

Appeal Decision

Site visit made on 17 February 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2023

Appeal Ref: APP/A1530/W/22/3295336

Land west of High Acre Farm, Tey Road, Aldham, Essex CO6 3RX

- 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 C Browning-Smith against the decision of Colchester Borough Council.
 - The application Ref 213532, dated 17 December 2021, was refused by notice dated 1 March 2022.
 - The development proposed is to change the use of land from agricultural to recreational/leisure purposes to provide four glamping pod units and associated parking and plant.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The draft Section 2 Local Plan referred to in the decision notice, subsequently was adopted in July 2022. The decision notice refers to some policies from earlier development plan documents with the same number or addressing the same matters as policies included in the now adopted Section 2 Local Plan, which were referred to as draft policies when the decision was taken. Where this occurs I have had regard to the policies from the adopted Colchester Borough Local Plan 2017-2033 Section 2 (2022) as the most up-to-date document, which should be given full weight.

Main Issues

3. The main issues are:
 - the suitability of the location for the proposed development, with particular regard to the effect on the character and appearance of the appeal site and surrounding area, and whether visitors would have adequate access to services, facilities and attractions without undue reliance on private vehicle use;
 - the effect on highway safety; and
 - the effect on a veteran tree.

Reasons

Suitability of the Location

4. The appeal site is an open field on the northern side of Tey Road within the wider agricultural holding of High Acre Farm. The site has a frontage and access onto Tey Road and is enclosed by hedgerow and trees. The wider area comprises open agricultural land with sporadic farm buildings and areas of woodland.
5. The site is located outside the defined settlement boundary for Aldham which lies to the east and, therefore, in policy terms is within the countryside. Policy ENV1 of the Section 2 Local Plan states that development will only be permitted in such locations where it would not adversely affect the intrinsic character and beauty of the countryside and complies with other relevant policies. Policy DM5 of the Section 2 Local Plan, concerning tourism and leisure, requires that proposals should be appropriate in scale and function to the surrounding area and be accessible by a choice of means of transport.
6. The appeal site lies within the Great Tey Farmland Plateau as defined in the Colchester Borough Landscape Character Assessment. The description of this area as '*gently sloping farmland plateau consisting of a mixture of medium to large-scale enclosed, predominantly arable fields with small nucleated settlements and scattered farmsteads*' was readily apparent from the site inspection. The site is a medium-sized field within a surrounding landscape that is characterised by its openness, rural tranquillity and lack of built development.
7. The glamping pods are relatively small structures and their siting away from the road frontage with additional landscaping is intended to minimise their visibility within the rural setting. Nonetheless, given the absence of any built forms on the site or within the surrounding landscape, except for the characteristic small farmsteads and settlements, the pods would be sited within a highly open setting.
8. The proposal includes a new access road running from the site frontage to a parking area on the site's western boundary. This would introduce new areas of hardstanding and would enable up to five cars to park openly on the site. I accept that the material for the hardstanding could mitigate some of its effects in terms of the change from grassland. However, the presence of parked vehicles combined with the hardstanding and pods would urbanise the rural setting, introducing incongruous and uncharacteristic features into the otherwise open and undeveloped landscape.
9. It was unclear at the time of the inspection whether the field was in agricultural use. Nonetheless, there would be a greater intensification of use resulting from the appeal proposal in terms of both on-site structures and parked vehicles, and vehicle movements to and from the site. Consequently, the proposal would adversely affect the intrinsic character of the countryside, contrary to the development plan.
10. There is some screening to the road frontage, but the proposal would be particularly visible as a result of the open access and more so when vegetation is not in leaf. Additional planting that might be considered to screen the proposed use would not in my view be appropriate given the largely open character of the surrounding landscape. Moreover, such planting should not be viewed as desirable simply to conceal an otherwise harmful form of

development. Reference is made to the unsuitability of alternative locations for the proposed use. However, this matter cannot have a direct or determinative bearing on the appeal proposal, which I am required to consider on its merits in the location proposed. The fact that the proposal provides an alternative to hotel accommodation, some of which recently has closed in the vicinity of the site, does not outweigh the above findings.

11. Turning to accessibility, Policy DM5 requires tourist-related development to be accessible by a choice of means of transport, while the previous development plan policy on this topic, DP10 of the Development Policies document (2010), allowed greater flexibility by recognising that where public transport accessibility is poor, proposals should be small scale as is the case here. While this policy has been superseded by Policy DM5, the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making¹.
12. Visitors to the site are likely to require access to facilities for practical needs, such as food shops, restaurants or public houses, as well as to visitor attractions. Aldham is some 11 minutes away on foot, but has a limited range of facilities that are unlikely to meet visitors' needs. Charitable and other events associated with the local church or the village hall are unlikely in my view to be attractions for visitors to the appeal site. Moreover, I agree with the Council that the road conditions, with no footpath or lighting and national speed limits, are not conducive to walking or cycling. No further evidence is provided with regard to the nearest facilities to meet day-to-day needs and I am not aware of public transport provision near the site.
13. In terms of visitor attractions, the appellant refers to a number in the vicinity of the site, including Colchester Zoo and the East Anglian Railway Museum. However, in the absence of public transport provision, the predominant form of travel will be by private vehicle, including longer journeys to reach attractions beyond the immediately surrounding area. The public footpath network in the area provides some opportunities for rural walks, but given the distances involved, would be unlikely to provide access to particular facilities or attractions.
14. Therefore, based on these findings, visitors to the site are likely to be almost entirely reliant on private vehicle use during their stay, including for longer journeys to attractions outside the immediately surrounding area. As such, despite the recognition in the Framework that there may be fewer opportunities to access sustainable transport in areas such as this and the fact that only four pods are involved, in this regard the proposal would not represent a sustainable form of rural tourism.
15. Accordingly, taking the above findings as a whole, I conclude that the appeal site is not a suitable location for the proposed development. This is due to the unacceptably harmful effect on the character and appearance of the appeal site and surrounding area, and because visitors would rely unduly on private vehicle use to access services, facilities and attractions. Consequently, the

¹ Paragraph 105.

proposal is contrary to Policies ENV1 and DM5 of the Section 2 Local Plan, as described above.

Highway Safety

16. The proposal would utilise the existing field access from Tey Road. The Council contends that this might not be in active use, but at the time of the inspection there was a gate in place marking the access point. As such, this existing access could be used, subject to appropriate visibility being achievable in accordance with the Highway Authority's requirements.
17. The access is situated at a point where the road bends northwards. There is good visibility to the east from the site access with a relatively straight stretch of road where the requisite visibility splays could be achieved. To the west, however, there is a sharp bend as the road curves southwards away from the site not far from the field access. This results in a shorter splay being achievable to the west, which impinges on land to the southern side of Tey Road, which is not within the appellant's control.
18. The boundary of the field to the south is currently at a low level and there is evidence that it has remained the same for some time. It is clear from the site inspection, however, that should this situation change, for example through additional growth or other planting to the boundary, this would significantly reduce intervisibility between road users and vehicles leaving the site. Therefore, any changes to the neighbouring land which reduced visibility could result in material harm to highway safety. While many vehicles using the access would turn left towards Aldham, safe visibility must be achieved in both directions.
19. The proposed use would result in greater intensification of vehicle movements to and from the site compared to a former or current agricultural use. This would occur in circumstances where there is no certainty that sufficient, safe visibility to the west could be maintained in perpetuity. Consequently, I must conclude in these circumstances for the reasons given that the proposal would have an unacceptably harmful effect on highway safety, as it would not provide a safe and suitable vehicular access. Therefore, the proposal is contrary to Policies DP1 and DP17 of the Development Policies document (2010), which respectively require creation of a safe and secure environment, and that access to all development should be created in a manner which maintains highway safety. It is also contrary to the Framework, which says that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety².

Veteran Tree

20. A veteran oak tree is located some 20 metres to the east of the site access within the roadside field boundary. Policy ENV1 of the Section 2 Local Plan requires the conservation and enhancement of the natural environment. The Framework says that development resulting in the loss or deterioration of irreplaceable habitats, including veteran trees, should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists³.

² Paragraph 111.

³ Paragraph 180c).

21. The parties, including an interested party, take different views on the potential for the veteran tree to be affected by the necessary works to form the access and related activity. I accept that the recognised guidance on the effects of development on trees caps the root protection area (RPA) of trees in general at 15 metres⁴. However, this does not take account of specific provisions related to veteran trees where recent standing advice from Natural England and the Forestry Commission is that a larger buffer zone may be required to create a minimum RPA⁵. It appears that no assessment of the possible effects of development, in the form of a tree survey or impact assessment, was undertaken to support the application or appeal.
22. Therefore, in the absence of such information, it is unclear what effects the proposal might have on the veteran tree, including whether any possible effects could be satisfactorily mitigated. Consequently, for these reasons, I must conclude that this issue weighs against the proposal as the requirements of Policy ENV1 and the Framework, as described above, are currently not met.

Other Matters

23. I acknowledge that national and local policies reflect the need to promote and support the rural economy and businesses, and that the proposed scheme results from the need to diversify the farm business. I note also that the size and configuration of the field makes it difficult to use for agriculture. National and local policies also promote tourism and I have had regard to the appellant's contention that a limited number of proposals have been approved for this type of development in recent years within the Borough. However, these matters are not sufficient reason to set aside findings of material harm and conflict with the development plan. Furthermore, the Council indicates that the proposals referred to do not bear direct comparison to the locational implications of the appeal site; and, in any case, each proposal must be considered on its individual merits.
24. I have had regard to the representations made by interested parties. These do not, however, raise any additional matters in relation to the main issues that would lead me to reach a different overall conclusion.

Conclusion

25. For the reasons given above, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁴ BS5837:2012 – Trees in relation to design, demolition and construction.

⁵ *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions* – Natural England and Forestry Commission, January 2022.