



Appeal Decision

Site visit made on 23 September 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2024

Appeal Ref: APP/A1530/W/23/3330823

Land at Swallowfield Glamping Pods, Heath Road, Eight Ash Green, Colchester CO3 9TN

- 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 John Warren against the decision of Colchester City Council.
 - The application Ref is 231142.
 - The development proposed is described as the demolition of stable and erection of a single dwelling and garage.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of stable and erection of a single dwelling and garage at land at Swallowfield Glamping Pods, Heath Road, Eight Ash Green, Colchester CO3 9TN in accordance with the terms of the application, Ref 231142, subject to the conditions in the attached schedule.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

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. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework as published in December 2023, and any reference to paragraph numbers are to this version.

Main Issues

5. The main issues are:

- whether the site is a suitable location for the proposed development having regard to the provisions of local and national policy and the accessibility of services and facilities; and
- the effect of the proposal on the character and appearance of the rural landscape area.

Reasons

Location of development

6. The appeal site consists of a parcel of land with three Glamping pods and a single storey stable building adjoining a small cluster of residential dwellings on the northern side of Heath Road in Eight Ash Green. The surrounding area has a strong rural feel with open verdant agricultural fields in close proximity to the appeal site. The proposal is for the demolition of the existing stable and its replacement with a two-storey 4 bedroomed single family dwellinghouse and a garage.
7. Strategic Policy SP1 of the Colchester Borough Local Plan 2013-2033 Section 1 (CLP1), adopted February 2021, has a presumption in favour of sustainable development, with CLP1 Policy SP3 providing a spatial strategy for North Essex indicating that existing settlements will be the principle focus for additional growth, with development to be accommodated within or adjoining settlements according to their scale, sustainability and existing role within each individual district.
8. Policy SG1 of Section 2 of the Colchester Borough Local Plan (CLP2) 2013-2033, adopted July 2022 aims for growth to be located at the most accessible and sustainable locations and focussed on the urban area of Colchester. The second tier for development includes existing Sustainable Settlements within the Borough, most of which are planned for appropriate growth. This includes Eight Ash Green. Outside these settlements new development will only be acceptable where it accords with CLP2 policies OV1 and OV2.
9. Policy OV2 of the CLP2 indicates residential development proposals in the countryside, outside defined settlement boundaries, will need to demonstrate that the scheme respects the character and appearance of landscapes and the built environment and preserves or enhances the historic environment and biodiversity. Collectively all these policies are broadly consistent with the Framework's aim of promoting sustainable patterns of development and identifying opportunities for villages and other settlements to grow in rural areas, where it maintains or enhances the vitality of communities.
10. There is no dispute between the parties that the appeal site lies outside the boundary of Eight Ash Green, which is tightly drawn around existing built development. However, CLP1 Policy SP3 provides a caveat that development can be located adjoining settlements. The appellant refers to case law¹ in respect to developments adjoining settlements. Amongst other matters, the Corbett judgement suggests that the definition of adjoining settlement boundaries should not be taken as needing to be continuous with it. Instead,

¹ Corbett v Cornwall Council [2022] EWCA Civ 1069

it has a broader meaning and requires an assessment as to whether a site would be near to the settlement.

11. As established, the proposal would form part of an existing cluster of dwellings that are outside the Eight Ash Green settlement boundary, with a modest area of open space, albeit containing three glamping pods, providing physical separation between the boundaries of the settlement and the appeal site. However, the existing houses within Eight Ash Green can clearly be seen from the appeal site, only a short walk away. Consequently, as the cluster of dwellings are located sufficiently near to this settlement, the proposal would not be considered isolated under the meaning contained within paragraph 84 of the Framework or the Braintree² judgement. As such the requirements contained in paragraph 84 are not appropriate here.
12. In regard to the functional relationship with local services and facilities in Eight Ash Green, I understand that there are several shops, a public house, a village hall, and primary school (which was audible at the time of my visit) in close proximity to the appeal site. I also noted that there is a bus stop close to the site, although I have not been provided with specific details in respect to services or timetables. I acknowledge that there are no footpaths between the proposal and the adjoining settlement, nor are there streetlights which could inhibit future occupiers from walking or cycling to access local facilities, particularly in the dark or during inclement weather conditions.
13. Nevertheless, given the relatively short distance between the existing cluster of dwellings and the Eight Ash Green boundary, it is reasonable to assume that access to local services via alternative sustainable transport modes is not entirely impractical. Thus, for some local purposes there is provision for an alternative to the private car. Consequently, any future occupiers of the proposed dwelling would not be solely dependent on a car to access basic level services. The proposal would, therefore, represent sustainable development in the sense of ready accessibility to a range of essential services and facilities. This would be consistent with the findings of the previous Inspector³, who concluded the proposed development would be in a suitable location having regard to relevant development plan policies and the accessibility of services and facilities.
14. Overall, the new dwelling would not be an isolated home in the countryside and as such this proposal would not be in conflict with paragraph 84 of the Framework. The proposal would also accord with the principles of CLP1 Policy SP3 and CLP2 Policy SS5 and Policies EP1 and VSB1 of the Eight Ash Green Neighbourhood Plan (NP) 2017 – 2033, adopted November 2019. I therefore conclude that this would be an appropriate location for a new dwelling.

Character and appearance

15. As stated above, the appeal site is located close to an existing cluster of dwellinghouses, and it is within this context that the proposal is to be assessed. The cluster consists of mainly two-storey dwellings with a traditional design and use of external materials. In terms of its appearance

² Braintree District Council v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

³ PINS Ref: APP/A1530/W/22/3295728

the proposed scheme has taken design cues from the neighbouring buildings of Nos 5 and 6 Heath Road, and thus would not appear either out of keeping in the area or incongruous in that regard.

16. Unlike the previous appeal scheme, the proposal seeks to demolish the existing stable building at the front of the site and locate the dwelling fronting Heath Road. This would create a more consistent building line, albeit slightly set back, and would be representative of the existing vernacular. The new dwelling would be distinctly more visible along Heath Road due to the increased scale and bulk of the building, compared with the previously more modest sized stable structure. However, the positioning within the site, being adequately spaced from its neighbours and its appropriate design within this setting, is such that the dwelling would not appear unsympathetic in its plot when viewed from public vantage points.
17. Given its context within the existing cluster of buildings the proposal would assimilate well in this setting, rather than appearing as part of the more open countryside which surrounds the appeal site. Thus, the adverse impacts on the character and appearance of the area would be limited.
18. Accordingly, I conclude that the new dwelling would be acceptable development in terms of the effect on the character and appearance of the area. It would, therefore, comply with CLP1 Policy SP7; CLP2 Policies ENV1, DM15 and OV2; and relevant policies in the NP and the Framework which collectively seek, amongst other things, to secure development that is high quality design, respecting local, natural and historic character, appropriate to local landscape character and protecting the intrinsic beauty of the countryside.

Other Matters

19. Both parties draw my attention to other schemes for development outside settlement boundaries. Based on the limited information before me, it is unclear whether the relationships of these schemes to the settlements closest to them are the same as those considered here. Nevertheless, given these schemes turned on their own merits, I give these examples only limited weight, as I cannot be certain they are directly comparable. In any event, each case must be judged on its own merits, and I must determine the appeal based on the evidence before me.
20. The appeal site is within the zone of influence of the ecologically rich and diverse Essex Coast habitats sites. The proposed dwelling would be likely to increase recreational disturbance at these sites as future residents would be likely to travel to them. In combination with other development in Colchester, the proposal would therefore lead to a likely significant effect on the designated features of the habitats sites.
21. In conjunction with other Essex authorities, the Council has adopted a Recreational Disturbance Avoidance and Mitigation Strategy. This aims to avoid adverse effects by securing financial contributions towards a detailed programme of strategic avoidance and mitigation measures. CLP1 Policy SP2 confirms this approach. A unilateral undertaking dated 13 June 2022 has been submitted which secures the requisite payments.

Conditions

22. The Council has provided conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without altering their fundamental aims. I sought the views of the parties on the conditions, including the appellant's agreement to pre-commencement conditions.
23. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
24. In the interests of highway safety and the living conditions of neighbouring residents I have imposed a requirement for a Construction Management Plan which is necessary to submit prior to the approved development commencing.
25. Conditions relating to external materials, hard and soft landscaping and boundary treatments are necessary to secure the satisfactory appearance of surrounding landscape and the enhancement of the immediate setting.
26. In the interests of the ecology of the site, a condition is necessary to secure wildlife enhancement measures to deliver a 10% Net Biodiversity Gain in accordance with policy.
27. I have imposed conditions to ensure that there is appropriate vehicle and cycle parking provision, and a suitable car parking layout is maintained in the interests of highway safety and the living conditions of future residents.
28. To ensure adequate foul water drainage from the site, a condition is necessary to secure details and the implementation of appropriate sewerage disposal and maintenance and management measures thereafter.

Conclusion

29. The appeal scheme would accord with the development plan, when read as a whole and the Framework. Having considered all material considerations and other relevant matters raised, I therefore conclude that the appeal is allowed.

Robert Naylor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: SPD272.001.00; SPD272.002.00; SPD272.300.00; SPD272.301.00 and SPD272.302.00.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction;
 - v) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vi) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
- 5) No development above ground level shall commence until a scheme of hard and soft landscape works for the publicly visible parts of the site has been submitted to and agreed, in writing, by the Local Planning Authority.

The submitted landscape details shall be in full compliance with the Councils Landscape Guidance Note LIS/B and include any significant changes in ground levels and also accurately identify positions and spread of all existing publicly visible trees, shrubs and hedgerows on the site; proposed planting; details of any hard surface finishes and external works.

The implementation of all the landscape works shall comply with the recommendations set out in the relevant British Standards current at the time of submission. The approved landscape scheme shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development or in such other phased arrangement as shall have previously been agreed, in writing, by the Local Planning Authority.

Any hard or soft landscape works which, within a period of 5 years of being implemented fail, are removed or seriously damaged or seriously diseased shall be replaced, like for like, in the next planting season

with others of similar specification/size/species/mix, unless the Local Planning Authority agrees, in writing, to a variation of the previously approved details.

- 6) Prior to the occupation of the development hereby permitted details of the proposed vehicular access, parking and turning shall be provided in complete accordance with the details shown in approved drawing no: SPD272.300.00 and retained thereafter for the lifespan of the development.
- 7) Prior to the occupation of the development hereby permitted details of the positions, height, design, materials and type of boundary treatment to be erected shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as in accordance with the approved details before the building is occupied.
- 8) Prior to the occupation of the development hereby permitted details of the provision for parking and storage of bicycles, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter for the lifespan of the development.
- 9) Prior to the occupation of the development hereby approved, precise details of a scheme of wildlife enhancement measures to deliver a 10% Net Biodiversity Gain, together with an implementation timetable shall be submitted to and agreed in writing by the Local Planning Authority. The measures shall thereafter be implemented in accordance with the approved detailed scheme and implementation timetable and thereafter so maintained for the lifespan of the development.
- 10) Prior to the occupation of the development hereby approved, precise details of foul sewage drainage arrangements shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in all respects in accordance with the approved details and be available for use prior to first occupation of the dwelling.

END OF SCHEDULE