
Appeal Decision

Site visit made on 5 December 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2023

Appeal Ref: APP/P1560/W/22/3293529

The Orchards, Colchester Main Road, Alresford, Colchester, CO7 8DB

- 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 P Brown against the decision of Tendring District Council.
 - The application Ref. 21/01732/FUL dated 8 October 2021, was refused by notice dated 20 January 2022.
 - The development proposed is the erection of a detached dwelling and new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the suitability of the site for residential development.

Reasons

3. The Orchards is a chalet bungalow situated on the south-west side of Colchester Main Road (B1027), some 800m from the beginning of the built-up area of the village of Alresford to the south-east, but some 1.4km from the centre of the village. The curtilage of The Orchards is relatively shallow in depth, having its main axis running along the main road. The appeal site is that part of the garden that extends beyond the double garage, and is well screened by a fence with a dense conifer hedge behind. The conifer hedge continues around the north-west site boundary, beyond which are a number of boundary trees and open fields to the south-west. The site is part of a sporadic ribbon of development that extends out of Alresford, mainly on the north-eastern side of the main road.
4. The starting point, as paragraph 2 of the National Planning Policy Framework (the Framework) points out, is that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The development plan comprises of the 2013-2033 Local Plan (LPS1) - the North Essex Authorities Shared Strategic Section 1 Plan, which was adopted on the 26 January 2021, and Section 2 'Tendring District Local Plan 2013-2033 and Beyond' (LPS2), which was adopted on 25th January 2022. Within LPS1 the housing and employment targets were fixed, including

the housing requirement of 550 dwellings per annum. These 2 sections of the Local Plan fully supersede previous elements of the development plan.

5. In addition, the Alresford Neighbourhood Plan (ANP) was Made (adopted) (June 2021) and is the Neighbourhood Plan for the Alresford parish, within which the appeal site lies, for the period 2018 to 2033. The ANP therefore forms part of the development plan for Tendring District. Policy ALRES1 outlines the spatial strategy for the parish, and states that new development in Alresford parish shall be focused within the settlement development boundary of Alresford village as defined within the proposals map. The appeal site is not within the settlement boundary of Alresford.
6. Policy SP3 of LPS1 sets out the spatial strategy for North Essex and directs growth towards existing settlements with development accommodated within or adjoining settlements according to their scale. Policy SPL2 of the LPS2 states that outside of settlement development boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the settlement hierarchy. These policies do not specifically prevent the development of land outside of settlement boundaries, but clearly guide housing development to land within settlement boundaries in order to comply with the overarching aims of the Framework that housing be located in areas that are accessible and sustainable.
7. For the appellant, it is pointed out that whilst policy ALRES1 of the ANP focusses development inside the settlement boundary, that does not expressly exclude development outside of those boundaries. Indeed, the supporting text to the policy identifies that:

"The spatial strategy seeks to ensure that development is focused within the settlement development boundary of Alresford, as shown in the Policies Map in Section 10, but that there is flexibility around the development of uses that would enhance Alresford's role as a Rural Service Centre and address the needs of the local community. Policy SPL2 (Settlement development boundaries) of the emerging Tendring LPP2 provides the strategic policy context focusing growth within the settlement development boundary – which includes sites in the planning pipeline – but considering appropriate uses outside the boundary, e.g. Policy LP7 (Self-build and custom-built homes) and Policy LP10 (Care, independent and assisted living)".
8. In this context I note that paragraph 4.4 of ANP makes the following point:

"4.4 In Alresford, there are considerable needs relating to the ageing population. In light of this, the provision of dedicated retirement housing, sheltered housing, extra care housing and care facilities outside but adjacent to the settlement development boundary will be viewed favourably. Such proposals would have to demonstrate that there are no other suitable sites within the settlement boundary that are available or deliverable".
9. It appears to me that this paragraph reveals the approach of the Plan to 'focusing' development within the settlement development boundary, and what is meant by the "flexibility around the development of uses that would enhance Alresford's role as a Rural Service Centre and address the needs of the local community". On this basis I consider that it is clear that general need housing

development should be sited within the settlement boundary, unless there is clear need that is justified by evidence.

10. The appeal site is located about 1.4km from the centre of Alresford and its amenities, consisting of shops, post office, village hall, school, railway station and a range of services and facilities. In addition there is a farm shop, very close to the site which provides a range of local goods. Although there is a footpath from the site to the centre of the village, this is narrow, sporadic and unlit. Walking into the centre of the village would not be safe or convenient as Colchester Main Road is a busy highway linking Colchester to a number of villages and with Brightlingsea and St Osyth, which is also unlikely to be conducive to daily work, shopping, recreational and schooling trips by bicycle. It is likely that future occupants of the proposed dwelling would be reliant on a car for most day to day needs. Furthermore, the introduction of a dwelling in this location would contribute to the erosion of the semi-rural character of the area.
11. Against this, the appellant argues that the site is not isolated, but has existing residential development directly adjacent. The proposal would essentially appear as part of the existing linear pattern of residential development in the locality and would not result in any wider landscape harm due to the boundary vegetation screening the development. The site can satisfactorily accommodate the proposed dwelling without giving rise to detrimental impacts on residential amenities. In addition, from an economic aspect, the construction of a new dwelling would provide much needed jobs for local people, and there would also be a modest economic benefit from the purchase of materials. Occupants of the property would contribute to the local economy through the purchase of goods, their employment and involvement in community activity. The social aspects of new housing are embedded in the Framework, which states that *"supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's need and support its health, social and cultural wellbeing"*.
12. In addition, it is argued that the environmental objectives would be met by the proposed dwelling being built to current Building Regulations standards which embed positive measures to reduce carbon emissions and energy usage; and would offer opportunities to provide an environmentally sustainable development through the incorporation of renewable energy provision (including air source heat pumps), and would be constructed utilising water efficient taps, showers and toilets, and energy efficient white goods. Biodiversity improvements could be provided in terms of the provision of log piles, swift bricks and bird boxes on the site which would actively encourage biodiversity on the land. Thus the proposal offers environmental gains. The appellant therefore maintains that the economic, social and environmental objectives of sustainable development are met by this proposal.
13. Furthermore, Framework paragraph 120 is also pointed to, which states that *"Planning policies and decisions should: c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land; d) promote and support the*

development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively". However, the appeal site is not a brownfield site 'within a settlement', or even 'adjacent to', is not 'despoiled, degraded, derelict, contaminated or unstable land', and nor do I regard it as under-utilised. It appears to me that its current utilisation as part of a domestic garden does not suggest a compelling reason in itself to seek additional development, especially when it was not found necessary to allocate additional housing sites within Alresford's settlement boundary in the NP.

14. Some reliance is placed on 3 appeal decisions¹ that are said to demonstrate that a 5-year supply does not amount to a cap on development, that there remains a balancing exercise to be undertaken, and that permission was given in similar circumstances to those in the current case. However, the circumstances in the current case are significantly different to the position in 2018 and 2019 when these appeals were decided. The position now is that there are very recently adopted strategic and more detailed local plans in the form of LPS1 and LPS2, and the ANP that covers the area within which the appeal site is situated. As mentioned in paragraph 4 above, planning applications should be decided in accordance with the development plan unless there are material considerations that indicate otherwise.
15. The position here is clear, Policies SP3 of LPS1, SPL1 of LPS2 and ALRES1 of ANP all guide housing development to within settlement boundaries. The ANP was made just over 12 months ago. Its independent examination will have found that it met the 'basic conditions' that include having regard to national policies and advice contained in guidance issued by the Secretary of State; that making of the neighbourhood plan contributes to the achievement of sustainable development; and the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area. It must therefore be taken that ANP is in conformity with the policies of the development plan and the Framework taken as a whole.
16. Whilst the appeal site is not a great distance from the settlement boundary, I judge that most journeys for everyday living would be undertaken by private motor vehicle. To say that there is potential for foot and cycle journeys into a nearby village centre will apply to many semi-rural situations, and if such arguments were generally successful, the objectives of the policies of the development plan would be overcome.
17. The current circumstance is that the council can demonstrate a satisfactory housing land supply, which has not been challenged. The economic, social and environmental objectives of sustainable development may be met in small part by the appeal proposal, but do not overcome the policy objection. With regard to the environmental objective, although the appeal puts forward mitigating measures in terms of renewable technologies, energy efficient construction, ecological enhancements, etc, these can be expected of any modern development. In any event, an environment downside to the proposal is that I find that, in spite of the degree of screening, it would further encroach on, and be detrimental to, the semi-rural character of the location.

¹ App/P1560/W/18/3195462, APP/P1560/W/18/3218683, and APP/A1530/W/19/3221208

Conclusions

18. In light of the matters discussed, I consider that the appeal site is not a suitable location for residential development because it is contrary to up-to-date development plan policy and because it would further erode the character and appearance of its semi-rural setting. Therefore the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR