



Appeal Decision

Site visit made on 2 August 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Appeal Ref: APP/A1530/W/21/3279464

**Blackheath Bulb Company, Nayland Road, West Bergholt, Colchester
CO6 3DE**

- 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 Blackheath Bulb Company against the decision of Colchester Borough Council.
 - The application Ref 202756, dated 27 November 2020, was refused by notice dated 22 January 2021.
 - The development proposed is replacement of three agricultural buildings with three dwellings.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Blackheath Bulb Company against Colchester Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council's fourth reason for refusal concerned a requirement for a financial contribution towards mitigation measures in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. A Unilateral Undertaking has been submitted which would secure the requisite contribution in this regard. I shall not, therefore consider this as a main issue.

Main Issues

4. The main issues in the appeal are:
 - i. the effect of the development on the character and appearance of the area, including its effect on the setting of the adjacent listed building;
 - ii. the accessibility of the development to services and facilities by sustainable means; and
 - iii. whether or not adequate provision would be made for necessary infrastructure.

Reasons

The Claimed Fallback Position

5. The parties' cases both refer to a fallback position whereby prior approval was granted for conversion of the three buildings on the site to three dwellings in July 2019 under Class Q of the General Permitted Development Order¹ (GPDO). However, the GPDO imposes condition (3) which requires the permitted development to be completed within a period of 3 years starting with the prior approval date. Because this period has passed and the development has not been completed, the permission is no longer extant and so does not form a fallback position.
6. Therefore, a new application would be required for the scheme as previously permitted. Nonetheless I shall consider the proposed development in comparison to the previously approved scheme on the basis that this could form a potential fallback position.

Character and Appearance

7. The site includes three buildings which have been used for the purposes of a wholesale nursery involved in the propagation of bulbs. The buildings are sited perpendicular to the road and accessed from a drive which also gives access to a detached house to the rear. They are utilitarian in appearance, being mainly faced and roofed with cladding materials although the central building has a slate roof. The building that is furthest from the road is open on one side.
8. Adjacent to the site is the grade II listed Rookery Farm, which adjoins the road frontage. This is a two storey farmhouse dating from the 17th century. It is faced in red brick and render with plain tiled roofs. This is separated from the site by a brick wall of over 2 metres in height and a close-boarded fence.
9. This group of buildings is within the open countryside. Although there are some dwellings fronting Nayland Road in the vicinity of the site, the character of the area is clearly rural.
10. The three proposed dwellings would occupy a smaller footprint than the existing buildings but would be between 1m and 1.5m taller. Two of these appear to be intended to reflect traditional agricultural buildings while the third would differ in terms of having the appearance of a traditional gatehouse or similar building. The three dwellings would be linked by roofs providing covered parking areas.
11. The proposed dwelling on plot 1 would be of a simple rectangular plan form with a gabled roof and in these respects would have similarities to the existing buildings. However, the other two dwellings would clearly differ significantly from the form and character of the existing buildings. The form and proportions of the building proposed for plot 2 would be consistent with those of a residential dwelling rather than an agricultural building in my view. In particular, the angle of the roof pitch and the central gabled feature would have this characteristic. This would clearly identify the scheme as a residential development which would be out of character with its rural surroundings.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

12. In addition to its residential appearance, the overall design would lack coherence particularly because of the differing design proposed for plot 3. The linking roof sections would not provide coherence and the overall appearance of the buildings would in my view be awkward and contrived. The design would, for these reasons detract from the character and appearance of the area.
13. The listed farmhouse has historically occupied an open rural setting and continues to do so. The dwelling to the rear of the site and the buildings subject to this application, combined with other nearby development, have reduced the openness of that setting to some extent but have not removed its essential character. This contributes to the building's significance. The fact that the building has not been used as a farmhouse for some time and the boundary wall between that property and the site do not alter this relationship.
14. When travelling along Nayland Road from north to south, the development would be seen in the foreground with the listed building behind. For the reasons given above, the new buildings would be out of character. They would also be more visually intrusive than the existing buildings because of their increased height. For these reasons the proposal would detract from the setting of the listed building and harm its significance. The proposal would differ from the previously approved scheme in terms of its clearly residential proportions and appearance.
15. Policy ENV1 of the Core Strategy (CS)² strictly controls the development that can take place in the countryside. That policy also requires development to be of appropriate design and to protect, conserve or enhance historic assets. The latter are also requirements of Policy UR2 of the CS and Policy DP14 of the Development Policies (DP).³ Policy DP1 of the DP and Policy PP10 of the West Bergholt Neighbourhood Plan (2019) require a high standard of design and that buildings respect the character of their surroundings.
16. For the reasons given above, I find that the proposal would not accord with those policies. I conclude on the first issue that the development would unacceptably harm the character and appearance of the area.

Accessibility

17. The site is approximately 1.2km from the settlement boundary of West Bergholt which is the nearest location for access to services and facilities, including bus services. I noted on my visit that there is no footpath or street lighting along Nayland Road. It is unlikely that walking along that road would realistically be a safe option. This, combined with the distance, would deter occupants of the proposed dwellings from using sustainable means of transport and it is therefore likely that they would be dependent on the private motor vehicle.
18. However, the proposal would differ little from the previously approved scheme in this respect. The proposed dwellings would have 3 bedrooms instead of the previously approved 2 bedrooms per dwelling. The Council raises concern about the garden sizes, but these would merely be to the minimum size standard as recommended by the Council. The floorspaces and gardens would be similar to those previously approved. For this reason, the proposal would

² Colchester Borough Council Core Strategy (2008)

³ Colchester Borough Council Development Policies (2010, revised 2014)

be unlikely to materially increase the number of trips to local services and facilities by comparison to the previously approved scheme.

19. Policy SD1 of the CS provides for development to take place in accordance with the settlement hierarchy and expects priority to be given to accessible locations. The proposal does not accord with that policy but the weight that I give to this conflict is limited by the potential fallback position.
20. I conclude on this issue that the proposal would have very limited, or no realistic accessibility to services and facilities by sustainable means but this would be no more harmful than the potential fallback position.

Infrastructure

21. The fifth reason for refusal sets out that the Council has adopted Supplementary Planning Documents (SPDs) on the provision of community facilities (updated in 2013) and open space, sport and recreation (2006). Policy SD2 of the CS requires new development to provide necessary community facilities, open space and other infrastructure to meet community needs arising from development. That policy expects development to make reasonable contributions to these facilities. Policy DP3 of the DP states that planning obligations will be sought to secure infrastructure. That policy and its supporting text explain that SPDs set out standard charges that will be applied to new development in appropriate circumstances.
22. The SPDs, although of some age, ensure that contributions are fairly and reasonably related in scale and kind to the development. The basis for requiring contributions towards community and sport/recreation facilities is that the occupants of new residential development will need such facilities and therefore contributions would be directly related to development.
23. However, the necessity for a contribution in any case would be likely to depend on an audit of local facilities and demonstration that improvements to those facilities, or provision of new facilities is necessary.
24. The Council has identified a need for Orpen Hall in West Bergholt to be re-roofed, however I saw on my visit that this work appeared to have been carried out. The Council has also identified a need for improvements to a multi-use games area also in West Bergholt. For these reasons, I have some doubt as to the necessity for the community services contribution, but the sport and recreation contribution has been justified and would meet the tests set out in the Community Infrastructure Levy Regulations.
25. No planning obligation has been provided to secure that contribution. In the absence of such provision, the development does not accord with policies SD2 and DP3 and would not provide adequately for necessary infrastructure.

Planning Balance

26. I have found that the proposal would result in harm to the significance of the listed building. Because the development would replace existing buildings that harm would be limited and, on this basis, less than substantial. The dwellings would be of public benefit in providing new units of housing and generating expenditure in the local economy from construction and the expenditure of its occupants.

27. In the context of the potential for conversion of the existing buildings, the proposal would result in little, if any, benefit. However, even if the potential fall-back were disregarded, the weight that I can give to the social and economic benefits is limited because of the limited scale of the scheme.
28. This limited weight is not sufficient to outweigh the great weight that I give to the less than substantial harm to the listed building.
29. The proposal would clearly not accord with the development plan as a whole. There are no material considerations that indicate that my decision should be other than in accordance with the development plan.

Conclusion

30. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR