



Appeal Decision

Site visit made on 8 February 2023

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/A1530/W/21/3288300

Land south of Cooks Hall Road, West Bergholt, CO6 3EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Christopher Barrow against the decision of Colchester City Council.
 - The application Ref 212042, dated 20 July 2021, was refused by notice dated 15 September 2021.
 - The development proposed is erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with only access to be decided. The matters of appearance, landscaping, layout and scale are therefore reserved for future determination. The indicative layout, elevations and floor plans nevertheless show one way that the development could take place.

Main Issue

3. Whether the proposed development would be in a suitable location having regard to relevant development plan policies and the accessibility of services and facilities by sustainable transport modes.

Reasons

4. The appeal site is a triangular parcel of land partly fringed by trees. It lies outside the defined settlement limits of West Bergholt and is immediately surrounded by open land. Within it are the remains of a dwelling. The evidence indicates that this has not been intact since at least 2000 and that the site was previously covered by trees.
5. Policy SP3 of the Colchester Borough Local Plan (Section 1) stipulates that existing settlements will be the principal focus for additional growth. Development will be accommodated within or adjoining them. In setting the spatial strategy, Policy SG1 in Section 2 of the Local Plan aims for growth to be focussed on the urban area of Colchester. The second tier of preferred locations includes Sustainable Settlements of which West Bergholt is one. These have the potential to accommodate further proportionate growth.
6. Policy SS15 of the Section 2 Plan establishes that development proposals in West Bergholt will be required to comply with policies in the West Bergholt Neighbourhood Plan and any relevant Local Plan policies. Neighbourhood Plan

Policy PP9 allocates two housing sites but this does not prevent development elsewhere. Indeed, neither of these policies alter the thrust of those in Local Plan Sections 1 and 2 to the effect that development adjoining existing settlements is not precluded.

7. The appeal site is some 160m away from the settlement boundary. The supporting text of the Section 2 Plan indicates that these are an essential tool for the management of development. Amongst other things, this approach is intended to protect Colchester's rich countryside and to reduce the likelihood of the private car being the sole mode of transport.
8. A marked change occurs along Cooks Hall Road where the built-up area ends. The surroundings quickly assume a strong rural character with narrow lanes, fields, trees and scattered properties as the land drops down the valley side. The proposed dwelling would be located in this setting which determines how it should be described. It would not be "adjoining" the village but part of the countryside beyond and clearly separate from the defined settlement. Given the distance to the boundary and the nature of the intervening land, the proposal would not be closely related to West Bergholt and should not be treated as adjoining it.
9. West Bergholt has a good range of local facilities as highlighted in the Neighbourhood Plan. In particular, the appeal site is 300m from bus stops which provide a reasonable and regular service to Colchester and within 870m are a convenience store/post office, doctors surgery and village school. There are no pavements along Cooks Hall Road which is unlit. However, it is a no through road, lightly trafficked and well used by walkers. Although not ideal, the nature of the route would not necessarily deter future occupiers from walking or cycling to local facilities or from accessing the buses.
10. The shop and other main facilities, including the bus stops, are at a distance that many people would be willing or able to walk to. It is therefore feasible that not all journeys would be made by car. Policy DM21 of the Section 2 Plan indicates that all new developments should seek to enhance accessibility for sustainable modes of transport. The National Planning Policy Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, even in this context, the proximity of the destinations and the ability to undertake travel by sustainable modes are not of the highest order. Therefore, this does not override the finding that the proposal would not be physically adjoining the settlement.
11. Overall the proposed development would not be in a suitable location and would conflict with Policy SP3 of the Section 1 Local Plan and Policy SG1 of Section 2. Furthermore, it would intrude into the countryside which would be at odds with one of the aims of those policies.

Other Considerations

12. At application stage a third party commented that the original house was built in the 1800s and damaged by bombs in the 1940s. There is also a suggestion that the remnants have been built up in recent times but none of this can be verified. The appellant does not claim that the site is previously developed land as defined by the Framework. Indeed, the remains of the permanent structure have blended into the landscape. Whilst there has previously been a building on the site, this is historic and not a good reason to set aside current

- policies regarding the location of housing. The brick upstands are not particularly unsightly or prominent and so do not justify the proposal on the grounds of visual improvement.
13. Planning permission for two dwellings has been granted on appeal outside the settlement boundary at both 155 and 179 Colchester Road (Refs: APP/A1530/W/19/3225095 & APP/A1530/W/21/3267347). Whilst concluding that the sites were suitable for housing with reasonable or good access to services, facilities and public transport, neither Inspector expressly considered whether they were “adjoining” the settlement. Furthermore, both appear to be located within small clusters of development. As such, they can be distinguished from this proposal.
 14. Other appeal decisions have also been provided. However, no two situations are alike. The only other case referred to in West Bergholt is at Armoury Road (Ref: APP/A1530/W/18/3211685) where the Inspector decided that the site was adjoining the settlement. That is not so here.
 15. The Council has given permission for use of Horsepits Barn as a single dwellinghouse. Reference is also made to other conversions in the area. However, as well as the possible availability of permitted development rights, the policy approach to the re-use of an existing building is likely to be different to that for a new build. This is indicated by paragraph 80 of the Framework. That decision does not, therefore, justify the proposal.
 16. The proposed dwelling is said to be intended as a retirement home for the appellant’s parents. There is no detail about their circumstances and the identity of any future occupiers cannot be guaranteed. This matter can therefore only be given limited weight.
 17. The proposal would add to the local housing stock and potentially could provide a smaller property suitable for retired people. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, the Framework seeks to address the needs of groups with specific housing requirements. However, the final form of the dwelling is not fixed and the contribution to overall supply would be modest.
 18. There are representations in support of the proposed dwelling for a local family. These have been taken into account and addressed as necessary. However, none of these other considerations, as well as the location of the housing allocations at West Bergholt, outweigh the harm that would occur by undermining the spatial strategy for Colchester.

Other Matters

19. The appeal site is within the zone of influence of the ecologically rich and diverse Essex Coast habitats sites. The proposed dwelling would be likely to increase recreational disturbance at these sites as future residents would be liable to travel to them. In combination with other development in Colchester, the proposal would therefore lead to a likely significant effect on the designated features of the habitats sites.
20. The unilateral undertaking dated 10 September 2021 secures payment towards habitats sites mitigation in line with the adopted Recreational Disturbance Avoidance and Mitigation Strategy. However, given that the appeal is to be dismissed, there is no need to consider whether this would be effective or to

undertake an appropriate assessment under the Conservation of Habitats and Species Regulations.

21. The Council expects new development to provide, or contribute towards, the provision of community facilities to meet the needs of new and expanded communities and mitigate impacts on existing communities. The unilateral undertaking includes such a contribution and also one towards open space, sport and recreational facilities. However, it is unnecessary to address whether these obligations are necessary to make the development acceptable in planning terms, as the appeal will be dismissed.

Conclusion

22. The proposed dwelling would not be in a suitable location having regard to relevant policies. There are no material considerations that warrant reaching a decision other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR