



Appeal Decision

Site visit made on 25 April 2023

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 7 August 2023

Appeal Ref: APP/A1530/W/21/3287344

Tile House, New Road, Aldham, COLCHESTER, CO6 3PN

- 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 & Mrs N Byford against the decision of Colchester City Council.
 - The application Ref 212418, dated 5 August 2021, was refused by notice dated 5 November 2021.
 - The development proposed is the erection of four detached dwellings, access road, new woodland plantation and additional landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies from the Core Strategy (adopted 2008, revised 2014) and the Development Policies Document (adopted 2010, revised 2014) referred to by the Council in refusing permission have been superseded by policies from the Colchester Local Plan (Section 1 2021/Section 2 2022) (the LP). I must base my decision on the development plan prevailing at the time of my determination. The main parties have had the opportunity to provide submissions in writing on the relevance of the new LP to the case.

Main Issue

3. The main issue is the effect of the appeal proposal on the character and appearance of the area, including its effect on trees.

Reasons

4. The appeal site comprises an area of roadside woodland which lies in front of a dwelling set within substantial and well wooded grounds. The surrounding area comprises well treed and rolling open countryside. The site lies on a gentle downhill incline towards the village of Fordstreet. The site has a verdant and rural appearance as a result of its significant areas of mainly mature coniferous trees, with some mature deciduous trees. The trees within the appeal site area make a significant positive contribution to the rural appearance of the area within views from the public realm due to their maturity, density and their roadside location.
5. The site lies outside any settlement boundary set by the development plan and is consequently in the countryside for local policy purposes. Policy ENV1 of the LP relates to development at such locations, with its supporting text setting out that one of the policy's aims is to protect landscape character, and that

proposals are required to have regard to Colchester's Landscape Character Assessments (LCA).

6. LCAs for the area seek to assist in the evaluation of the effect of a proposed development on the character, value and sensitivity to change of a proposed site and its setting, in order to contribute to the conservation of the area's landscape character. The appeal site lies within LCA Area A5 ("Colne River Valley Slopes"), which is partially characterised by "woodland cover" consisting of "a mixture of small patches and large regular blocks of woodland...which are spread across the valley slopes". The LCA sets a landscape strategy objective to "conserve and enhance" the landscape character of the area, and a landscape management guideline to "conserve and manage existing valleyside woodlands".
7. The submitted plans and my observations at the site visit indicate that the appeal site forms one of the patches of woodland on valley slopes which are referred to in the LCA. As a result, the LCA identifies a landscape characteristic which is relevant to the appeal site. The site is consequently subject to the LCA's above objective and management guideline.
8. The appeal scheme would require the felling of a number of mature trees at the site in order to construct the dwellings and access road. The submitted Arboricultural Impact Assessment categorises the majority of these as "C1" or low value trees, generally with a life expectancy of less than ten years.
9. However, it does not follow that the limited longevity of some of the existing trees provides support for the site's development, as trees which have come to the end of their life or which present a potential hazard could be replaced. Such a scheme of management would allow for the conservation of the positive contribution which the site's woodland makes to the appearance of the area.
10. A Landscape and Visual Impact Statement (LVIS) is submitted in support of the proposal. The LVIS concludes that the magnitude of change resulting from the removal of the patch of woodland would be medium, producing a moderate adverse effect following construction which would be neutral once new planting was established.
11. One of the LCA planning guidelines is to ensure that new woodland planting is designed to enhance existing landscape character and that species composition reflects local provenance. Nevertheless, the relevant valleyside woodland cover characteristic and management guideline within the LCA do not differentiate between deciduous and coniferous tree species. Thus, whilst it is submitted that deciduous vegetation characterises the area in the main, the LCA places no less reliance on the contribution of coniferous trees to landscape character than that of deciduous trees. Similarly, although the site is not considered to hold ancient woodland, there is nothing to suggest that this absence should automatically reduce any positive contribution which the site is considered to make to the appearance of the area. Thus, the LCA does not provide support for the proposed removal of the coniferous woodland at the site in this regard.
12. The LVIS considers the effect that the removal of existing trees at the site would have on the underlying landscape character and quality relatively briefly. However, as set out within the LCA, trees within the site are one of several areas of woodland which, collectively, form a key characteristic of the local

- landscape character. Their loss would consequently erode this characteristic wider landscape feature.
13. A number of views of the site from publicly accessible points within the zone of theoretical visibility are possible from surrounding high ground. These generally lie to the south and east of the site. The LVIS identifies that the proposal would have some neutral or slight-moderate adverse visual effects from these within the first year of the development. It concludes that these could be acceptably reduced to a neutral or insignificant effect within several years, as a result of the potential for a planting scheme to mitigate these effects over time.
 14. The proposed new planting at the roadside would provide the majority of the screening which is relied on as mitigation. Nevertheless, this planting would take many years to become fully mature, so that screening would not be maximised for a substantial period of time.
 15. Moreover, the proposed roadside planting lies relatively close to the rear elevations of the proposed dwellings, and to the south of their gardens. Irrespective of the ownership of the proposed trees, given their proximity and location in relation to the proposed dwellings and gardens, there is likely to be pressure from occupiers to alter or remove them. This may be difficult for authorities or landowners to resist where safety or damage to property are at issue, although there is no dispute that the new planting would allow for sufficient daylight and sunlight to the new properties. Furthermore, the proposed planting would lack the density of the current woodland, increasing the visibility of the site. In view of these considerations, it is likely that at least partial views from a limited number of publicly accessible points would include the substantial two-storey built form of the development over an enduring period.
 16. Thus, the proposal would erode the significant positive contribution to the rural appearance of the area which is made by the trees which would be felled. Replacement planting would be likely to make a permanent lesser contribution to the area's appearance than existing woodland, for the above reasons. The scale of the new residential development proposed would give rise to a development of a suburban appearance in a more prominent location than the established host dwelling. This would conflict with the prevailing well treed and rural appearance of the surrounding area.
 17. In seeking to remove the existing block of woodland and to replace it with a significantly smaller area of planting the proposal additionally fails to accord with the LCA landscape strategy objective to "conserve and enhance" the landscape character of the area, and its landscape management guideline to "conserve and manage existing valleyside woodlands".
 18. The proposal would consequently cause unacceptable harm to the character and appearance of the area, including its effect on trees. It consequently conflicts with Policy ENV1 of the LP, which states that the planning authority will conserve and enhance Colchester's countryside. Further conflict exists with Policy DM15 of the LP, which requires development proposals to respect and, wherever possible, enhance the character of the site, its context and surroundings in terms of its landscape qualities. Additional conflict exists with Policy SP7 of the LP, which states that all new development should respond positively to local character and context to preserve and enhance the quality of existing places and their environs.

Other Matters

19. Planning permission for the erection of two properties was previously granted at the site on appeal¹. Whilst I note the reasons for that decision, the scheme differed in significant material ways from that currently proposed, including the number of dwellings proposed and its location behind the retained coniferous woodland, so that it attracts only minimal weight in the consideration of the current scheme.
20. The appeal site lies within the zone of influence of a European site, the Colne and Blackwater Estuaries (the SAC). A planning obligation which seeks to provide contributions in respect of habitats sites mitigation, community facilities, open space, sport and recreational facilities is provided with the appeal. However, there is no need for me to consider the effects of the appeal proposal on the SAC or to look further at the planning obligation, because the scheme is unacceptable for other reasons.

Planning Balance

21. Any compliance with the prevailing design of residential development in the vicinity and highway safety policies are neutral matters which do not attract weight.
22. The Government's objective is to significantly boost the supply of housing and the proposal would provide four modern homes in a location with some access to public transport. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment. Furthermore, occupiers of the development would be likely to support local services and facilities. There is some potential for biodiversity enhancement measures within the development. Given the small scale of the proposal, these benefits attract limited weight.
23. Conversely, the proposal would cause unacceptable harm to the character and appearance of the area. This matter attracts significant weight and outweighs the limited benefits associated with the proposed development.
24. The proposal would therefore conflict with the development plan and there are no other considerations that outweigh this conflict.

Conclusion

25. For the reasons outlined above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR

¹ APP/A1530/W/16/3156407