



Appeal Decision

Site visit made on 12 December 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/W1525/W/22/3293931

Land South West Of Pembroke House, London Road, Great Leighs, Chelmsford CM77 7QL

- 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 Omtech Services Limited against the decision of Chelmsford City Council.
 - The application Ref 21/01821/FUL, dated 3 September 2021, was refused by notice dated 8 December 2021.
 - The development proposed is described as Resubmission – Erection of 3 detached Passive house dwellings with associated garaging/cartlodges and new vehicular and pedestrian accesses.
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Decision

1. The appeal is dismissed.

Costs

2. An application for costs is made by Chelmsford City Council against Omtech Services Limited. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - whether or not the proposed development is compliant with policies for the location of new dwellings; and,
 - the effect of the proposed development upon the character and appearance of the area.

Reasons

Location

4. Policy S1 of the Chelmsford Local Plan 2013-2036 (2020) (the CLP) outlines the spatial principles that all new development is required to accord with. This includes focusing development towards higher order settlements, respecting the existing development pattern and settlement hierarchy, optimising the use of previously developed land, and respecting the character and appearance of landscapes. The principles in Policy S1 have shaped the settlement hierarchy in Policy S7, which seeks to direct development towards the most suitable and sustainable locations as set out, applying the spatial principles.

5. The appeal site is located adjacent to a row of buildings forming part of Young's End. It comprises what appears to be an unmanaged field of ruderal and grassland with some areas of scrub, bound by a post and rail fence, a neighbouring dwelling boundary, and by hedging on two sides, east of a shallow bund adjacent to the A131. Being a relatively small hamlet of dwellings, Young's End is not listed in the hierarchy in Policy S7. As it is outside the defined settlement boundaries, the appeal site is within the Rural Area (RA).
6. Policy S11 of the CLP explains that relevant development management policies set out what development is appropriate in the RA and provide detailed criteria by which proposals will be assessed. Policy DM8 states that permission will be granted for new buildings and structures in the RA where the development will not adversely impact on the identified intrinsic character and beauty of the countryside and where it is for one of the number of listed development types.
7. The proposal does not re-use redundant buildings, is not previously developed land, and given the space and relationship with nearby built development it does not constitute infilling. The dwellings would be built to Passive house standards in a traditional vernacular. However, while very energy efficient and having some degree of design in keeping with local architecture styles, these dwellings are not of an exceptional design quality or innovative nature. Therefore, the proposal does not fall into any of the permitted development types in DM8.
8. The appeal site is located where it may well make a contribution to maintaining or enhancing the vitality of rural communities to some degree. In this regard, the proposal does not conflict with paragraph 79 of the National Planning Policy Framework (2021) (the Framework). However, for the reasons set out above, the proposed development is not compliant with the development plan policies for the location of new dwellings. It conflicts with Policies S11 and DM8 of the CLP, the relevant provisions of which I have set out above.

Character and appearance

9. The northern appeal site boundary marks a clear distinction between the row of dwellings on the western side of London Road and open land within the RA. Despite being unmanaged, its well vegetated, informal, open and undeveloped nature means it makes a positive contribution to the character and appearance of the rural area. As the appeal site includes a wide and largely open frontage, it is highly visible when traversing this part of London Road.
10. While highways can appear as divisions, they also form an intrinsic part of the wider RA. The nature and degree of separation by open land, trees and hedgerows means the appeal site does not relate particularly well to or is viewed as part of wider business parks or higher order settlements. Adjacent to the south and further to the east and west are fields and areas of open or undeveloped land. These have visual links and a coherency with the appeal site. It is viewed as part of the wider rural area between larger settlements and development and not simply an isolated strip of undeveloped land.
11. The new 5 bedroom detached dwellings of approximately 14m in width with triple garages are sizeable buildings. While in a linear arrangement, these new dwellings would be larger than many at Young's End and on significantly wider plots. Their scale and bulk and the large triple garages are at odds with not

- reflective of the existing development at Young's End. The new buildings, the associated accesses, circulation and parking would result in a significant amount of new built development with an increased intensity of vehicular activity, parking, boundary treatments and residential paraphernalia.
12. They would add a significant physical extent of additional development and domestication on currently open land finishing close to the currently separated building of North Lodge, effectively approximately doubling the length of Young's End on the western side. For these reasons the proposed development would not be sympathetic or proportionate to Young's End. It would be a significantly intrusive and harmful encroachment onto open land that is significantly harmful to the character and appearance of the area.
 13. Given the scale and prominence of the proposed buildings, and notwithstanding the ability to secure a detailed high quality landscaping scheme and the details of materials by suitably worded planning conditions, the harmful effects of the development would not be adequately mitigated.
 14. For the reasons set out above the proposed development would be significantly harmful to the character and appearance of the area. It would conflict with Policies S11 and DM8 of the CLP which state the intrinsic character and beauty of the RA will be recognised, and development will be permitted where it would not adversely impact on its identified intrinsic character and beauty. It would also conflict with paragraph 174 of the Framework insofar as this expects decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

15. The appeal site is within Zones of Influence of European designated Habitats sites (the Blackwater Estuary SPA and Ramsar site, and Essex Estuaries SAC). The appellant has made a payment as a contribution to mitigating the effects of the development upon recreational disturbance, in accordance with the Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy Supplementary Planning Document (2020). It is not put to me this would have any benefits weighing in favour of the scheme. Therefore, in-light of my findings on the main issues above, it is not necessary to look at this matter in detail.

Planning Balance

16. Based upon the evidence before me, the Council is able to demonstrate an approximately 7.39 year housing land supply, although this is not a ceiling. The proposal would result in a modest economic benefit during construction and once complete some small on-going spend in the local economy, CIL contributions, Council tax and Parish precept, as well some contribution to the vitality of rural communities and services. As a small to medium sized development, it might be built out relatively quickly. However, in-light of the conflicts with the development plan, I cannot regard it as a 'suitable site'. The contribution from three dwellings to supply is a limited benefit.
17. It is suggested the appellant intends to purchase and undertake biodiversity enhancements on land to the rear, but the progress on this is not clear. Both the Planning Statement and Appeal Statement¹ state this is not part of this

¹ Paragraph 2.6 of the Planning Statement and paragraphs 6.44 – 6.46 of the Planning Appeal Statement by Fisher Jones Greenwood Solicitors.

- application. Having regard to the existing habitat and the enhancements set out in the Preliminary Ecological Appraisal and those that could be secured by suitably worded planning conditions, in the longer term the proposed development might result in a moderate overall biodiversity benefit.
18. Proposals to create dwellings to the Passive house standard would result in energy and resource efficient dwellings. This principle would comply with National Design Code, Framework, local action plans and development plan policies. However, there is little before me to suggest that there would any significant overall net energy benefit secured as a result of the proposals. Therefore, this attracts limited weight in favour of the scheme.
 19. Although some employment opportunities, a public house and car dealership and garage, are a short distance away, the site is approximately 800m from some limited local services, and it is 1.1km to Great Notley and 1.3km to Great Leys where some other local services are situated. It is still further still to the services and facilities at Braintree or Chelmsford. The speed limit outside the site is 40mph and there is a footway opposite. A limited number of services might be considered a walkable or cyclable distance. However, it would only be so for those fit and able to do so.
 20. Given the distances, not all potential future occupiers would be willing to walk to many services. Notwithstanding this, bus services close by are frequent and relatively short in duration to a number of higher order settlements. Car ownership would not be discouraged by on-site parking provision. However, the development is well placed to offer sustainable modes of transport and overall, it meets some sustainable transport policy objectives. This is a neutral matter in the balance.
 21. Although it is put to me Policy DM8 of the CLP is not fully compliant with paragraph 79 of the Framework, paragraph 79 is a high level policy, and the Framework should be read as a whole. Paragraph 78 of the Framework explains that in rural areas policies should reflect local needs and circumstances. Paragraph 8.58 of DM8's pre-text explains the policy provides some flexibility to allow rural communities and economies to thrive and prosper, including businesses, local shops, community facilities and services which support the rural community and serve their day-to-day needs. This is similar to the objectives of paragraph 79 of the Framework.
 22. Policy DM8 includes a number of exceptions which may permit new dwellings in the rural area, and they are not solely restricted to previously developed land. DM8 is also consistent with Framework objectives in respect of the environment and sustainable transport, and to have regard to character and appearance and the countryside at paragraphs 8, 105, 112, 130 and 174 of the Framework. Therefore, I consider it compliant with the Framework and I see no reason why the conflict with Policy DM8 should not be given full weight.
 23. Were I to agree the development would be or could be made compliant with policies in respect of matters such as highway access, parking, construction management, electric vehicle charging, the living conditions of future and neighbouring occupiers, the detailed design aspects and materials of the development, drainage and flood risk, refuse and recycling storage and collection, archaeological constraints and European designated habitats sites, these would be neutral matters in the planning balance. It is an open and visible site, and from what I saw and the evidence before me I see no reason it

would be likely to be the subject to unlawful activity. Even if it were, this matter attracts limited weight as a benefit. Overall, the policy compliance and benefits of the development attract moderate weight in favour of the scheme.

24. While this scheme seeks to address the reasons the Council refused the previous application, I have found this development in conflict with development plan policies for the location of housing and it would be significantly harmful to the character and appearance of the area. The conflict and harm is such that these are matters that attract significant weight against the scheme. Therefore, the harm from the proposed development is not outweighed by the policy compliance and benefits.

Conclusion

25. The proposed development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR