



Appeal Decision

Site visit made on 3 August 2022

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2022.

Appeal Ref: APP/W1525/W/21/3288512

Land East of Mill Lane, Great Leighs, Chelmsford, Essex

- 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 Booth against the decision of Chelmsford City Council.
 - The application Ref 21/01501/FUL dated 19 July 2021, was refused by notice dated 1 October 2021.
 - The development proposed is construction of new dwelling with detached carport, bin store and associated landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this appeal is whether there is justification for the proposed dwelling in the countryside in light of development plan policies which seek to restrict residential development in open countryside having regard to the National Planning Policy Framework (2021) (the Framework).

Reasons

3. The appeal site is located within the open countryside close to a cluster of rural properties. In general, residential properties within the area are dispersed along narrow rural lanes, surrounded by fields delineated by hedges with pockets of woodland in close proximity. The appeal site is approximately 500m away from the settlement of Great Leighs.
4. Consideration must be given as to whether the proposed development would be "isolated". Taking into account Judgements¹ the phrase contained within paragraph 80 of the Framework "isolated homes in the countryside", isolated simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, isolated in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.
5. Properties and buildings within the vicinity of the appeal site are in general scattered spatially along rural lanes, there are clusters of properties, for instance at the junction with Boreham Road and Mill Lane, approximately 100m

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610, endorsed in City and Country Bramshill Ltd v SSHLG and others [2021] EWCA Civ 320

away from the appeal site. There is a sense of openness within the area. Due to the proximity of the appeal site to other dwellings in the area the site would appear detached from the cluster of properties at the junction and from the settlement of Great Leighs.

6. Visually the proposed dwelling would be located in an area where there would be limited views of other properties from public viewpoints, access to other properties would be via a narrow country lane without separate footpaths. The site would be spatially separated from the cluster of properties and has a sense of remoteness, for this reason, paragraph 80 remains relevant.
7. I have taken into account the Planning Appeal decision referred to by the Council at Land North East of Walters Cottage, Tofts Chase², however that site is located closer to a settlement without a sense of detachment.
8. To be justified in terms of both national and local policy, the proposed dwelling therefore needs to meet at least one of the circumstances quoted in paragraph 80, of which the first four – provision for a rural worker, securing the future of a heritage asset, re-use of a redundant or disused buildings or subdivision of an existing residential building – are not applicable.
9. The appellant's case therefore rests on the fifth circumstance quoted in Paragraph 80(e) which states that the dwelling's design should be of '...exceptional quality'. Criteria are put forward by which such design might be recognised – a) that the design be truly outstanding, reflecting the highest standards in architecture and help to raise the standards of design more generally in rural areas; and b) that it significantly enhances its immediate setting; and be sensitive to the defining characteristics of the local area. These criteria are, inevitably, largely subjective in their assessment but they have proved to be a rigorous test when applied to new development. To meet the special circumstances required, all criteria must be achieved.

Truly outstanding, reflecting the highest standards in architecture and help to raise the standards of design more generally in rural areas

10. The design of the proposed dwelling draws its main inspiration from the surrounding natural environment, trees in autumnal tones. With two sizes of aluminium shingles set out in random patterns to reflect abstract leaves and large glazing panels which would reflect to a degree the surrounding landscape.
11. The Appellant has outlined that the proposed development would incorporate Passivhaus standard as the baseline with further energy efficiency improvements incorporated with the aim of the development being carbon negative. Materials have been carefully considered and include recycled material and waste off-cuts which no doubt would add to the environmental features of the development.
12. The term 'truly outstanding...' implies that the bar is particularly high and that few projects are likely to succeed in meeting this criterion. The architectural quality of the scheme is very good. The proposal would be visually interesting yet understated with clean lines, whilst the tree canopy inspiration is understandable and the sustainability features commendable I am not persuaded that it is truly outstanding.

² Appeal Ref: APP/W1525/W/19/3240804

13. In terms of raising standards of design in rural areas the scheme would inspire many. Properties within the area are traditional in design, although take different forms. The contemporary design of the proposed development would raise the standard of design in this rural area.

Significantly enhances its immediate setting; and be sensitive to the defining characteristics of the local area

14. The appeal site is relatively open, with mature trees and hedgerow bounding the site. The site is overgrown, however in the rural landscape the site does not negatively impact on the immediate area.
15. The proposed dwelling would sit within a landscape setting comparable with a number of properties within the local area. Whilst contemporary in design the proposal seeks to marry the dispersed residential character with the landscape character of the plot itself, by taking inspiration from trees. Nevertheless, whilst the proposed development would be sensitive to the defining characteristics of the local area I am not convinced the architectural or environmental qualities would be sufficient to significantly enhance its immediate setting.
16. I acknowledge that determining whether or not a proposed design is of exceptional quality is a matter of subjective judgement. Nevertheless, in this case whilst some of the criteria in paragraph 80(e) would be achieved, other criteria would not be achieved. On this basis I find there is no justification for the proposed dwelling in the countryside.
17. There is conflict with Policies S1, S7, S11 and DM8 of the Chelmsford Local Plan (2020) which amongst other things seeks to protect the rural area from development. The proposed development is contrary to the Framework which seeks to support isolated homes in the countryside which are of exceptional quality.

Other Matters

18. The Appellant has drawn my attention to other residential development including an allocation at Chelmsford City Racecourse which was assessed in the Strategic Housing and Employment Land Availability Assessment (SHELAA), as was the appeal site, I have not been provided with substantive details of the site and its allocation. I note that the allocated site is substantially larger than the site before me, and located adjacent Great Leighs, the factors appear significantly different between both sites. However the mere assessment of a site within a SHELAA, does not imply that development would be approved. Each development must be considered on its individual merits, and I have reached my conclusion based on the individual merit of the appeal proposal.
19. The Appellant has provided letters of support from the Department of Architectural Technology, New York City College of Technology and Dr Murphy. Whilst I acknowledge the comments there is no substantive evidence provided which outweighs my findings above.

Conclusion

20. For the above reasons I conclude that this appeal should be dismissed.

C Pipe

INSPECTOR