



Appeal Decision

Site visit made on 20 March 2023

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 7 November 2023

Appeal Ref: APP/A1530/W/22/3291210

Land east of Folley Cottage, Colletts Chase, Wormingford, Essex, CO6 3AU

- 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 F Boggis-Rolfe against the decision of Colchester Borough Council.
 - The application Ref: 213259, dated 19 November 2021, was refused by notice dated 20 January 2022.
 - The development proposed is a change use of land from agricultural to recreational/leisure purposes to provide two lakeside holiday units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision, Section 2 of the Colchester Borough Local Plan 2017-2033 has been adopted (July 2022) (Section 2 LP). Consequently, the development plan for Colchester now comprises the Colchester Borough Local Plan 2017-2033 Section 1 (adopted February 2021) and Section 2 LP. The Council have confirmed that policies from within the Core Strategy (adopted 2008, reviewed 2014) and the Development Policies Development Plan Document (adopted 2010, revised 2014), as mentioned within the Council's decision notice are now superseded in full. I am required to determine the appeal before me with regards to the most up-to-date planning policy. I have provided the parties with the opportunity to address these changes in policy and I have had regard to the comments made in reaching my decision.
3. The appeal scheme seeks a change of use of land to a recreation/leisure use and the provision of two holiday units. The information submitted with the application sets out that the units of accommodation would be on a chassis to enable the structures to be moved. The Council determined the application on the basis that the structures were not operational development. I have determined the appeal on this basis.

Main Issues

4. The main issues are:-
 - i) the effect of the proposal on the character and appearance of the surrounding area, having particular regard to the location of the appeal site within the Dedham Vale Area of Outstanding Natural Beauty (AONB);

- ii) whether the proposal would preserve or enhance the setting of heritage assets; and
- iii) the effect of the proposal on highway safety.

Reasons

Character and appearance

5. The site is located within the countryside, some way beyond any defined settlement boundary and within the AONB. Whilst Section 2 LP Policy DM5 sets out that development comprising visitor accommodation will be supported, it is subject to, among other things, being appropriate in scale and function to the surrounding area and minimising any impact on, and demonstrating how the development could make a positive contribution to neighbouring areas and biodiversity enhancements. It goes on to state that a proposal that is likely to have an adverse impact on the Dedham Vale AONB will not be supported. To this extent, the appeal scheme must therefore ensure that it is compatible with the rural character of the surrounding area and avoids causing undue harm to the open nature of the countryside or designated sites.
6. The appeal site is located within Colchester Borough Landscape Character Assessment Area 7, which includes a sloping valley side topography extending down towards the River Stour together with patches of deciduous woodland and a mixture of arable and pasture fields, ponds and parkland. At this location, built development is not a prevailing characteristic feature within this rural landscape and it is mainly limited to small farmsteads and halls. Overall, there is a strong sense of remoteness and tranquillity away from the road network. The special qualities of the AONB stem in part from the extremely tranquil character of the tributary valley landscape.
7. The appeal site comprises an irregular shaped area of grassland with scattered trees and mature vegetation that extends and wraps partly around the edge of a large pond. A further narrow strip of sloping land which includes a section of Public Footpath (No 32) slopes upwards from the pond towards the end of Collett's Chase where a separate small rectangular parcel of land is positioned to the front of Folley Cottage.
8. The land surrounding the appeal site is predominantly arable and pasture field parcels with mature hedging and pockets of woodland with a cluster of buildings forming part of a farmstead grouping. As such, the area shares some of the key characteristics of the character type and area. The appeal site's strong rural character is an integral part of the characteristics of the wider landscape forming part of the intimate and tranquil tributary valley. Consequently, the appeal site makes a positive contribution to landscape character at this location.
9. Whilst the appearance of the proposed units of holiday accommodation is not before me, even those designed to be sympathetic to the rural character of the area would, when taken together with the proposed amenity block, lighting and the inevitable domestic accoutrements associated with a holiday accommodation use such as outdoor furniture, appear as significant and prominent features that would have an urbanising effect on the appeal site and thereby detrimentally affecting the open rural character of the area.

Furthermore, noise and light emanating from the use of the site would further erode the special landscape qualities of the site's remoteness and tranquillity.

10. Whilst the topography of the land and vegetation would limit the effects of the appeal proposal in longer range views, the appeal site and the activities carried out therein would nonetheless remain conspicuous in public views across open fields from the nearby footpaths. The open and undeveloped setting of these footpaths contributes to the character and appearance of the area and the proposed change of use would harmfully distract from, and interfere with, the rural experience of users of the footpaths as they move through this part of the countryside. The introduction of solar lighting at intervals along the public footpath would be incompatible with its undeveloped and rural character and it would not be offset by reason of it being positioned at a low level.
11. Whilst the existing vegetation and trees provide some screening of the appeal site and additional planting in the form of hedgerow and new woodland would strengthen this position, landscaping would take time to become established and even then, there can be no guarantee that even with good management, the planting would screen the site in perpetuity. The additional planting would subdivide the historic intricate field pattern and once established, its linear edge would be at odds with the simplicity of other planting and it would be likely to obscure views of the pond and inhibit views across the valley. This would be contrary to the principles of the AONB Management Plan. Overall, when viewed from the public footpaths in the vicinity of the site, notwithstanding any additional planting, the appeal scheme would be an uncharacteristic and unsympathetic addition to the rural environment.
12. Given that the area is popular with walkers, as acknowledged by the appellant, the landscape effects I have set out above would be perceived visually by users of the footpaths including recreational users and residents. These individuals would experience some negative visual effect from the loss of views towards and through the site and the change in character of the landscape thus adversely affecting their enjoyment of this area.
13. Additional vehicular movements along Collett's Chase would result in a greater level of noise and disturbance, thus eroding the tranquil and undeveloped character of the intimate tributary valley and diminishing the special qualities of the landscape character area and AONB.
14. Accordingly, I therefore find that the proposal would detract from the character and appearance of the area and thus it would fail to conserve or enhance the landscape and scenic beauty of the AONB. There would be conflict with Section 2 LP Policies ENV1, ENV4 and DM5 insofar as these policies seek to ensure that development does not impact upon and would protect and enhance the factors that contribute to valued landscapes. Similarly, the appeal scheme fails to accord with the aims of the Framework insofar as it requires decisions to recognise the intrinsic character and beauty of the countryside and protect and enhance valued landscapes.

Setting of listed buildings

15. 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 which it possesses.
16. There are a number of listed buildings within the vicinity of the appeal site including the 16th century grade II listed Medieval house of Wormingford Grange and the 18th century grade II listed barn to the North East of Wormingford Grange. The significance of these listed buildings arises from the preservation of their historic building fabric, their historic planforms and from their relationship with the former farmsteads and farming practices in the past.
 17. The Framework defines 'setting' as being the surroundings in which a heritage asset is experienced, the extent of which is not fixed and may alter over time. The immediate setting of the listed buildings is well defined, however, the agricultural fields with their surviving historic field patterns and pockets of woodland are an important element in the setting of these listed buildings, contributing notably to the general spaciousness and tranquillity of the wider area and providing a rural context which forms an integral part of their historic setting. The setting, including the appeal site, provides an appreciation of the interrelationship of the listed buildings with each other as a group and their relationship with the wider landscape, which in turn contributes to the significance of these heritage assets.
 18. Although intervisibility between the appeal site and the listed buildings is limited by reason of the topography of the land and the intervening distance, the appeal site is an important feature within the rural setting of those heritage assets. As outlined above, the use of the site for holiday accommodation with its associated domestic activities would substantially alter the landscape character of the site. By reason of its urbanising effect it would be to the detriment of rural character and compromise the contribution made to the setting of those heritage assets. The proposed parking area would be sited in close proximity to the listed buildings. Whilst the parking spaces are limited in number, a tourist/holiday use is likely to lead to comings and goings that would generate noise and disturbance to the detriment of the tranquillity of the area.
 19. Taking everything into account, the proposed use of the appeal site together with the associated infrastructure, light spill and noise would have a significant harmful effect and influence on the landscape in its local context that the appeal scheme would, overall, detrimentally compromise the setting of the heritage assets. Accordingly, the appeal scheme fails to preserve the setting of the listed buildings and therefore causes harm to the significance of these heritage assets. There would be conflict with Section 2 LP Policies ENV1 and DM16 insofar as these policies require development affecting the historic environment to conserve and enhance the significance of the heritage asset and any features of specific historic, archaeological, architectural or artistic interest.
 20. The harm to the setting of the heritage assets identified would amount to "less than substantial harm". As such, paragraph 202 of the Framework, requires the harm to be balanced against the public benefits of the proposal. Individuals using the holiday accommodation would contribute spending within the local economy, including at the nearby farm shop and public house, and the proposal would generate additional employment for one person. However, whilst an increase in economic activity would be a benefit to the local economy, such benefits would be modest given the limited scale of holiday

accommodation that is proposed. I therefore attach limited weight to the public benefits of the appeal proposal.

21. Moreover, the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. It goes on to state that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In my view, the public benefits identified are limited and they are not of sufficient weight to outweigh the identified harm to which I attribute great weight. Therefore, in addition to the conflict with the policies of the development plan, the appeal scheme also fails to comply with national policy outlined in the Framework which seeks to conserve and enhance the historic environment.

Highway safety

22. The parking area for the appeal site is accessed from Collett's Chase, a private road that is long, narrow and unlit. Public Footpath No. 37 (Wormingford) runs along its length. For the most part, it is a single track lane enclosed on both sides by dense, mature hedgerows and some trees which results in forward visibility being severely constrained in places. A grass verge exists in places along its length, however, these are mainly unmaintained and uneven thus reducing their potential to be used as a point of safe refuge for pedestrians, particularly those with children or restricted mobility.
23. Notwithstanding the presence of a small number of field accesses, there are limited places for vehicles to pass unopposed along its length and there are few areas of safe refuge for pedestrians. Therefore, limited opportunities for two-way traffic exist. By reason of the nature of the route, there is considerable potential for vehicle to vehicle and vehicle to pedestrian conflict.
24. Furthermore, the junction of Collett's Chase with the B1508, Main Road is limited in width and thus fails to enable vehicles to pass each other simultaneously. As a consequence, in the event of a vehicle being positioned at the junction, or close to it, this would necessitate an oncoming vehicle to wait or reverse into the highway to allow the vehicle egressing Collett's Chase to exit the private road. This would be to the detriment of the safety of highway users and the position is further worsened given the lack of sufficient vehicular visibility splays at the junction.
25. I have had regard to the appellant's evidence in the form of Land Registry documentation which points towards the private road being within the ownership of the appellant. However, even if this is the case, there is limited evidence before me and the submitted plans fail to demonstrate how the required visibility splays could be achieved in each direction at the junction. In particular, there is no substantive information to confirm that the appellant has ownership or control of the land and hedgerows to the east of the junction. On the evidence before me, it has not been shown that the existing hedgerow could be cut back sufficiently to provide the requisite visibility splays at each side of this junction.
26. Whilst I have had regard to the appellant's submitted photographs showing the visibility in each direction from the point of the junction with Main Road, I observed at the time of my site visit that the existing vegetation at the back edge of the highway restricts visibility in each direction. Consequently, as I

experienced, a driver needs to edge out into Main Road before gaining adequate views in each direction to allow a vehicle to safely exit the private road into the highway. Similarly, drivers approaching the site are likely to have an obscured view of egressing vehicles such that there is a risk of collision, particularly for those who are unfamiliar with the road network, such as holiday residents and any of their visitors.

27. The number of vehicles likely to be associated with two units of holiday accommodation would be limited. Whilst some trips on foot via the public footpath network to the nearby Farm Shop and Dairy and services would be possible, by reason of the sites' remote and rural location, in my view, it is likely that multiple trips from the appeal site would be undertaken each day to access nearby services, facilities and leisure opportunities. To my mind, notwithstanding that Collett's Chase is already utilised by residential, commercial and agricultural vehicles, the convenience of using a private motor vehicle would lead to a significant intensification of vehicles travelling along the private road and public footpath and utilising the inadequate junction with Main Road. I find that it is unlikely that vehicular trips would be limited to the days of arrival and departure.
28. Accordingly, I conclude that the proposed access arrangements would be prejudicial to the health and safety of users of Collett's Chase and have an unacceptable impact on highway safety. There would be conflict with Section 2 LP Policies DM20 and DM21 insofar as these policies require access to all development to be created in a manner which maintains the right and safe passage of all highway users and safeguards existing routes for walking. In addition, there would be conflict with the Framework insofar as it requires development not to have an unacceptable impact on highway safety, ensure safe and suitable access to all users and requires planning decisions to protect and enhance public rights of way and access.

Planning Balance

29. The appeal scheme would provide accommodation for holidaymakers/visitors to the AONB. However, the contribution to the local economy arising from two units of holiday accommodation would be limited and notwithstanding the nearby farm shop, there are very few services and facilities in the immediate locality that would be supported by the development. To my mind, people would need to travel further afield to access services, facilities and leisure opportunities which would further dilute any benefit to the local economy. Albeit the local area would provide an attractive place for walking and cycling and the presence of the pond may encourage fishing, these activities would not generate a significant amount of spending within the local economy.
30. The appeal proposal would generate one full-time position of employment which in my view would be a modest benefit of the scheme. Overall, the economic benefits that are likely to arise as a consequence of the appeal scheme are limited and therefore I attribute only modest weight to this matter in favour of the appeal proposal.
31. The provision of additional planting, once established, could provide additional habitat capable of being utilised by protected species. However, the extent of any environmental benefit has not been quantified nor has it been established what impact the proposed use would have in enhancing biodiversity. As such, I attach only limited weight to this matter.

32. Overall, whilst there would be some modest benefits that would arise as a result of the appeal proposal these are insufficient to overcome the great weight I attach to preserving the scenic and landscape beauty of the AONB and to preserving the setting and significance of heritage assets. In addition, there would be harm to pedestrian and highway safety. The appeal proposal fails to accord with the development plan and the material considerations in this instance do not justify taking a decision otherwise than in accordance with the development plan.

Conclusion

33. For the reasons given above, I conclude that the appeal is dismissed.

E Brownless

INSPECTOR