
Appeal Decision

Site visit made on 23 October 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2024

Appeal Ref: APP/P1560/W/24/3343333

Acorn Cottage, Farm Road, Great Oakley, Essex CO12 5AL

- 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 & Mrs Cole against the decision of Tendring District Council.
 - The application Ref is 22/00969/FUL.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Although the appellant's Planning & Heritage Appeal Statement dated 21 February 2024 refers to an intended application for costs against Tendring District Council, no further details have been submitted and Section H of the appeal form dated 26 April 2024 confirms that no costs application has been made. Therefore, there is no application for costs before me.

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. On the same date, the Secretary of State made a written ministerial statement entitled 'Building the homes we need'. The appellant has commented on implications of these changes for consideration of the appeal. The Council has been given the opportunity to respond and I have taken comments received into account.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area,
 - whether the setting of the Great Oakley Conservation Area would be preserved or enhanced, and
 - whether the proposed development would be a suitable location for housing having regard to the Council's spatial strategy and the conclusions reached on the preceding main issues.

Reasons

Character and Appearance

5. Great Oakley is a broadly linear village along the Harwich Road and High Street, with development in greater depth in the core of the village. Acorn Cottage is located within this core area, in Maltings Grange. This is a private drive off Farm Road, including a cluster of newer dwellings to the rear of the built-up frontage. As is generally the case throughout the village, there is a rich variety of building materials in Maltings Grange. However, the dwellings have a fairly consistent scale and massing, on two storeys, with simple elevational detailing.
6. Backland development is not uncommon in this part of the village. Maltings Grange is behind the Farm Road frontage and there is planning permission for five dwellings on the adjacent site to the northwest, behind the High Street. Nevertheless, that does not mean that all backland development is inherently appropriate, and the context of each particular site is relevant.
7. The appeal site is a substantial plot lying beyond the existing cluster of dwellings. Although it includes some children's play equipment and modest outbuildings, it is separate from, and lies beyond, the private garden and driveway more immediately surrounding Acorn Cottage. To one side, there is a similarly open plot at the rear of the adjacent house, which is largely grassed, with outbuildings closer to the house. On the other side is the parcel of open land where planning permission has been granted for five dwellings. There are also several horse paddocks and small fields beyond the site, to the northeast.
8. Policy LP8 part e. of the Section 2 Local Plan¹ requires that residential development on backland sites on the edge of defined settlements should be avoided where it would produce a hard urban edge or other form of development out of character with its particular setting. Therefore, while the Council has not suggested that the site is within a valued landscape as defined in the Framework, or that there would be any encroachment into the wider countryside of the Coastal Protection Belt, the effect on the more immediate rural context around the village is a relevant consideration.
9. Farm Road continues beyond the edge of the village, soon becoming a narrow, rural lane through a landscape of agricultural fields. Although the appeal site shows some indications of domestic use and is described by the appellant as having related to the built-up area historically, it is substantially open with very limited built form. In combination with the adjacent parcels of open land, it contributes to a substantial buffer of largely undeveloped land on the fringe of the village. This provides a beneficial transition between the fairly intensively built-up area and the surrounding wider countryside.
10. Maltings Grange is already quite enclosed, with the dwellings clustered around the shared access and a clear distinction between that more intensively built-up area and the open parcels of land beyond the dwellings. Although the access road continues towards the appeal site, there is little sense that the established development is incomplete or requires 'rounding off'. While the proposed dwelling would sit in a spacious plot, as a consequence of its

¹ Tendring District Local Plan 2013-2033 and Beyond Section 2, adopted January 2022

imposing scale and its position beyond the existing development, it would erode and undermine the open context around this part of the village.

11. The cartlodge garage would be in reasonable proportion to the large scale of the dwelling, and there are other large houses with outbuildings in the village. Nevertheless, collectively the large dwelling, cartlodge and increased domestic paraphernalia would urbanise the plot and significantly erode the buffer of open land, even though the rear part of the site would remain open. Consequently, there would be a more abrupt distinction between the village and the surrounding countryside, contrary to the requirements of Policy LP8.
12. The approved dwellings to the northwest would be orientated around a new cul-de-sac from the High Street, within a clearly defined boundary. They would back onto the appeal site and would not have any clear sense of connection with it. Therefore, while the proposed dwelling would not extend beyond this approved housing, it would neither relate well to, nor round off, the permitted layout. As such, this existing permission does not justify further encroachment beyond the built-up area.
13. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area. It would conflict with Policy SP7 of the Section 1 Local Plan² and Policies SPL3, LP4 and LP8 of the Section 2 Local Plan. These policies collectively require, amongst other things, that new dwellings respect local character, context and distinctiveness, and that backland residential development on the edge of defined settlements should avoid creating a hard urban edge or other form of development out of character with its setting.

Conservation Area

14. The appeal site lies just outside the Great Oakley Conservation Area (CA), which includes the existing dwellings in Maltings Grange. There are some Grade II Listed Buildings fronting Farm Road and the High Street, including Old Scantlings, Maltings Farmhouse and Mill House. The Council's heritage adviser also refers to non-designated heritage assets, although no specific examples are given. The reason for refusal alleges harm to the setting of the CA, rather than any specific listed buildings or non-designated heritage assets.
15. As described in the Great Oakley Conservation Area Review 2006 (CAR), the significance of CA includes the tightly knit pattern of vernacular houses grouped around, and mostly directly fronting, the small-scale road network parallel and to the south of the main road. While the dwellings in Maltings Grange do not front the main road network, they have a similarly tight knit layout and include materials and detailing reflecting the properties along Farm Road and the High Street. They are referred to in the CAR as a 'distinctive modern development' and there is no indication that they are among the negative factors listed elsewhere.
16. The CAR gives limited consideration to the setting of the CA as a whole, although the setting of individual listed buildings is considered. However, the Council's heritage adviser notes that its setting includes the surrounding agrarian landscape, which enables Great Oakley to be understood as an agricultural settlement largely unchanged until the mid-twentieth century.

² North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021

Based on my observations on site, I concur that the rural context for the village makes a positive contribution to the setting of the CA, since it allows the historic scale of the settlement, and the vernacular architecture, to be appreciated within an enduring rural context.

17. As described above, the proposed development would undermine the connection between the village and its rural agrarian setting. It would be particularly harmful within the area around Maltings Grange, which is within the CA. From the perspective of the main streets, the harm would be more limited, since there is little visual connectivity between the publicly accessible areas and the buffer of open land where the appeal site is situated. Nevertheless, the further erosion of that open land would be harmful to an appreciation of the historic evolution of the rural settlement.
18. The design incorporates materials and features which can be found elsewhere in the village. However, the dwelling would have a deep, almost square footprint with much of the substantial upper storey within the roofspace. It would also include fairly elaborate, highly articulated elevations, particularly to the front and rear. These aspects of the design do not clearly respond to the broadly consistent scale and massing, or more subdued appearance, of the dwellings in Maltings Grange. As such, there is a lack of cohesion with the character and appearance of the adjacent Conservation Area.
19. There are other solar panels in the CA, including within Maltings Grange, although I have no information as to their status in planning terms. However, the proposed roof design would include a proliferation of such features, resulting in a rather cluttered roofscape.
20. Generally, the scale, design and form of the proposed dwelling would lack cohesion with the existing dwellings in the CA, including the other modern developments nearby. As such, the proposal would neither enhance nor better reveal the significance of the CA. Rather, it would contrast harmfully with the existing housing, failing to respond positively to the character and appearance of the CA, thereby undermining its significance and its setting.
21. The nearby listed buildings front Farm Road and the High Street, and their setting includes the tight knit vernacular architecture along those frontages. Those on Farm Road back on to Maltings Grange and Mill House backs on to the site of the permitted five dwellings. Therefore, they do not have a close or direct connection with the appeal site. Consequently, the proposal would have a neutral effect on the setting of those specific heritage assets, as opposed to that of the CA as a whole.
22. Nevertheless, for the reasons given above, I conclude that the proposal would neither preserve nor enhance the setting of the Great Oakley Conservation Area. It would conflict with Policy PPL8 of the Section 2 Local Plan which requires, amongst other things, that development which affects the setting of a Conservation Area will only be permitted where it has regard to the desirability of preserving or enhancing the special character of the area.

Heritage Balance

23. Taking into account the scale of the site in relation to the CA, and its lack of direct relationship with the High Street and Farm Road frontages, the level of harm to the significance of the CA would be less than substantial. Paragraph

208 of the Framework states that where a proposal would lead to less than substantial harm to the significance of designated heritage assets, such harm should be weighed against the public benefits of the proposal.

24. Even a single dwelling would help to boost the supply of housing and there would be benefit from providing a new home in a location which has access to local services in the village and public transport to larger settlements. However, the Officer Report confirms that in excess of five years' housing land supply is in place. While proposed changes to the Framework may result in a higher housing requirement, at the time of considering this appeal there is no certainty that those changes will take effect in the form proposed, or that the Council would be unable to meet the updated requirement. In that context, the small contribution to the supply of housing carries modest weight.
25. The application form indicated that the proposal was for self or custom build and evidence has been provided that the appellant is now registered on the Council's Self Build Register. However, no legal mechanism has been proposed to secure the delivery of self-build housing. Therefore, while I appreciate that may be the intention, and that the design would respond to the appellants' requirements, delivery of a self-build scheme contributing to the Council's legal obligations in this regard cannot be guaranteed. As such, while I have had regard to the appeal decisions mentioned in relation to the Council's self and custom build requirements, even if there is a shortfall in the strategic supply of self and custom build housing, this potential benefit carries very modest positive weight.
26. Any improvement in safety by reducing crossing movements on the private drive is likely to be offset by increased traffic movements to the new dwelling. In any case, any such improvement would be primarily of benefit to the very limited number of householders using this section of the drive. This therefore carries little weight in terms of public benefit.
27. Even if considered collectively, the public benefits would be modest and would not outweigh the harm to the setting, and consequently to the significance of the CA, which is a matter carrying considerable weight, as set out in paragraph 205 of the Framework.

Spatial Strategy

28. The appeal site lies outside, but adjoining, the settlement boundary of Great Oakley, which is a Smaller Rural Settlement as defined in Policy SPL1 of the Section 2 Local Plan. Policy SP3 of the Section 1 Local Plan allows for development adjoining settlements according to their scale, sustainability and existing role within each individual district and the wider North Essex area. However, the same policy states that growth will be planned to ensure, amongst other things, that existing settlements maintain their distinctive character and conserve their setting. The supporting text to Policy SPL1 furthermore describes the anticipated level of growth around smaller rural settlements as being small-scale and sympathetic to the rural and often historic character of the settlement.
29. While development of a single additional dwelling on a suitable site adjoining the settlement may not in principle be inappropriate, in terms of the scale, sustainability and role of Great Oakley, in this particular case I have found that the proposal would harm the distinctive character and setting of the village,

including its historic setting. Consequently, I conclude that the proposed development would not be a suitable location for housing having regard to the Council's spatial strategy and the conclusions reached on the preceding main issues. It would conflict with relevant requirements in Policies SPL1 and SP3, as summarised above.

Other Matters

30. While there are a number of modest benefits arising from the proposal, I have concluded that they would not outweigh the less than substantial harm to the setting and significance of the Conservation Area. It follows that they would also not outweigh the collective harm, including the adverse effect on the character and appearance of the area more generally and the conflict with the Council's spatial strategy.
31. Even if I were to conclude that paragraph 11d of the Framework was engaged by virtue of the supply of plots for custom and self-build housing, the harm to the setting of the CA is a clear reason for refusing the proposal based on the application of policies in the Framework that protect designated heritage assets. Therefore, the test in paragraph 11d(ii) is not applicable.
32. The layout includes private open space to support the wellbeing of future occupiers and makes provision for vehicular access and parking. There would be natural surveillance over the site entrance and garden. The dwelling would be set apart from the neighbouring houses and the Council did not allege any harm to living conditions for neighbouring occupiers or future occupiers of the proposed dwelling. However, these are matters of compliance with other aspects of the development plan and do not attract positive weight in the overall balance.
33. Arrangements for access along the private drive would be a matter for the relevant parties to resolve.
34. While I am aware that outline planning permission was granted for a dwelling of a similar, but slightly smaller scale, on the site in June 2019, both main parties have confirmed that this has lapsed. Section 1 of the Local Plan was adopted in January 2021 and Section 2 in January 2022, so the relevant development plan policies have changed since that decision was made. Limited information has been provided regarding the housing land supply position or other relevant considerations when the outline planning permission was granted, although the Officer Report alludes to an improved housing land supply situation within the intervening period.
35. While the delays and procedural issues described in the appellant's case have no doubt been frustrating, it remains the case that the outline planning permission has lapsed and therefore does not provide a fallback position. Furthermore, circumstances have materially changed since that decision was made. My consideration of the appeal has been based on the current development plan and the other evidence before me.
36. The Inspector's conclusions on the appeal at Bradfield Road, Wix³, relate to a different settlement and the proposal in that case was found not to be out of keeping with surrounding development and not to encroach into areas of

³ Appeal ref APP/P1560/W/22/3310057

countryside which surround the village. In this case, I have reached a different view, for the reasons given.

37. A Unilateral Undertaking dated 14 February 2024 was provided with the appeal, making provision for a financial contribution to mitigate the effect of additional recreational disturbance on European Sites, specifically the Hamford Water Special Protection Area, Special Area of Conservation and Ramsar Site. However, since I am dismissing the appeal for other reasons, there is no need for me to give further consideration to the effect on European sites.

Conclusion

38. The proposed development would conflict with the development plan. No other material considerations indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

Jane Smith

INSPECTOR