



Appeal Decision

Hearing held on 16 July 2024

Site visit made on 16 July 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2024

Appeal Ref: APP/A1530/W/24/3340735

Scarletts Quality Plants, Nayland Road, West Bergholt, COLCHESTER, CO6 3DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Landhope Estates Ltd. against the decision of Colchester City Council.
 - The application Ref is 230596.
 - The development proposed is Outline application for the phased development of up to 12 self-build and custom housebuilding plots with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was made in outline with means of access to be considered. All other matters are reserved to be considered at a later stage. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before any final document is published and thus carry limited weight. However, the written ministerial statement (WMS) is a material consideration which confirms the direction of travel of Government Policy. The parties have had the opportunity to comment on the proposed changes.

Main Issues

4. The main issues in this appeal are:
 - whether the site represents an appropriate location for the proposed dwellings, having regard to the council's spatial strategy;
 - the effect of the development on the character and appearance of the area;
 - whether the site would provide suitable access to services and facilities, including provision of a footpath;
 - whether the proposal would result in the loss of an employment site;

- whether the proposal would make adequate provision for affordable housing, community facilities; sport and recreation and ecological mitigation.

Reasons

Spatial Strategy

5. The development plan for Colchester City comprises the adopted Section 1 and Section 2 of the Colchester Borough Local Plan (LP).
6. Policy SP3 of the LP sets out the spatial strategy for North Essex with existing settlements being the principal focus for additional growth across the North Essex Authorities area within the Local Plan period. It goes on to state that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
7. The policy sets out that in Section 2 of its Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs.
8. Policy SG1, Section 2 of the LP, sets out the Council's approach for delivering housing, ensuring that developments are directed towards accessible locations and sets out how housing will be delivered with the majority of new development located in Colchester, with a smaller proportion within the villages. It also aims to ensure the character and vitality of villages is sustained.
9. West Bergholt is defined as a sustainable settlement where policy SG1 sets out that most of these settlements are planned for appropriate growth. The West Bergholt Neighbourhood Plan (NP) sets out that the minimum number of dwellings to be provided over the plan period will be 120 and allocates 2 sites under policy PP9 Housing Sites. This policy does not preclude other sites coming forward as the policy sets a minimum and not a maximum number.
10. Policy OV2 sets out that residential development proposals in the countryside will need to demonstrate that the scheme respects the character and appearance of the landscape. It also offers support where there is an identified need for certain types of housing.
11. Policy DM10 states that the Local Planning Authority will support proposals for self-build/custom build housing to meet demand. Proposals will be encouraged both on individual sites and as part of larger schemes, including rural exception sites.
12. Whilst these policies are intended to ensure the protection of the countryside and to ensure housing is located in accessible areas which reduce the need to travel and where a real travel choice is provided, they do not prevent the development of land outside of settlement boundaries and therefore the proposal does not conflict with the Council's overarching spatial strategy.

Character and Appearance

13. There are two elements of the proposal which have the potential to affect the character and appearance of the area, firstly the redevelopment of the site for housing and secondly the introduction of a footpath along Nayland Road.
14. The existing site is predominately covered in glasshouses as well as associated hardstanding and office building. To the rear of the site, and outside of the appeal site, are two black weatherboarded two storey modern buildings which have the appearance of traditional barns. The glasshouses are in a poor state of repair but some are still being used for the storage of plants which are then sold on to nurseries and garden centres.
15. The Colchester Borough Landscape Character Assessment (LCA) describes the Great Horkesley Farmland Plateau, within which the appeal site is located, as having a settlement pattern which consists of a mixture of linear and nucleated settlements, with West Bergholt being described as a large nucleated village, fringed by fragmented orchards to the north. The area is traversed by several relatively straight roads, which are closely related to field and settlement patterns. The assessment also highlights how narrow lanes lined by trees and hedges connect the remainder of the character area with the main north south roads. The LCA further sets out that views from roads within the character area are limited by hedgerow vegetation.
16. The LCA also highlights that the key planning and land management issues are potential pressure from expansion of settlements, including West Bergholt and the visual intrusion from existing glasshouses. The planning guidelines seek to ensure that any appropriate new development responds to historic settlement patterns and conserve the landscape setting of existing settlements, which land management guidelines highlight the need to conserve and enhance the existing hedgerow network.
17. Travelling along Nayland Road towards the appeal site, there is a generally scattered pattern of development which reduces in density once you leave the main part of the village. There are elements of linear development along White Hart Lane and then some loose knit development along both Scarlett's Chase and along Nayland Road.
18. The site currently comprises in-depth development across the site, but the glasshouses are well screened from the road and have limited impact in terms of views from outside of the site. The main views into the site are from the existing access.

Redevelopment of the site

19. The proposal is in outline and details of layout, scale and appearance are not before me. Whilst permission is sought for up to 12 dwellings and a smaller development could be brought forward at reserved matters stage, I must consider the maximum scale of development for which permission is sought. Therefore, I have had regard to the illustrative layout plans which provide an indication as to how the site could be developed at the scale envisaged by the appellant.
20. The appeal scheme would replace the existing glasshouses which extend across the depth of the site introducing residential development beyond the existing

built-up part of West Bergholt. The existing buildings, whilst extending across the depth of the site have limited prominence when viewed from Nayland Road.

21. Having regard to the indicative layout, the development would be served off a single access point with the dwellings arranged around the central spine road which would encircle a central area of open space. The spread of the proposed development across the site would be different than the existing buildings as it will result in the subdivision of the site into smaller plots with the associated parking areas and landscaping, contrasting with the existing lightweight greenhouse structures. Therefore, the visual impact of the proposed development would be greater than that which currently exists.
22. The proposed layout, whilst indicative, demonstrates how at this scale the plots would be closely grouped. The appellant's Landscape and Visual Assessment accepts that the existing landscape is characterised by scattered residential development. Other evidence, in the form of the rebuttal of the Urban Design Objections, indicates that the illustrative layout has a density of approximately 10 dwellings per hectare and this would be similar to other development within the vicinity. However, the comparative residential densities which have been illustrated in the appellant's rebuttal are either within the more developed setting of the village or for those that are shown beyond the settlement boundary are linear forms of development.
23. It follows that the visual impact of the proposed development would be greater than that which currently exists and contrast with the linear pattern of development which is evidenced to the rear of the site along White Hart Lane and as set out in the appellant's rebuttal. This would represent a denser compact form of development, that is more evident within the main part of the village, rather than this edge of settlement location.
24. All these factors indicate that the proposal would result in an urban form of development that is out of character with the rural setting of this part of Nayland Road and would be out of place and harmful to the character and appearance of the area.
25. The Council have also referred me to an appeal¹, on the adjoining parcel of land which lies between the appeal site and The White Hart Public House, for a residential development of up to 10 dwellings. In dismissing the appeal the Inspector set out that the form and character of the proposal would have a significantly harmful effect on the existing area, which was described as being a predominantly rural area with an open rural character of its own. Whilst that site remains an undeveloped open space and the characteristics are different from the appeal site before me, which has been developed with greenhouses and other associated development, my findings are consistent in that a development of this scale would not be appropriate within this predominately rural area.

Proposed footpath

26. The proposal would also require the introduction of a footpath along Nayland Road, which would provide pedestrian access to the services and facilities within West Bergholt.

¹ APP/A1530/W/17/3191363

27. Plans have been provided which indicate a number of options for the provision of the footpath and these have evolved during both the application and appeal process. However, as set out below, I have considered the appeal on the basis of the proposed footpath which has been considered acceptable by the County Highway Authority as providing a safe route for pedestrians.
28. The introduction of a footpath along Nayland Road and a crossing point opposite adjacent to The White Hart PH, would require the removal or trimming of hedgerow in part along both sides of Nayland Road. This would alter the existing character of this part of Nayland Road.
29. However, the proposals include for the replanting of the hedgerow behind the proposed footpath opposite The White Hart PH and this will lessen the visual impact of the proposal. The existing hedge outside of the appeal site will also be retained and trimmed, additional planting could also be secured by condition, if the appeal were to be allowed.
30. Therefore I am content that the introduction of the proposed footpath, would have a neutral impact on the character and appearance of the area.
31. However, having regard to the impact of the redevelopment of the site on the character and appearance of the area, the proposal conflicts with policies SG1, OV2, SP7 and DM15 of the LP in this regard. Together these policies require development to demonstrate that it respects and responds positively to the character and appearance of the area, its context and its surroundings.

Access to services

32. The site is located off Nayland Road which is a 60mph road with no footway connecting it to the services and facilities within West Bergholt, including the public house, shop and school. The verges are relatively narrow and it would be unsafe to walk along the road due to the speed and volume of traffic.
33. As part of the original planning application proposals for a footway to connect the site with the existing footpath network leading into the village were proposed and these are referred to within the officer's report. At the time of the consideration of the application no road safety audit had been prepared and therefore there was a lack of certainty that the footpath could be delivered safely.
34. A road safety audit has identified a number of crossing points would be required and that a footpath could be constructed along both sides of Nayland Road, on highway controlled land. The road safety audit did, however, identify the potential for a ditch to be present which might result in the footpath having to be narrowed at this point to enable it to be constructed.
35. At the hearing Essex County Council's highway officer, confirmed that the revised drawings submitted with the appeal which illustrated the footpath on either side of Nayland Road would be acceptable in highway safety terms, even if it were to be narrowed in part to take account of the possible ditch.
36. The Council indicated that whilst this would overcome their concerns relating to highway safety, the drawings submitted with the appeal should not be considered as part of this decision as they were different to what had been considered as part of the original application.

37. During the hearing I explored whether the drawings had been consulted on as part of the appeal and the Council produced a list of those notified as part of the original application and those that were notified of the appeal and I noted that all interested parties had been consulted, including both those that had and had not commented on the original application.
38. Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. However, I am satisfied that interested parties have had the opportunity to consider the revised proposals for the footpath, the precise details of which would always have been subject to agreement with Essex County Council under a S278 agreement. Furthermore, interested parties would have been aware that a footpath in some form was proposed along Nayland Road as part of the original application.
39. I do not accept the Council's position that those notified of the appeal would not have looked at the plans in detail and would have assumed that the proposals would be the same as those submitted with the application. It was clear from the appellant's statement and supporting evidence that there had been changes to the consideration of the footpath and anyone with an interest in the case would have had the opportunity to view these documents on the Council's website. Therefore, there has been an opportunity to consider the evidence submitted as part of the appeal.
40. In conclusion I am content that there would not be any procedural unfairness in my consideration of the plans submitted, giving further detail on the proposed footpath. The County Council have confirmed that the plans would ensure that the proposal would not prejudice highway safety.
41. The Council have suggested that the site is physically and functionally isolated for the purposes of paragraph 84 of the Framework. The appellant contests the Council's position that the site is isolated and remote from day to day services due to its proximity to the settlement of West Bergholt and the access to a regular bus service operating near to the site.
42. The Court of Appeal² held that the word 'isolated' in the phrase 'isolated homes in the Countryside' simply connotes a dwelling that is physically separate or remote from a settlement. In this case, having regard to the proximity of the site to the settlement and its grouping with other dwellings and public house I conclude that the site is not isolated in the context of paragraph 84.
43. The proposed footpath would provide future occupiers of the site with easy access to the services and facilities within the village. Despite these facilities I accept that occupiers of the proposed development would also have to travel onwards to the services and facilities within the nearby city of Colchester to access a wider range of shopping, healthcare, leisure and entertainment facilities.

² Braintree District Council v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

44. There is a bus stop within walking distance of the appeal site and both parties agree that there is a regular bus service operating, therefore it would be possible for these services to be accessed via means other than the private car. Therefore, I consider that the site is reasonably well located in terms of access to services, facilities and amenities and this would ensure sufficient choice of travel by modes other than the private car.
45. Paragraph 83 of the Framework sets out how development should be located where it will enhance or maintain the vitality of rural communities and support local services and I consider that the development accords with these aims.
46. In conclusion, the appeal site is a suitable location for housing having regard to access to services and facilities. Therefore, in this regard the development would accord with policies DM21 and TA1 of the LP which sets out that development should provide appropriate and safe access links and maintain the right and safe passage of all highway users and focus on highly accessible locations.

Loss of Employment

47. Policy DM6 of the LP sets out that sites and premises currently used or allocated for employment purposes will be safeguarded for appropriate economic uses to ensure local residents have access to local job opportunities without the need to travel. The parties agree that the site is not allocated within the LP as a Local Economic Area, employment sites that were assessed as part of the Plan's evidence base in the Colchester Employment Needs Assessment 2015, as warranting protection. As such policy SG4 of the LP is not relevant to my consideration of this appeal.
48. Policy DM6 states that on rural sites providing an economic function other uses are considered appropriate in principle, however this does not include residential uses. The supporting text to the policy sets out that as a general principle such land should be safeguarded, but recognises that the Framework discourages the protection of land where there is no reasonable prospect of it being development for an economic use.
49. Paragraph 7.27 of the LP sets out that applicant's will need to demonstrate that the site is no longer usable or viable for another form of employment. Despite the Council's reason for refusal setting out that no evidence had been submitted that the site has been offered for sale or rent for a continuation of a horticultural use or for an alternative use, neither the policy or the supporting text sets out that this is a specific requirement to indicate that a site is no longer usable or viable.
50. The appellant has prepared both an Economic & Viability Report and an Employment Land and Economic Benefits Statement to demonstrate that the site is no longer usable or viable for another form of employment. These reports consider the potential for the site to accommodate a B8 use, a horticultural use and an alternative business use.
51. The evidence before me, in terms of age and condition of the existing glasshouses and the problems associated with heating the greenhouses in order to continue a horticultural use of the buildings, demonstrates that the reuse of the current site is neither realistic or viable.

52. The use of the site for alternative uses would therefore likely require clearance of the site and the construction of new buildings, unless used predominately for external storage. The site is located in close proximity to residential uses, particularly those along White Hart Lane, whose rear gardens back onto the appeal site and therefore careful consideration would need to be given to the suitability of the site for other employment uses.
53. The appellant has provided an analysis of the suitability of the site for other employment uses, working with a local commercial agent. The evidence presented demonstrates that given the scale of the site, its position in a rural location and the investment required for uses such as offices would mean the site is unlikely to be viable for alternative commercial uses.
54. Therefore, on the basis of the evidence before me, I am satisfied that the appellant has demonstrated that the site is no longer usable or viable for another form of employment and as such the sites redevelopment for non-economic uses would not conflict with policy DM6 of the LP.

Affordable Housing

55. Policy DM8 of the LP requires that 30 per cent of new dwellings on housing sites of 10 or more homes will be provided as affordable housing, on site. The Framework also recognises at footnote 29 that self and custom build properties could provide market or affordable housing.
56. Having regard to the Council's development plan and Affordable Housing Supplementary Planning Document, February 2023, these do not set out any exception to affordable housing provision for self and custom build housing.
57. Paragraph 65 of the Framework sets out to support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount, equivalent to the existing gross floorspace of the existing buildings.
58. The parties do not agree whether the site should be considered previously developed land, as under the current definition, land which is or was last occupied by agricultural infrastructure is excluded. Whilst part of the site has been used for the storage and distribution of plants, which may have resulted in lawful B8 use being established, there is insufficient evidence before me in the form of a lawful development certificate to establish the extent of the site that has been used for the storage and distribution of plants.
59. In particular the appellant's Employment Land and Economic Benefits Statement describes how the current use has been downsized since 2007, with less than half of the glasshouses being actively used. Therefore, even if I were to be able to conclude that some of the site did have a B8 storage and distribution use and could therefore be considered as previously developed land, I cannot be certain that all of the site would be able to benefit from vacant building credit or the level to which it would exempt the entirety of the contribution.

60. I have given considerable thought to the WMS which sets out the government's intention to include glasshouses into the definition of previously developed land. However, as I cannot be certain that any revised framework would continue to give the same exemptions to previously developed land, in terms of vacant building credit, or whether some other exemptions may apply to self and custom build homes, it can only attract limited weight at this time and does not alter my findings in relation to the requirement for affordable housing.
61. Nevertheless following the close of the hearing the appellant's submitted an updated unilateral undertaking. This provides for the delivery of three affordable rented plots and one unit in the form of discount market sale plots. These are defined as serviced plots to be provided for affordable homes to be constructed. In the event that these plots are not taken up for affordable homes there is a mechanism to secure an off-site affordable housing contribution in accordance with the Council's policy.
62. Therefore, I am satisfied that affordable housing is part of the scheme before me and could be secured on the site, in accordance with policy DM8 of the LP.
63. The obligation would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the provision of affordable housing is a benefit to which I can afford moderate weight.

Essex Coast Recreational Avoidance Mitigation Strategy

64. The appeal scheme proposes dwellings on a site that lies within the Zone of Influence for the Blackwater Estuary SPA and Ramsar Site; Colne Estuary SPA RAMSAR site; Dengie SPA and Ramsar site, Stour and Orwell Estuaries SPA and Ramsar site (South Shore) and Essex Estuaries Special Area of Conservation (SAC).
65. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the aforementioned Habitat sites. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
66. Since the development is for twelve dwellings, the number of additional recreational visitors would be limited and the likely effects on the Habitat sites from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
67. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.

68. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned site. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
69. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the Habitat sites.
70. The appellants have submitted a Unilateral Undertaking for the per dwelling contribution to fund the Essex Coast RAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
71. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

Community, Parks and Recreation

72. The Council has advised that financial contributions are required towards the provision of community and leisure facilities. The appellant has not indicated an unwillingness to provide these contributions but they have cited a lack of understanding of how the request is necessary to make the development acceptable in planning terms or that it is directly related to the development.
73. Local Plan Policy SP6 indicates that all development must be supported by the provision of the infrastructure that is identified to serve the needs arising from the development. It sets out that it will work with developers to facilitate the delivery of a wide range of social infrastructure. Contributions will be sought to mitigate the adverse effects that new development may have on the local community and infrastructure. Policy SG7 states development will only be granted if it can be demonstrated that there is sufficient appropriate infrastructure capacity to support the development. Small sites can have a cumulative effect on infrastructure and proportional contributions will be sought from all developments where this is demonstrated to be the case.
74. At the hearing the Council provided an email detailing two requests for contributions for community projects and parks and recreation. The community projects request cited three buildings, the Scout Hut, the Orpen Memorial Hall and Football Clubhouse. The parks and recreation sum was for sports pitch improvements including drainage.

75. However, I have not been provided with any detailed evidence to define the extent of any local deficiencies in community and leisure facilities or the effect that the appeal proposal might have on them. Nor has any detailed information been provided to precisely show how and where any contributions would be spent.
76. Accordingly, I cannot be certain that the contributions sought would be necessary to make the development acceptable or that they would be directly related to the development and fairly and reasonably related in scale and kind.
77. Consequently, and notwithstanding the aims of development plan policy, I am unable to conclude that a planning obligation seeking to provide these contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation in relation to these matters does not weigh against the development.

Other Matters

Self Build and Custom Build Housing Supply

78. The Self Build and Custom Housebuilding Act 2015 requires local planning authorities to establish and publicise a local register of custom-builders who wish to acquire suitable land to build their own home. The Housing and Planning Act 2016 as amended by the Levelling Up and Regeneration Act 2023 (LURA) sets out that only land permissioned explicitly for self build and custom housebuilding will qualify towards a relevant authority's statutory duty to meet demand for self build and custom housebuilding in the authority's area.
79. The Act contains a duty to grant planning permission and provides that authorities must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period.
80. I have considered the position as of base period 5 2019-20 as these plots would need to have been delivered by October 2023. The parties agreed that for that time period there were 311 people on the register and the Council would be required to deliver 238 plots by October 2023. The Council have produced a list of approvals which indicate that 265 permissions have been granted which the Council consider would mean its demands have been met.
81. The legislation does not specify how authorities must record suitable permission, but the Planning Practice Guidance (PPG) provides examples of what methods they may wish to consider to determine whether an application or development is for self-build or custom housebuilding. It also indicates that at the end of each base period authorities have 3 years to give permission for an equivalent number of plots of land.
82. The use of the CIL exemption is one of the methods suggested within the PPG to enable the Council to determine if a permission could count towards meeting its duty. However from the list of plots which the Council considered met the definition of self build and custom build housing, the Council was unable to confirm if any of the plots had a CIL exemption or whether the description of development made reference to the development being for self build or custom build housing.

83. Whilst I am not persuaded that in order for a permission to meet the definition of self build or custom build, and therefore count towards meeting the identified need, it is necessary for them all to be restricted by a Section 106 or condition, again the Council could not confirm whether any of the permissions granted had been covered by such a mechanism.
84. The appellant has scrutinised the evidence provided by the Council and suggest that only 14 plots meeting the legislative definition have been approved since October 2019. They have identified that four applications delivering 5 plots have been approved since 2023 which have included self build or custom housebuilding within their descriptions.
85. The Council considers that the list of plots granted provides clear evidence that enough serviced plots have come forward to meet demand in the City. However, the evidence provided in support of the Council's case is not sufficiently robust due to their lack of scrutiny of the list of permissions provided to lead to certainty that this is the case.
86. Therefore, taking all of the above into account and the lack of sufficient evidence about the type of development included within the permissions granted, I share the appellants concerns that the numbers of permissions cited by the Council are overly generous and that therefore in previous years a level of unmet demand could have existed.
87. The lack of any significant reduction in the number of persons on the register adds to my concerns in this regard. As the Self Build and Custom Housebuilding Regulations 2016 Section 10 (2) is clear that a relevant authority may remove an entry from the register where the person has acquired land suitable for building a house.
88. Furthermore, the Council could not point me to other opportunities to meet any unmet demand for self build and custom build housing within the local plan, except for a policy which sets out that self and custom build housing could form part of housing diversity. Nor have the Council referred me to any strategic allocations which require a percentage of housing to be available for self build and custom housebuilding.
89. Therefore, taking into account all of the evidence before me, noting the limited reduction in the number of persons on the register and the number of plots required to enable enough to be provided by the end of October 2024, the proposed development would contribute to the councils requirement to make adequate provision for self build dwellings, in accordance with the provisions of the Self Build and Custom Housing Act 2015. This is a material consideration to which I afford significant weight.

Planning Balance

90. The proposal would conflict with the development plan for the reasons previously outlined. However, the proposal would deliver self build and custom build housing, which would meet an identified need and this is a material consideration to which I have attributed significant weight.

91. The site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing settlement and as such lies within a sustainable location. There is no evidence that highway safety would be compromised, or that local infrastructure would be unable to meet the needs of the development. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
92. In addition, the delivery of four affordable houses from this development will result in social benefits. Therefore, noting the moderate scale of the development proposed, I have attributed moderate weight to the delivery of housing in this instance.
93. However, the identified adverse impacts of the development, the conflict with the development plan and the adverse impacts to the character and appearance of the area, to which I have afforded considerable weight would significantly and demonstrably outweigh the benefits outlined above.
94. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

95. For the reasons given above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Jones BA(Hons) MSc MRTPI (Tetlow King Planning)

Mario Wolf BSocSci BA(Hons) DipUP MSc MRTPI; Director of Planning & Strategic Engagement; Custom Build Homes Ltd.

Nigel Rockliff BA DipLA CMLI; Director; DRaW (UK) Ltd.

Nick Ireland BA (Hons) MTPI MRTPI; Planning Director; Icen Projects

David Adams MSc, MIHE; Entran Ltd.

Robert Williams – CEng, CPEng, MIEAust, MTech; Entran Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Chris Harden; Senior Planning Officer BSc (Hons) Environmental Planning,
MRTPI Colchester City Council

Simon Cairns: Joint Head of Planning, Colchester City Council

Anne Westover: Chartered Member of the Landscape Institute, BA Dip LA CMLI

Martin Mason M.Sc. Transport (Diploma of Imperial College), MCILT: Essex County Council, Strategic Development Engineer

Phoebe Lawes: Essex County Council, Strategic Development Officer

INTERESTED PARTIES:

Cllr Bob Tyrrell, Chair of the West Bergholt Planning & Development Committee