
Appeal Decisions

Site visit made on 10 April 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th May 2024

Appeal A Ref: APP/P1560/W/23/3326793

Weeping Ash, Ardleigh Road, Great Bromley, Colchester CO7 7TL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms and Mr C and A Halliday and Wynne against the decision of Tendring District Council.
 - The application Ref is 21/02033/FUL.
 - The development proposed is removal of existing single garage, Construction of 3 bed detached house with separate garage and formation of double garage to Weeping Ash. (Plot 1).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the appeal form. It more accurately describes the development than that given on the original planning application form.
3. I am dealing with another appeal for a dwelling on a different part of the site at the same appeal address¹ which I have referred to as Plot 2. Although the sites are close together, and similar matters are raised, I have considered each proposal on its own merits. However, because it is for a similar type of development, and the statement of case is similar for both appeals, there is inevitably some duplication of the discussion of the main issues in each decision.
4. A signed and completed unilateral undertaking (UU) made in accordance with section 106 of the Town and Country Planning Act 1990 (as amended) (the Act) was submitted as part of the appeal. It makes provision for the payment of a financial contribution calculated in accordance with the Council's Essex Coast Recreational Disturbance and Mitigation Strategy (2020). It also includes provision for a payment towards public open space in accordance with the Council's Supplementary Planning Document on the Provision of Recreational Open Space for New Development at Hare Green (2008). I consider these matters further in my reasoning below.
5. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this

¹ APP/P1560/W/23/3326795

update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

Main Issues

6. The main issues are:

- whether the appeal site is an appropriate location for the development having regard to development plan policies, and
- the effect of the development on highway safety.

Reasons

Location

7. The development plan for the area comprises the Tendring District Local Plan North Essex Authorities Shared Strategic Section 1 Plan, adopted January 2021 (the TDLP1), and the Tendring District Local Plan Section 2, adopted January 2022 (the TDLP2). Policy SP3 of the TDLP1 sets out the broad spatial strategy for development within the district. It seeks to direct growth to within or adjoining settlements according to their scale, sustainability and existing role within the district.
8. The settlement hierarchy is defined under Policy SPL1 of the TDLP2. The appeal site located is located in Bromley Cross, which is not listed in the hierarchy. Policy SPL2 of the TDLP2 states that outside of defined settlement boundaries, development proposals will be considered in relation to the patterns and scales of growth promoted through the settlement hierarchy and any other relevant policies in the plan.
9. Although Bromley Cross is a small village, and the appeal site, like that of Plot 2 is located between existing dwellings, the aims and objectives of SP3 of the TDLP1 and Policies SPL1 and SPL2 of the TDLP2 seek to attach weight to development in locations that are accessible by a choice of means of transport, so as not to lead to unsustainable developments in remote and poorly accessible locations. Similarly the Framework promotes sustainable transport within paragraph 108.
10. The Bromley Cross Public House is within comfortable walking distance of the appeal site for the average person using the pedestrian footway. Although the facilities, services and events which are undertaken here are limited for everyday needs of future occupiers there are bus services to larger towns of Colchester and Walton-on-the-Naze. I note there are four different routes, some which operate hourly between 07:00 and 19:00, which would be suitable for older children and commuters to access the larger towns for a working week day, as well as Great Bromley. However, the evidence does not show whether these times extend to include later evenings or the weekends.
11. The distances to Great Bromley are not excessive, but I am not convinced it would be safe or attractive for cycling, particularly in the darker winter months and at night. The supporting text to Policy SPL1 advises that smaller rural settlements such as Great Bromley, are the least sustainable settlements, with fewer services and facilities. As such even those who are able to cycle would likely need to travel further afield. Although the scale of the development is

limited and would not on its own or with other small scale development undermine the spatial strategy, overall, I consider that the settlement does not have sufficient access to services and facilities to demonstrate that there are alternatives to the use of the private car that would be adequate to meet the needs of the future occupiers of a separate dwelling.

12. The appellant has referred to other decisions where new housing was allowed outside settlement boundaries. However, the earlier applications do not appear to have been determined under the same development plan context that I must determine this appeal against. Furthermore it appears the council did not have a 5 year housing land supply when it determined all but 20/00547/OUT. However, unlike the other cases, I have not been provided with the full details for that case. I note the similarities in that development was also outside of the village of Great Bromley, but it also provided 30% affordable housing, which this proposal does not. I cannot be certain the same circumstances therefore applied to that permission or the others referred to. Consequently, these decisions have limited bearing on the outcome of this appeal.
13. I acknowledge Bromley Cross is a small village, was included within the settlement hierarchy in 2012 and other small villages of similar size are now included in the smaller rural settlement hierarchy. I note the discussion that the Council considered there was an argument for excluding similarly scored villages entirely from the hierarchy, which highlights the limitations of such settlements to accommodate growth. For those listed in the adopted development plan, the explanation for the inclusion in the refined hierarchy is if it is either the only settlement or the main settlement within an administrative Parish. This approach to represent the core of that community and thus the wider area, to my mind supports the aspirations of the Framework to promote sustainable development in rural areas, where it will enhance or maintain the vitality of rural communities.
14. Therefore although Bromley Cross contains similar levels of services and facilities and has previously been found to be a suitable location for new housing development, it does not mean such development should be exempt from other or current policies designed to direct development to the most sustainable locations. As such, the development plan is relatively recently adopted, and just like the Framework, should be read as a whole.
15. I therefore conclude that the appeal site would not be an appropriate location for the development having regard to development plan policies. The proposal would therefore conflict with TDLP1 Policy SP3 and TDLP2 Policies SPL1 and SPL2 the requirements of which are referred to above. The proposal would also conflict with the Framework where it seeks to achieve sustainable development and its emphasis that the planning system should be genuinely plan-led. The proposal would result in harm in this respect.

Highway Safety

16. In its consultation response Essex County Council as the Highway Authority advises that the B1029 Ardleigh Road is subject to a 40mph speed limit. This is a relatively narrow rural road with white line marking the verge edge. I observed that there was a small narrow footway on the opposite side of the road to the appeal site. Verges on the same side of the appeal site were marginal and dotted with telegraph poles close to the carriageway. Road

markings advising drivers to slow were painted on the carriageway outside Weeping Ash.

17. The appellant considers that the Highway Authority are applying stricter visibility splay requirements to the appeal site than other sites on Ardleigh Road. The Highway Authority have referred to the Design Manual for Roads and Bridges which contains information about national current highway design standards. They also advise that all new accesses and intensification of existing accesses must be designed to current standards.
18. Weeping Ash currently has an established vehicular access to its southern side. The access to property was demarcated by dashed white line road markings, and a second area, shown as 'Existing Vehicular Access' was demarcated in front of an outbuilding to the northern side of the main dwelling, capable of accommodating one or two vehicles. On the evidence before me, Weeping Ash would therefore appear to be served by two access points. As such, the proposed development would make each access the exclusive entrance point for each individual dwelling thereby increasing the intensity of use of them both. Given that the sole access point for Weeping Ash would need to be substantially upgraded to serve this property as a result of the development, I am of the view that this would particularly intensify the use of this access here in terms of resident and visitor use.
19. The appellant has advised that visibility splays of 2.4m x 82m and 2.4m x 120m without encroaching onto land outside the appellants control were produced. I have not been provided with a scale drawing showing the full extent of the visibility splays proposed as well as all dimensions for the proposed site access with the extent of highway coloured as suggested by the Highway Authority in their response of March 28, 2023.
20. I observed that the visibility from the highway edge from the existing access, proposed for use by Plot 1 and the access to Weeping Ash was relatively clear to the north of the site as the alignment of the road was relatively straight. However Ardleigh Road towards the south has a slight curvature. Properties, hedgerows and telegraph poles are sited slightly further forward in this direction, and the visibility of nearside traffic was more constrained. It also appeared to me that visibility splays could possibly cut across adjacent third-party land at the adjacent property to south called Everest and cut across each other. These do or would subsequently include a driveway where vehicles could be parked at any time, as well as where other obstructions to visibility could occur.
21. Even if this is not the case, based on the evidence of the Highway Authority who advise speed survey data demonstrated vehicle speeds travelling past the site were in excess of 40mph in both directions, visibility splays of 2.4m x 120m visibility would be required. The visibility splays would not meet the specified guidance. In terms of highway safety and the aim of minimising the scope for conflicts set out within paragraph 116 of the Framework, and in the absence of local evidence to the contrary, I do not consider that it would be appropriate in this rural setting to lower the extent of the visibility splays. Therefore I cannot be certain that visibility can be achieved within the highway or land in control of the appellant. Where this is not the case the imposition of a planning condition requiring their provision would be unreasonable and unenforceable.

22. There may be other development² approved or being considered whereby shorter visibility splays are acceptable. However, this does not justify development where it has not been clearly shown that visibility splays can be achieved. Furthermore, I have no evidence that the Grange Hall Road outline application has or would be approved, and neither are in the immediate stretch of road as the appeal site.
23. Parking provision appears to be suitable for the size of the dwellings. There is no evidence that the highway authority has concerns regarding manoeuvring within either site. There is no evidence of parking stress in the surrounding area, and cycle parking could be accommodated within the proposed gardens. Notwithstanding the above, it has not been demonstrated within the evidence before me that the proposed access arrangements would be acceptable. The increased use of the access points and substandard visibility splays would increase the chances of a collision.
24. I therefore conclude that the development would have an unacceptable effect on highway safety. This is contrary to CP2 of the TDLP2, where this seeks to ensure there would not be an unacceptable impact on highway safety. Although this reason for refusal refers to Policies CP1, this does not specifically refer to highway safety matters.

Other Matters

25. The Proposed Development is indicated within the appeal documentation to be located within the Zone of Influence of designated sites which are covered by the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS), namely the Stour and Orwell Estuaries RAMSAR and Special Protection Area. The increase in population arising from even a single dwelling, but also in combination with other development projects, can place extra recreational pressure upon the designated coastal site and result in potential disturbance to the features of interest for which the habitat site is designated. The appellant has submitted a UU which includes a contribution towards ecological mitigation. As I am dismissing the appeal for other reasons, I have not taken the matter further.
26. The proposal would nevertheless support the Government's objective of significantly boosting the supply of housing. There would be some social and economic benefits associated with the construction and occupation of the dwelling, including through support for the local community and patronage of services and facilities in Bromley Cross and the wider surrounding area, which is supported by the Framework. However, the extent of these benefits would be limited by the small scale of the development and in the context of the Council's 5-year housing land supply.
27. The site is not located within the Green Belt, AONB or a Conservation Area. There are no listed buildings in the vicinity of the site. The Council does not raise any issues in terms of the design of the proposed development, or the effect on neighbouring living conditions. The living condition of future occupiers has also been identified as being acceptable. Conditions could be imposed to address landscape, biodiversity and energy requirements, and the UU addresses the requirement for public open space. These are all neutral matters that weigh neither for nor against the proposed development.

² Council Reference 17/01706/FUL and 23/00351/OUT

Conclusion

28. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework identifies that the planning system should be genuinely plan-led.
29. I have found that the proposal conflicts with the Council's strategy for the location of new housing. It would also have an unacceptable effect on highway safety. As such, the proposal is in conflict with the development plan taken as a whole and there are no material considerations, including the Framework, which outweigh this conflict.
30. I therefore conclude the appeal should be dismissed.

K Williams

INSPECTOR