations. In order to mitigate these effects, the Council require contributions from qualifying developments towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). During the life of the planning application, the appellant paid a sum of money to the Council in accordance with RAMS. Notwithstanding this, given that I am dismissing this appeal on other grounds it is not necessary for me to consider this matter further nor undertake an Appropriate Assessment.

Conclusion

16. Whilst the amount of development is considered to be acceptable in principle, the location and land use would result in unacceptable harm, given the poor access of the site to services and facilities. As such, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Luke Simpson

INSPECTOR