



Appeal Decision

Site visit made on 13 May 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal Ref: APP/W1525/W/23/3333442

Pondside Nursery And Yard, Chatham Green, Little Waltham, Chelmsford, Essex CM3 3LE

- 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 Mr and Mrs Andrew Parker (Evergreen Landscapes) against the decision of Chelmsford City Council.
 - The application Ref is 23/00525/FUL.
 - The development proposed is the demolition of existing storage buildings and construction of replacement 3-bedroom chalet bungalow and single cart lodge. To include a new access from the A131 via existing gateway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's appeal statement and the appellant's final comments were submitted after the revised National Planning Policy Framework ("the Framework"), was published. Therefore, both parties have had an opportunity to consider the relevance of the revised Framework to this appeal and would not be prejudiced by me not seeking their views on it.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed dwelling would be in an appropriate location for new housing, with particular regard to the Council's settlement strategy and the accessibility of services and facilities, the effect on local character, and
 - the effect of the proposed development on highway safety.

Reasons

Settlement strategy and accessibility of services and facilities

4. The appeal site is located outside of the Defined Settlement Boundary (DSB) of Chatham Green, which is a defined Small Settlement in Policy S7 of the Chelmsford Local Plan, Adopted May 2020 ("the CLP"). It comprises little more than a public house, a business centre and a cluster of homes. Consequently, the site lies within the countryside for planning purposes, which is defined in CLP Policy S11 as the 'Rural Area'.
5. The evidence suggests that journeys between the appeal site and the settlements of Great Leighs (GL) or Little Waltham (LW), where the nearest

facilities and services are available, would be expected to be along an approximately 2-kilometre stretch of the A131, which is the primary road route between Chelmsford and Braintree. At the time of my visit, I observed a near constant flow of vehicles travelling along the A131 at speeds broadly commensurate with the displayed national speed limit. Whilst only a snapshot in time, my observations are not contradicted by any substantive alternative evidence.

6. The volume and speed of traffic along this stretch of A131, together with the lack of dedicated cycle lanes and very few streetlights, would be expected to deter all but the most ardent, able and proficient cyclists from travelling from the appeal site to GL or LW, even in good weather conditions. Walking journeys to the same destinations would mostly be along the grass verge or within the carriageway of the A131, and therefore hazardous.
7. Bus stops are located on either side of the A131, a relatively short distance away from the appeal site. Based on the appellant's evidence they are served by a relatively frequent bus services to nearby settlements, and larger settlements further away. The walking distance between the appeal site entrance and the nearest bus stop is not great. However, it would necessitate walking along the grass covered verge close to the A131 carriageway and across the road to Chatham Green to reach the footway serving the closest bus stop. The opposite bus stop would require walkers to cross the A131.
8. The verge appeared generally level and increases in width towards LW. However, its grass covering could hide uneven ground and would be expected to become slippery when wet. Together with the closeness of the verge to frequently passing high speed traffic, walking journeys to the closest bus stop would be particularly unattractive for most pedestrians, even in good weather and during daylight hours, and especially for more vulnerable groups such as children and persons with restricted mobility. As such, the bus would not be a realistic or attractive mode of travel for most future occupiers of the proposed development.
9. Consequently, the intended future occupiers of the proposed dwelling would be heavily reliant upon private vehicles to meet most, if not all, of their everyday travel needs. The number of car journeys from a single dwelling would be low and a round-trip to GL or LW would be relatively short in distance and time. Journeys could be made by an electric vehicle thus avoiding carbon emissions. Home deliveries could reduce the need for future occupiers to travel and could also be made by electric vehicle. However, electric vehicle use cannot be mandated, and the need to travel would apply to most future residents.
10. Residents in rural areas are comparably more reliant on car journeys than those in more built-up areas to access the facilities and services likely to be visited frequently. Framework Paragraph 109 acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The appeal site may well be closer to services and facilities than existing homes within the DSB of Chatham Green and other developments in rural parts of the Council's area. However, these considerations do not alter my findings on the accessibility of the proposed development.
11. Limited information regarding the Council's Local Plan review or the methodology of the associated accessibility mapping by Essex Highways, which appears to assess connectivity from broad locations, is before me in this

appeal. As such, they do not alter my conclusions on this main issue which are based on my experiences at the site visit and the policies in the development plan, and the Framework.

12. None of these considerations either individually or collectively provide a justification for new development in locations where occupiers would be heavily reliant on travel by car, with few opportunities for sustainable travel. Consequently, for the reasons above, I conclude that the proposed development would conflict with the elements of the strategic policies CLP S1 and S7, insofar as they focus development at well-connected and sustainable locations to reduce the need to travel and encourage the use of non-car modes. It would also be contrary to the Framework's encouragement to manage patterns of growth and support travel by walking, cycling and public transport as part of supporting sustainable growth in Paragraph 108 and 109.

Character and appearance

13. Development alongside the A131 in the vicinity of the appeal site consists of a very sporadic pattern of buildings, often residential dwellings set close to the road within well planted plots, together with some generally low-key commercial uses. The width and alignment of the A131 gives it a considerable visual presence as it extends through the countryside. However, the planting alongside it, together with the sporadic pattern of buildings, and the greenery and expansive fields on both sides, gives the area a predominantly verdant and spacious rural character and appearance. Whilst not subject to any local or national landscape designations, for these reasons the area around the appeal site has intrinsic character and beauty.
14. In views from the A131 the eye tends to be drawn to the flanking dwellings of Daffodil Cottage (DC) and to a lesser extent Peartree Cottage (PC). These are considerably larger with a greater height and massing than the existing buildings on the appeal site, which are small, low-rise structures of a utilitarian style and materials. As such, the buildings on the appeal site are not readily appreciated, or prominent in views from the road. They allow the backdrop of trees and planting to be seen above them and they provide a visual break between DC and PC, contributing to the pattern of development. Together with an absence of any hard surfaced access to the A131, announcing their presence, these small buildings are not conspicuous in views from the road, and they have little impact on the character and appearance of the area.
15. Although comparable in scale to DC, the proposed dwelling would be a substantial step-up in scale when compared to the existing buildings on the appeal site, with a taller and longer roofline and wide front elevation. As such, it would represent a significant increase in the size and massing of built form on the appeal site, where the pitched roofed dormers would draw the eye to the elevated mass of its roof form.
16. The proposed development would infill the gap between DC and PC with a larger building and consolidate the row of dwellings. As such, it would erode the very sporadic pattern of buildings alongside the A131 and intrude into views across the site towards the backdrop of trees. The site access and hard surfaced turning/parking area would contribute to the spread of development across the site and would have an urbanising effect on the locality. Even if a frontage hedgerow was retained at height, the proposed dwelling would be far

more conspicuous than the existing buildings in views from the A131, and there is no mechanism before me to safeguard hedgerow.

17. Even if items stored at height in accordance with a lawful development certificate¹ granted in 2023 ("the 2023 LDC") were visible above the boundary treatment and existing buildings, the evidence suggests that only a modest area of the appeal site would be covered. As such, it would be a relatively low-key use largely typical of a rural area. Even if it was to spread further across the site than the appeal proposal, it would have a strong visual affinity to the larger landscape contractors' yard nearby, and would be distinct in character and appearance to DC and PC. Whether a lawful use exists on any other parts of the appeal site is not for me to determine through this appeal.
18. Whilst views of the appeal proposal from the A131 would be somewhat fleeting given vehicle speeds, it would nonetheless have an adverse effect on the green and spacious rural character and appearance of the area. As such, for the reasons given above the proposed dwelling would have a greater visual impact on the character and appearance of the area than the existing development, including its lawful uses.
19. For the preceding reasons, the proposal would cause significant harm to the character and appearance of the area, and the intrinsic character and beauty of the countryside. As such, it would be contrary to the elements of CLP Policies S1, S7, S11, DM8 and DM10, insofar as they require development, including redevelopment of previously developed land (PDL), to avoid adverse impacts on the intrinsic character and beauty of the countryside. It would also be contrary to Framework Paragraphs 135.c) and 180.b), which require development to be sympathetic to landscape setting, and to contribute to and enhance the natural environment.

Interim conclusion

20. In taking account of all the above, I conclude on this first main issue that the proposed dwelling would not be in an appropriate location for new housing, with particular regard to the Council's settlement strategy, the accessibility of services and facilities, and would cause harm to the character and appearance of the area. As such, it would be contrary to the CLP Policies in the paragraph above, insofar as they seek to focus development at higher order settlements, and well connected and sustainable locations, and ensure that development, including reuse of PDL, does not result in harm to the character and appearance of the area, and the intrinsic character and beauty of the countryside.

Highway safety

21. There was no obviously identifiable hard surfacing between the A131 carriageway and the appeal site. The appellants have applied for a new vehicle access, and this is the basis on which I have assessed the appeal. It is not for me to determine whether a lawful right exists to use the gated entrance for vehicular access.
22. Given the prevailing traffic conditions on the A131 during my visit, as described above, together with the peak traffic flows stated in evidence, it is highly likely that vehicles approaching the site from the direction of GL would need to wait

¹ 22/01753/CLUED

- stationary in the carriageway for a prolonged period of time for a sufficient gap in the flow of opposing traffic to clear before turning right into the site.
23. A vehicle slowing to a halt and waiting to turn right into the appeal site would pose an unacceptable increase in the risk of traffic braking suddenly to reduce their speeds. Therefore, vehicles crossing the carriageway of the A131, and the GL bound traffic when turning right into the appeal site would significantly increase the risk of rear and side impact collisions between vehicles.
24. Furthermore, vehicles exiting the appeal site and turning right towards LW, would, given the combination of vehicle speeds and traffic flows, have relatively few opportunities to merge into gaps in the flow traffic. The risk of collisions would present serious consequences in terms of the severity of injuries and potentially fatalities given the speeds of vehicles using the road.
25. Although vehicle trips would be low, this would nonetheless be a regular occurrence each day. Drivers using this stretch of road, or the proposed access, will not necessarily be familiar with them. Other private accesses off the A131 are not so numerous along this stretch of road that drivers would reasonably anticipate a stationary vehicle waiting in the carriageway to turn right, particularly as side roads mostly have a dedicated central right turn lane to avoid this scenario.
26. Collision data has recorded no recent incidents in the immediate vicinity of the appeal site. However, this reflects the existing situation and does not take account of future development. Whilst an indicator of accidents over an earlier timeframe, it is not a satisfactory proxy for assessing the safety of the proposed new access. Set against my assessment above, it does not demonstrate that the proposal would be safe.
27. I am not persuaded on the evidence before me that vehicles associated with the occupation of the proposed dwelling would be sufficiently large as to cross the central hatched lines and encroach into the opposing carriageway when turning left into the site. I have no evidence to find that conflicts with vehicles using the field access on the opposite side of the A131, would be anything other than unlikely given its land use. However, these factors do not outweigh the harm I have identified.
28. The layout of the existing access at Sheepcotes Farm prevents right turn manoeuvres to and from the A131. No mechanism is before me to ensure that the proposed access would operate on an equivalent basis. As such it is of limited relevance and weight to my considerations.
29. Taking all the above into account, I conclude on this issue that the proposed access presents a serious risk of collisions between road users in terms of probability and consequence. As such a safe and suitable access to the appeal development would not be provided and it would have an unacceptable impact on highway safety contrary to Framework Paragraphs 114 and 115.

Other Matters

30. The Framework generally supports the reuse of PDL. The CLP seeks to optimise use of PDL, including its reuse in the Rural Areas, subject to other criteria. However, even if the appeal site was PDL in its entirety, it would constitute the reuse of a small area of PDL and would not outweigh the harm and policy conflicts that I have identified above.

31. The appeal proposal would make a small but positive contribution to housing supply and could be developed quickly to use land efficiently. Construction works would generate short term employment opportunities and economic activity. Occupiers would support local facilities and services and contribute to the rural economy. Water and energy could be used efficiently in accordance with Building Regulations. Energy could be generated by renewables. EV charging points could reduce carbon emissions. However, taken together, the economic, social and environmental benefits of the appeal proposal would be small given its scale and even if reusing PDL they attract only modest weight in its favour.
32. There is no substantive evidence to demonstrate that a more intensive use of the appeal site for the uses set out in the 2023 LDC would unacceptably harm the living conditions of nearby occupiers. Road noise was very noticeable on the appeal site and the nearby landscape contractors' yard would be expected to involve some noise generating activities. As such, I am not persuaded that replacing those uses on the appeal site would bring anything more than a limited benefit in this regard.
33. DC is a similar size and style to the appeal proposal, and it replaced a low height commercial building on land subject to outdoor storage. However, the Council's grant of permission for DC pre-dated the CLP and was made under a different policy context. Some broad similarities can be drawn between the appeal proposal and the Council's approval of a dwelling at Bicknacre². However, development proposals are context specific, and the appeal site has no visual or functional relationship with the site at Bicknacre. In any case, I am not bound by decisions of the Council.
34. I have assessed the appeal proposal on the site-specific circumstances 'on the ground', together with the prevailing planning policies and the evidence before me, including the 2023 LDC, and found harm. As such, the decisions of the Council have limited relevance and weight to my assessment in this appeal.
35. The approved Chelmsford North East Bypass would be expected to result in significant visual change, reduced traffic flows and vehicle speeds, and it would provide footpaths and dedicated cycle lanes near to the appeal site. However, it has not been delivered and on the evidence before me I cannot be certain that it will be delivered in the form shown. As such, it is of limited relevance and weight in favour of the appeal proposal.
36. There was a continuous footpath between the nearest bus stop and the appeal site granted planning permission for housing in Warrington³. As such, the circumstances in that appeal, which was for a major scale housing development delivering greater benefits, including helping to address a shortfall in housing land supply, are materially different to those in the appeal proposal before me, and of limited relevance and weight to my assessment.
37. Providing adequate living conditions for future occupiers, satisfactory cycle and car parking, and wheeled bin storage would be requirements of any well-designed scheme. Together with an absence of objections from third parties, they are neutral factors that do not weigh in favour or against the appeal proposal.

² 21/02388/FUL

³ APP/M0655/W/21/3271800

38. The Council's handling of the planning application, including at the Committee meeting, fall outside the scope of my assessment, which is based on the planning merits of the appeal proposal and the evidence before me.

Planning Balance and Conclusion

39. In the context of the development plan, I have found that the appeal proposal would conflict with the Council's spatial strategy and plan-led approach to growth and managing development in the CLP. This seeks to reduce the need to travel and encourage travel by non-car modes, and ensure that development, including reuse of PDL, does not result in harm to the identified intrinsic character, appearance and beauty of the area and countryside. I have found that the appeal proposal would cause significant harm to the character and appearance of the area.
40. These harms bring the development into conflict with CLP Policies S1, S7, S11, DM8 and DM10, and the development plan as a whole. I give significant weight to the conflict with the CLP. The harm to highway safety, in conflict with Framework Paragraphs 114 and 115, also weighs significantly against the appeal proposal. The collective benefits of the appeal proposal weigh modestly in its favour, and even if PDL would be reused, they are insufficient in this instance to outweigh the conflict with the development plan and the Framework.
41. For the reasons given above, the material considerations, including the benefits of the proposal, do not outweigh the conflict with the development plan, nor do they indicate that the appeal should be determined other than in accordance with it. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR