



Appeal Decision

Site visit made on 5 September 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/A1530/W/22/3306100

Land between The Bungalow and Plovers, Mersea Road, Peldon CO5 7QG

- 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 Karl Mould against the decision of Colchester City Council.
 - The application Ref 220306, dated 2 February 2022, was refused by notice dated 28 July 2022.
 - The development proposed is demolition of an existing building and erection of a detached dwelling on an infill plot.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development would be in a suitable location having regard to the local development strategy;
 - the effects of the proposal on the character and appearance of the area;
 - the effects of the proposal on highway safety; and
 - whether the proposal would support the provision of facilities for sport and recreation and other community facilities.

Reasons

Suitability of location

3. Policy SP3 of the North Essex Authorities' Shared Strategic Section 1 Plan 2021 (SSP) focusses growth principally in or adjoining existing settlements according to their scale, sustainability and role. Reflecting SP3's spatial strategy, Policy SG1 of the Colchester Borough Local Plan 2022 Section 2 (LP) requires growth be located at the most accessible and sustainable locations in accordance with the spatial hierarchy, which ranks settlements in order of their sustainability merits, size, function, and services.
4. Whilst the area surrounding the appeal site is interspersed with development, including dwellings, occasional commercial units and farm buildings, the site is not within a defined settlement within the context of the development plan's spatial hierarchy. The appeal site is therefore located within the countryside for planning purposes.

5. Policy SG1 directs development toward accessible locations to reduce the need to travel, supporting development where a real travel choice is provided and sustainable travel is promoted.
6. The appellant suggests the proposed development would assist in maintaining the vitality of the host rural community and support nearby local services. The nearest defined settlement to the site is the village of Peldon, which offers a good range of service and facilities. The appeal site lies approximately 970m from Peldon's settlement boundary and is therefore physically separate from its built area. The Peldon Rose Inn public house, along with bus stops and a post box, are a modest distance from the appeal site.
7. However, the appeal site is not served by a pedestrian footway and therefore occupants of the proposed dwelling would be poorly located to access services and facilities located at either Peldon village or at the public house. Future occupants would be dependent on the use of private motor vehicles to meet their day-to-day needs.
8. The appellant suggests re-use of existing development on site, such as the areas of existing hardstanding, would have environmental benefits through reducing embodied carbon. However, the existing building on site is understood to be for the purposes of agriculture and therefore does not fall within the definition of previously developed land set out in the National Planning Policy Framework (the Framework). Even if I were to consider the site as previously developed land, Policy SP3 requires such sites be assessed within the broader context of sustainable development, particularly to ensure that development locations are accessible by choice of means of travel.
9. Consequently, the appeal site would not provide travel choice or promote sustainable travel and is not within an accessible location. The appeal site is therefore not in a location prioritised for growth by Policies SP1, SP3, SG1, and SG2.
10. However, the development plan's spatial strategy does not prevent development in the countryside. Policy SG1 permits development in the countryside where it safeguards rural character in accordance with LP Policy OV2. I have considered the effects of the proposal on character and appearance, below.

Character and appearance

11. The appeal site is a rectangular plot at the front of a larger field of grassland. The site lies within the Feldy Drained Estuarine Marsh landscape character area, which is characterised by its open, low-lying, drained landscape consisting of a mixture of arable cultivation and coastal grazing marsh. Development of the site would therefore result in the loss of a small area of land which contributes to this open, agricultural landscape.
12. The existing agricultural barn located on the site is half cylinder shape with a relatively low height and small footprint. The area of hardstanding at the front of the building is relatively small, and therefore the majority of the site comprises open grassland. The proposed dwelling would be a family home which would be designed to reflect locally relevant rural character. However, irrespective of whether the detached garage is omitted at the reserved matters

stage, the proposed development would result in a significant increase in the scale of development on the site.

13. The site is situated between existing dwellings. The proposal would consolidate development through filling in a gap between dwellings on the south side of Mersea Road and would therefore have an urbanising effect on the site and character of the area.
14. The proposal would include a landscaping and planting scheme. However, through increasing development on the site, the proposal would result in a loss of the grassland identified as important to the landscape character and would reduce established and mature vegetation at the site's boundaries which contributes a natural appearance to the site.
15. For these reasons, the proposal would have an adverse effect on the character and appearance of the area. The proposal would therefore conflict with LP Policy OV2 which permits development in the countryside only where it would respect the character and appearance of landscapes.
16. In addition, the proposal would be contrary to LP Policies SP7 and DM15 which requires development to respond positively to local character and context and LP Policy ENV1 and ENV2 which together seek to conserve and enhance the intrinsic character and beauty of the countryside.

Highway safety

17. The appeal site has an existing gated access to Mersea Road, set back slightly from the carriageway edge. The proposal indicates the access would be relocated by a short distance toward the centre of the site's frontage. The proposed development would therefore result in an intensification of vehicle movements to and from the site.
18. During my site visit, traffic appeared frequent and fast moving along this stretch of Mersea Road. Visibility along the carriageway is constrained in each direction due to the curvature of the road and by mature vegetation close to the carriageway's edge on land beyond the boundaries of the appeal site and outside the appellant's control. Visibility from the location of the proposed access would remain highly constrained. Visibility splays are not annotated on the submitted plans and therefore the proposal fails to demonstrate that adequate visibility would be achieved.
19. There are established accesses serving existing dwellings on either side of the plot. However, due to the road alignment and established hedgerows and trees, existing accesses do not appear visually prominent over any significant distance and their presence does not appear to reduce the speed of passing traffic. Consequently, I do not consider the presence of other nearby accesses would ensure the proposed access would achieve an adequate standard.
20. As set out above, the proposal would not provide a suitable vehicular access and would therefore harm highway safety. The proposal would conflict with LP Policy DM21, which requires access to all development maintain the safe passage of all highway users, and LP Policy DM15 which require development proposals to demonstrate they create a safe, resilient and secure environment.

Sport and recreation and community facilities

21. Paragraph 55 of the Framework requires planning decisions to consider whether otherwise unacceptable development could be made acceptable through the use of planning obligations.
22. The Provision of Community Facilities Supplementary Planning Document (SPD) (2009, updated 2013) recognises the importance of community facilities to the well-being of residents and as a mechanism for building community cohesion and indicates that all residential development should contribute towards the provision of community facilities. In addition, the Provision of Open Space, Sport and Recreational Facilities SPD 2006 considers that all new residential developments of one or more dwellings will impact on sport and recreation provision. These contribution charges are calculated based on the number of new dwellings proposed and the size of each dwelling expressed by the number of bedrooms.
23. The appellant refers to government's Planning Practice Guidance¹, which states that it is not appropriate to set out new formulaic approaches to planning obligations in supplementary planning documents, as these would not be subject to examination. Whilst the charges represent a formulaic approach, they are not new, appearing to pre-date the development plan policies. Therefore, it is expected such requirements would have been available during the development plan's examination and I have no reason to doubt their validity.
24. The number of bedrooms for the proposed dwelling is not known as the proposal is an outline application. Therefore, the contribution for open space, sports and recreation and community facilities cannot be calculated at this stage. However, both SPDs state that for outline applications, contributions should be reserved through a planning obligation which can be resolved when a detailed application is made.
25. As no legal mechanism to secure such planning obligations has been provided, I must conclude that the proposal would fail to mitigate its effects in respect of the provision of sport and recreation, and community facilities. Consequently, the proposed development would conflict with SSP Policy SP6 and LP Policy PP1 which together require development be supported by the provision of infrastructure, services and facilities that are identified to serve the needs arising from the development.

Other Matters

26. The appeal site is located within the administrative area of Colchester City Council and therefore lies within the zones of influence of European sites on the Essex coast. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) indicates that residential development in this location is likely to have significant effects on European Sites through increased recreational disturbance. The appellant has sought to provide mitigation through a financial contribution toward the Essex Coast RAMS.
27. Where a proposal is likely to have a significant effect on European sites, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires the competent authority to carry out an Appropriate Assessment (AA).

¹ Paragraph: 004 Reference ID: 23b-004-20190901

However, AA is only necessary where the competent authority is minded to give consent for the proposal. Since I am dismissing the appeal for other substantive grounds which result in conflict with the development plan, as set out above, it is not necessary to address the proposed development's effects on European sites in further detail.

28. The proposed development would contribute to the supply of homes in the area, future occupants would contribute to the local economy including through payment of council tax, and the development phase would provide short term support to the local construction industry. Whilst such matters weigh in favour of the proposal, they do not outweigh the harms I have identified above.

Conclusion

29. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR