



Appeal Decision

Site visit made on 17 January 2023

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2023

Appeal Ref: APP/A1530/W/21/3286095

Land on the east of Whitehouse Hill, Salcott CM9 8HP

- 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 I Lawes (Saltacre Ltd) against the decision of Colchester Borough Council.
 - The application Ref 202790, dated 14 December 2020, was refused by notice dated 6 May 2021.
 - The development proposed is described as the erection of 2 dwellings, associated development and financial contribution towards highways improvements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted, Colchester Borough Local Plan 2017-2033 Section 2 (LP Section 2) was adopted on 4 July 2022. As such, Policies H1, SD1 and ENV1 of the Local Development Framework Core Strategy (2014) and Policies DP1, DP3, DP21 and DP23 of the Local Development Framework Development Policies (2014), referred to in the decision notice, are now superseded by Policies SG1, SG2, DM15, PP1, OV2, ENV1 and ENV2 of the LP Section 2 and Policies SP1, SP3, SP4 and SP6 of the North Essex Authorities' Shared Strategic Section 1 Plan (LP Section 1) which was adopted on 1 February 2021. Therefore, the appeal will be considered against the policies from these recently adopted plans.

Main Issues

3. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

4. The appeal site is an undeveloped field bordered by hedging and adjacent to a group of detached and semi-detached dwellings along Whitehouse Hill and The Street. This group of housing is located outside of the small settlement of

Salcott to the west. The appellant also indicates that the appeal site is 9km from the city of Colchester and 4.4km from the settlement of Tollesbury, to which the Council does not contend.

5. Policy SP3 of the LP Section 1 states that existing settlements will be the principle focus for additional growth across the North Essex Authorities area. As the appeal site is outside of any defined settlement boundary, it would not accord with this policy. Policy SG1 of the LP Section 2 states that growth will be located at the most accessible and sustainable locations in accordance with the spatial hierarchy set out in table SG1. This table lists Salcott under 'Other Villages', where new development will only be acceptable where it accords with policies OV1 and OV2.
6. Policy OV1 of LP Section 2 supports proposals for appropriate new infill developments and developments on previously developed sites within settlements classed as 'Other Villages' such as Salcott. However, the appeal site is located outside of the settlement boundaries of Salcott and is within the countryside. Therefore, Policy OV1 is not relevant to the appeal site or the development proposed. Policy OV2 of LP Section 2 relates to development within the countryside. However, this only offers support to rural exception sites needed to meet local affordable housing needs, which is not relevant to the appeal before me. It also states that residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment. I will consider this matter within the next main issue.
7. Policy SG1 of LP Section 2 also states that development will be focused on accessible locations to reduce the need to travel and supported where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day. Paragraph 79 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include consideration of providing support for local services even in a village nearby. There are very few local services or facilities in Salcott or within close proximity to the appeal site. However, the nearby settlement of Tollesbury has a number of facilities, such as several shops and a primary school. A full range of services and facilities are also available within the city of Colchester.
8. There is a bus stop located in close proximity to the appeal site which is easily accessible by foot. This offers public buses running to Colchester and Tollesbury. However, even for a rural location, these are relatively infrequent and only run for limited hours, particularly at the weekend. Therefore, this service could not be reliably used by the future occupiers of the dwellings to access all the services and facilities they require on a day to day basis and throughout the day. The nearest settlements are some distance from the appeal site and there are no footpaths available to provide safe access to them via foot. The surrounding roads are also relatively busy with fast moving traffic and no dedicated cycle lanes, thereby making cycling an unattractive option for day to day family needs. As such, the future occupiers of the proposed dwellings would largely be reliant on the use of a private vehicle to access the necessary services and facilities, contrary to the objectives of Policy SG1 outlined above.

9. Whilst paragraph 105 of the Framework states that opportunities to maximise sustainable transport solution will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development, the benefit to services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 79 of the Framework.
10. In conclusion, the necessary services and facilities which would be required by the future occupiers of the proposed dwellings would not be readily accessible and two additional dwellings would not provide significant support for local services nearby. Whilst there are some sustainable transport options, such as a public bus, these options are limited and therefore the future occupiers would still largely be reliant on the use of a car to serve their day to day needs on a regular basis. Consequently, the proposed dwellings would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing.
11. Therefore, the proposed development would conflict with Policy SP3 of the LP Section 1 and Policy SG1 of the LP Section 2 as detailed above. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

Character and Appearance

12. The appeal site is currently an open and undeveloped piece of grassland in the Coastal Protection Belt. It is adjacent to a small group of dwellings on the junction between The Street and Whitehouse Hill, referred to by the appellant as Sharlands Row, which are entirely separate from the adjacent village of Salcott. The site is bordered by hedgerows and has a small area of hardstanding adjacent the existing entrance, which is partially occupied by some storage containers. Its largely verdant appearance is in keeping with the rural and open nature of the area and has a positive impact on the character and appearance of the surrounding area.
13. At present the site is highly visible from the road and surrounding viewpoints due to the patchy nature of the existing hedgerow. The appellant has indicated that this is to be improved with additional planting which would obscure some of the appeal site from public view. However, views of the proposed development would still be visible above this hedging and via the proposed entranceway to the properties. The domestication of the site, from the addition of residential dwellings, would therefore be visible within the streetscene and from the surrounding area.
14. Whilst positioned adjacent to existing residential development and their domestic gardens, the proposed dwellings would still infringe on a currently undeveloped site. The development would be located further south than any of the existing built form within Sharlands Row. Therefore, the proposed dwellings would not follow the prevailing pattern of residential development in the area and would intrude further into the countryside than any of the surrounding properties in the immediate area. The domestication of the site would result in the loss of the open countryside and its intrinsic character and beauty, along with the positive impact which the site currently has on the character and appearance of the area.

15. Furthermore, the addition of domestic paraphernalia to the appeal site would further add to its domestic appearance and detract from its current rural nature. Although the built form is limited to approximately a third of the overall appeal site, it is likely that the remaining site would be used as a residential garden. Therefore, the whole site would likely appear residential in nature and could be occupied by outdoor furniture and other garden equipment. Although this would be partially obscured by the boundary hedging, other domestic features, such as parked cars and waste bins, would be visible via the access and therefore contribute to the residential appearance of the site from the public realm. The appellant has suggested that the control of additional domestic development could be secured by condition. However, this would not be sufficient to control the domestic paraphernalia referred to above.
16. I note that the proposed dwellings have been designed to suit the agricultural setting with a high quality design and a farmstead appearance intended to appear comfortable within its surroundings. The Council do not raise any objections in relation to the design of the proposed buildings and I agree with this finding. However, this would not overcome the harm found to the character and appearance of the area from the loss of this open and verdant site and its positive contribution to the area.
17. Therefore, for the reasons given above, I conclude that the proposed development would harm to character and appearance of the surrounding area and would conflict with Policies DM15, OV2, ENV1 and ENV2 of the LP Section 2. These policies collectively seek to ensure new residential development in the countryside respects the character and appearance of landscapes, respects and enhances the character of the site, its context and surroundings whilst ensuring development does not have an adverse impact on the intrinsic character and beauty of the countryside or the landscape and seascape character of the coast.

Other Matters

18. The Council can demonstrate a five year supply of deliverable housing. However, the proposed development would still contribute two additional dwellings to the local housing stock and the appellant states that their delivery is guaranteed. Economic advantages would arise from the construction and occupation of the new dwellings, along with the environmental benefits from the provision of EV charging points and PV roof tiles. The appellant has also suggested that the proposal would provide biodiversity gains which could be secured by condition and highway improvement works which are detailed in the planning statement. However, given the scale of the scheme, any such benefits would be small. Therefore, I do not consider that these factors would outweigh the significant harm to the character and appearance of the area and the environmental harm from the dependency on the use of a car for access to services and facilities.
19. The Council has stated that a development which is likely to have a significant effect or an adverse effect on a Special Protection Area (SPA) must provide mitigation. Although a specific SPA has not been identified, they go on to state within their reasons for refusal, that a proportionate financial contribution has not been secured in accordance with the emerging Essex Coast RAMS requirements. However, it is noted that the appellant has now provided a

unilateral undertaking to secure such contributions and the Council no longer wish to contend this reason for refusal.

20. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.
21. A reason for refusal was also included relating to the failure to provide a legally binding mechanism to secure a range of planning obligations required with the proposed development. The appellant has now submitted a unilateral undertaking in relation to these obligations, which the Council considers adequately addressed the reason for refusal. I agree with this finding and therefore this matter does not form a reason to withhold planning permission.

Conclusion

22. However, the proposed development would not be in a suitable location for new housing and would result in harm to the character and appearance of the area. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR