



Appeal Decision

Site visit made on 15 August 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/W1525/W/22/3304588

**Land East Of Rye Cottage, Larks Lane, Great Waltham, Chelmsford
CM3 1DT**

- 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 Dawson against the decision of Chelmsford City Council.
 - The application Ref 21/02389/FUL, dated 6 December 2021, was refused by notice dated 10 February 2022.
 - The development proposed is proposed erection of two residential dwellings and associated works including a new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A planning obligation under s106 of the Town and Country Planning Act 1990 (as amended) has been submitted to secure contributions towards the delivery of the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy 2018 – 2038 and the visibility splay to serve the proposed access. The Council has confirmed it no longer seeks to defend the fourth and fifth reasons for refusal as the submitted planning obligation addresses those reasons.
3. The appeal was also accompanied by a Preliminary Bat Roost and Barn Own Assessment which the Council has confirmed addresses the seventh reason for refusal. I have no reason to disagree with the conclusions regarding reasons five and seven. I will return to Habitats Sites in due course.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area, including the effect on the setting of nearby listed buildings; and
 - whether the site is a suitable location for development with particular regard to access to services by means of transport other than the private car.

Reasons

Character and Appearance

5. Development along Larks Lane in proximity to the site consists of dwellings which present a wide frontage to the street. They are set in large, well-defined plots with much of this definition provided by landscaped boundaries between

buildings. Despite this, the overall scale of the dwellings is typically modest, due to either their height or limited depth. This gives the narrow lane in the vicinity of the appeal site, a restrained, rural appearance which is reinforced by glimpses through to the surrounding countryside.

6. The narrow gap between the proposed dwellings would result in them appearing crammed onto the site, contrary to the generally spacious pattern of development around the site. This would be exacerbated by the lack of definition between the proposed plots. While this may only be apparent in relatively short views of the proposed dwellings, it would nonetheless be uncharacteristic. Consequently, the proposed development would appear incongruous and at odds with the established rural character and appearance of this part of Larks Lane.
7. The character of Larks Lane changes markedly to the west of Rye Cottage. Buildings are generally more substantial in scale and with a less pronounced relationship to the road due to the open space or gardens to the front of dwellings. This, along with the wider layout of development around the central open space gives this area a character more aligned to a rural settlement than a rural lane. As such, analysis of the gaps between dwellings further along Larks Lane does not alter my conclusion of a harmful effect on the character and appearance of the area. The appellant has directed me to previous decisions¹ within the settlement, however I do not have full details of those applications, the policy context in which the decisions were taken or the Council's reasons for reaching those decisions. In any event, this appeal must be determined on its individual merits.
8. The appeal site is a small gap in the otherwise built up frontage along the south side of Larks Lane and it is not in dispute that the proposal would constitute infill development. Development of the site would be undoubtedly urbanising to its character and would be of greater scale than the existing very limited development on the site which is largely overtaken by landscaping at the present time. However, in isolation of the concerns I have identified above, the scale of the proposed dwellings would not be disproportionate to the plots in which they would be set. The Council has not expressed any concern at the design of the proposed dwellings in principle and I have no reason to disagree particularly given the broad range of house designs in the surrounding area. Suitable landscaping to integrate the development with the countryside to the rear could be secured by condition. However these would be expected of any well designed development and would therefore be neutral.
9. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. 1 and 2, Larks Lane is Grade II listed. Its significance, insofar as it relates to this appeal, is derived from its architectural interest as a C18-C19 pair of cottages designed in the vernacular of the area using distinctive materials.
10. The site forms part of the setting of the listed building due to its proximity and is neutral at present due to the very limited extent of the development within it. The proposed dwellings would occupy a set back position within the site,

¹ 10/01849/FUL and 16/00026/FUL

with a ridge height no higher than that of the listed building and would present the short side elevation to it. The general relationship of the proposed dwellings to the street would continue the residential nature and broad pattern of development that provides the setting of the listed building at present.

11. While the proposed dwellings would be clearly modern in appearance, the range of dwelling type and materials within the setting of the listed building is such that the proposed dwellings would not harm its setting. The single storey side extension would be limited in height and would be set back from the front elevation. While it would bring the proposed dwellings in closer proximity to the listed building, the effect would be mitigated by the intervening garage serving the listed building. Notwithstanding my findings above, the proposed development would have a neutral effect on the special interest of the listed building. As this does not equate to harm, I do not need to consider the requirements of paragraph 202 of the National Planning Policy Framework (the Framework).
12. The harm I have identified to the character and appearance would not be outweighed by the other factors I have considered. Consequently, the proposed development would have an adverse effect on the character and appearance of the area, contrary to Chelmsford Local Plan (2020) (LP) Policies DM8 and DM9 which, taken together and amongst other things, require infill development in the rural area to not detract from the existing character and appearance of the area.

Suitable Location

13. There is a public house nearby, but no other services to meet day to day needs have been brought to my attention. There are options which would provide safe routes for walking and cycling to surrounding settlements which offer more services, albeit likely only in clement weather conditions and in daylight. A considerable degree of reliance on the private car would therefore remain.
14. However, there are more than 40 dwellings within the settlement, making it of a reasonable size. Additional residents could support the existing public house. Although limited, there are options for other modes of transport and paragraph 105 of the Framework does acknowledge that opportunities to maximise sustainable transport solutions do vary between urban and rural areas.
15. I therefore conclude that the proposed development would be in a suitable location and would not fail to represent sustainable development in principle as defined by Section 2 of the Framework.

Other Matters

16. Permission was granted for two dwellings² and the evidence before me sets out that permission would lapse on 6 May 2023. I have no evidence before me as to whether that development has been implemented. It has also been submitted that a further application for the site has been submitted³ that is 'effectively identical' to the previous approval however I am unaware of the current status of that application. I therefore cannot be certain that a fallback position exists. However, on the basis of the approved site plan shown in the Design and Access Statement, even if it were the case that permission

² 19/01261/FUL

³ 23/00365/FUL

remained extant, it would not result in the harm I have identified to the character and appearance of the area above. As such, it would not weigh in favour of the appeal.

17. There would be a benefit arising from the delivery of two additional dwellings even though the Council can demonstrate a five year supply of housing land. There would also be associated economic benefits of development during the construction and occupation stages. Biodiversity enhancements could be secured by condition. However, these benefits would be limited given the small scale of the proposed development.
18. The proposed dwellings would provide acceptable living conditions for future occupiers and would not have an adverse effect on the living conditions of neighbouring occupiers. Suitable visibility to allow vehicular access to the site could be secured. There would not be an adverse effect on protected species. These also would be expected of any well designed development and as such are neutral.
19. The site is located within the Zone of Influence for the Habitats Sites within the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy, which are subject to pressures from recreational disturbance. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the Habitats Sites. However, given my findings above, it has not been necessary for me to pursue this issue further. A finding that the proposal would not have an adverse effect on the integrity of the SAC, with or without any mitigation, would be at best a neutral matter.

Conclusion

20. I have found the appeal proposal would have an adverse effect on the character and appearance of the area. While I have not found harm with respect to the effect on the adjacent listed buildings or any other harms, these would amount to neutral factors and would therefore not outweigh the harm I have identified.
21. The proposed development would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight to indicate the decision should be made otherwise. Therefore, the appeal should be dismissed.

J Downs

INSPECTOR