

Appeal Decision

Site visit made on 16 March 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Appeal Reference: APP/A1530/W/21/3281012

Land adjacent to Heathcote Farm, Fox Street, Ardleigh CO7 7PS

- 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 Mrs J Clinch against the decision of Colchester Borough Council.
 - The application (reference 210045, dated 10 December 2020) was refused by notice dated 16 February 2021.
 - The development proposed is described in the application form as the construction of "two dwellings".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs J Clinch (the Appellant) against Colchester Borough Council. This application is the subject of a separate Decision.

Preliminary points

3. The application is made in outline, with all matters reserved.

Main issue

4. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the surroundings, in the context of planning policies for the area.
5. In the Council's "Notice of Planning Decision", the second reason for refusal referred to the need to secure a "proportionate financial contribution in accordance with the draft Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)". In the meantime, a Unilateral Undertaking has been provided by the appellant and the Council accept that this issue has been resolved. I have no reason to disagree with that conclusion and this matter does not form a main issue in the appeal, therefore.

Reasons

6. The appeal site is located in the hamlet of Fox Street, a short way to the east of Colchester, although Fox Street includes properties on both sides of the administrative boundary between Colchester Borough Council and Tendring District Council. The main road through the settlement, the A137, links Colchester with Ardleigh, which is a more substantial village at some distance to the north-east, and with Manningtree beyond that. Good bus services are available along the main road.
7. Historically, frontage development has taken place along the main road that runs through Fox Street, although the ribbon of development that has grown up is somewhat irregular in character. To the north-east of the appeal site there is a more closely built-up area, with development mainly having taken place on both the road frontages, while there is a short and more concentrated row of buildings on the south-eastern frontage a short way to the south of the appeal site. Between these two locations, the development pattern is more scattered, with buildings in different locations on both sides of the road (and sometimes set back from the frontage) but lacking a clear focus or a concentrated core.
8. The appeal site itself is located on the north-west frontage of the road, almost exactly opposite the 'Bengal Diner' restaurant and opposite the restaurant car park. Adjoining the site, there is an existing house, identified as 'Heathcote Farmhouse', which has a pedestrian front gate onto the main road but a side access drive for vehicles. Otherwise, this section of the north-western frontage of the main road has only a limited amount of built development, since the appeal site is located in the space between 'Heathcote Farmhouse' and the extensive grounds of 'Braeburn'.
9. Currently, the appeal site itself has the character of an overgrown meadow, with undergrowth beginning to encroach and some mature trees on the edges of the site. It is noted that the land has only been used in the past for "limited agricultural activities". Although the planning application was made in outline, with all matters reserved, the access to 'Heathcote Farmhouse' is included in the appeal site and it has been indicated that this would be the shared point of access.
10. It is now proposed to construct two dwellings on the appeal site.
11. The 'National Planning Policy Framework' emphasises the aim of promoting sustainable development and it acknowledges the importance of the natural and local environment, recognising the intrinsic character and beauty of the countryside, among other things. It also has the more general aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity.
12. The appeal submissions explain that the Development Plan for Colchester Borough Council includes the 'Core Strategy' (which was adopted in 2008 and amended in 2014) and the 'Local Development Framework: Development Policies' (which was adopted in 2010 and was also amended in 2014). The planning strategy for the Borough is now set out in Section 1 of the new 'Local Plan', which was formally adopted on 1 February 2021.

13. Policies in the 'Core Strategy' are aimed at encouraging sustainable development and supporting good design in the broadest sense, notably at Policies SD1, ENV1, and UR2. The 'Core Strategy' is focussed on "Sustainable Development Locations" for new development, while conserving and enhancing Colchester's natural and historic environment, countryside and coastline. More specifically, Policy ENV2 provides that the Council will "enhance the vitality of rural communities by supporting appropriate development of infill sites and previously developed land within the settlement development boundaries of villages".
14. Policy DP1 ("Design and Amenity") of the 'Development Policies', in particular, also emphasises the importance of good design and the aim of achieving "social, economic and environmental sustainability", as well as respecting and enhancing "the character of the site, its context and surroundings".
15. Section 1 of the new 'Local Plan' includes strategic Policies on housing and employment among other things, to guide future development in the area, and it also establishes the plan-based strategy.
16. All these Policies are generally consistent with the 'National Planning Policy Framework'.
17. Although the application site is not "isolated" from other buildings, it falls outside the settlement boundary for Colchester or any other formal settlement boundary. The proposed two new dwellings would be located within the hamlet at Fox Street but in a more scattered part of the settlement which is only loosely developed. They would be associated with the existing house at 'Heathcote Farmhouse' but would not form a coherent group with 'Braeburn' or with other properties on the opposite side of the road.
18. The proposed new dwellings would occupy a site that is currently undeveloped and is entirely rural in appearance. The appeal site itself is shielded by a mature hedge and some trees on the road frontage which, together with the hedge and trees to the rear, add to the rural character of the setting. The proposal would add very markedly to development on this part of the north-west frontage of the main road and would erode the existing, essentially rural, character of the immediate setting, consolidating existing sporadic development. Thus, it would have a harmful effect on the character and appearance of the surroundings and would conflict with the Development Plan policies that have been cited.
19. The proposed new dwellings would be located outside any of those areas where new residential development is envisaged in the Development Plan and the appeal site is not within reasonable walking distance of Ardleigh or Colchester. Some very limited local services are available in the immediate vicinity of the site and the main road is well served by public transport but the full range of local services and facilities would not be readily accessible to new residents other than by car.
20. Thus, the new dwellings would be likely to depend primarily on access by private car and the location cannot realistically be described as being "sustainable" in planning terms. The proposed development would clearly conflict with the development strategy that is set out in the Development Plan for Colchester Borough.

21. In reaching these conclusions, I have considered the previous appeal decision on the same site (reference APP/A1530/W/20/3248248) that has been extensively referred to in the submissions. It has been acknowledged by the Planning Inspectorate that the Inspector erred in relation to the Unilateral Undertaking that had been submitted. In that earlier decision, the Inspector reached various conclusions, however, including that "the proposal would harm the integrity of the Council's settlement strategy" and was "not in a location where housing is supported".
22. I am aware that the National Planning Policy Framework is intended to encourage sustainable development and that housing "targets" are not intended to impose a cap on development in appropriate locations. Nevertheless, I am likewise convinced that the appeal proposals would be contrary to the development strategy that is set out in the Development Plan and I am conscious that planning decisions ought to be made in accordance with the Development Plan unless material considerations indicate otherwise (as stated in the primary legislation and as explained in the 'National Planning Policy Framework').
23. In the previous decision the Inspector also found that the two new dwellings would "form a new group with the dwelling at Heathcote Farm" and went on to conclude that "the character and appearance of the area" would not be harmed. Respectfully, I do not agree with this assessment. In my opinion, the new dwellings would add to built development in a location where it is currently sparse and, while it is true that they could form a group with the single existing house, the same could be said in relation to other intermittent development along the main road. Hence, I have concluded that the scheme would be intrusive in the landscape, consolidating existing sporadic development and suburbanising the locality.
24. I note the references that have been made in the submissions to other sites in Fox Street but the sites are clearly different and different considerations apply, for example in locations where development is already more intensive. Indeed, the boundary between Colchester Borough and Tendring District, where different planning policies apply, lies only a short distance away from the appeal site.
25. The previous appeal decision also notes that the site is not within reasonable walking distance of either Ardleigh or Colchester although there are good bus services along the main road. I do not, however, accept that services and facilities are reasonably accessible or that development at Fox Street would usefully support the rural community in the longer term.
26. The contribution that the appeal scheme would make to economic activity and the additional residential units that would be created both weigh in favour of the appeal. Nevertheless, I am convinced that the leafy nature of the existing site frontage and surroundings would be eroded, and existing sporadic development would be consolidated, undermining the aims of the development strategy for the area and failing to promote sustainable development. All this would be contrary to national and local planning policies, including the Development Plan.

27 I am convinced, therefore, that the appeal must fail and, although I have considered all the matters that have been raised in the representations, I have found nothing that outweighs those considerations that have lead me to this decision.

Roger C. Shrimplin

INSPECTOR