



Appeal Decision

Site visit made on 12 March 2025

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2025

Appeal Ref: APP/A1530/W/24/3350923

Land to the west of Spring Gardens Road, Chappel, CO6 2DW

- 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 H C Percival (Farms) Limited against the decision of Colchester City Council.
 - The application Ref is 240089.
 - The development proposed is for the erection of five dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved apart from access. The layout and elevation provided are therefore illustrative only.

Main Issues

3. These are:
 - Whether the proposed development would be in a suitable location having regard to relevant development plan policies and the accessibility of services and facilities by sustainable transport;
 - The effect on the character and appearance of the surrounding area;
 - The effect on the provision of community and sport and recreation facilities in Chappel and Wakes Colne; and
 - The effect on the integrity of the Essex Coast habitats sites.

Reasons

Location

4. The appeal site comprises a paddock used for horse grazing and contains a stable building. It is outside the settlement boundary of Chappel and Wakes Colne which is defined as a Sustainable Settlement by Policy SG1 of the Colchester Borough Local Plan (Section 2). Policy SP3 of Section 1 establishes that existing settlements will be the principal focus for additional growth but that development can be accommodated adjoining them. However, because of its distance from the settlement boundary and its separation by the railway line, the appeal site does not fall into this category.

5. Therefore, whilst the development plan does not wholly prohibit residential development in the countryside, it expects that it should be well related to a settlement. That would not be the case here and so the proposal would undermine the overall spatial strategy.
6. Due to their proximity to the houses to the north along Spring Gardens Road and the group at Rose Green to the south, the proposed dwellings would be not physically separate or remote from other development. Therefore, having regard to the judgment in *Braintree District Council v SSCLG, Greyread Ltd & Granville Developments* [2018] EWCA Civ 610, it would not be isolated. Accordingly, there would be no conflict with paragraph 84 of the National Planning Policy Framework. However, this does not alter the unsuitability of the location in policy terms.
7. The Local Plan indicates that development in the countryside may be supported if it helps to sustain a rural community and the local economy. In theory, future residents might use the local pub, shop, school or use the bus. However, this is not certain and there is no evidence to quantify the benefits that would ensue. There is also nothing to suggest that existing services or facilities are struggling. Indeed, according to a local resident, the local school is over-subscribed and the public house is thriving. Any improvement to the vitality and viability of existing services that would occur does not, therefore, overcome the locational objection.
8. Policy SG1 aims for growth to be located at the most accessible and sustainable locations in order to reduce the need to travel. In this respect it is about 250m to the bus stops near Rose Green where the services that run along the A1124 between Colchester and Halstead can be accessed. It is around 745m to the village shop and post office. There is also a railway station at Wakes Colne which is approximately 1km away but the appellant's suggestion that this is a 9 minute walk is overly optimistic. The appeal site is further from the village facilities than the site allocated for 30 new homes to the south of Chappel.
9. The first 200m or so of the walk between the appeal site and the places mentioned above would be along Spring Gardens Road. This descends towards Colchester Road and is narrow, unlit and with no footway. Therefore, negotiating it may not be an attractive proposition for some future occupiers due to safety concerns. Equally some may be inclined to take that option given that there is a pavement along Colchester Road. However, anyone living at the appeal site would be highly likely to use their own transport to conduct many parts of their daily lives.
10. Indeed, whilst the existence of public transport and facilities nearby offer some scope to avoid the use of private vehicles, the credentials of the site in terms of accessibility are not of the highest order. As a result, this does not indicate that the objection in principle to new housing here should be set aside.
11. Although acknowledging that the site location is different, the appellant draws attention to my decision from 2023 at Springfield, Station Road, Wakes Colne (Ref: APP/A1530/W/21/3288712). Indeed, that case can be distinguished from the proposal as that site immediately adjoins the defined settlement limits and is closer to the railway station and village facilities. Whilst it confirms that development outside settlements is not entirely precluded, that decision does not imply that the proposal should be accepted.
12. The consideration given to the suitability of the location in the appeal decision at Salcott (Ref: APP/A1530/W/23/3322115) is not highly relevant since it was

undertaken in the context of the re-use of a barn as a single dwelling. By contrast, the proposal is for new build dwellings.

13. The Framework provides some support for rural housing. However, opportunities for villages to grow and thrive should be identified through planning policies rather than by individual decisions. Indeed, the planning system should be plan-led. The Local Plan has defined where housing in the countryside could be acceptable and the proposal does not comply with it. Therefore, the proposed dwellings would not be in a suitable location when judged against relevant policies.

Character and appearance

14. The lower section of Spring Gardens Road is characterised by scattered properties interspersed with large tracts of open land. One of these is the appeal site which therefore contributes significantly to the semi-rural character of the lane. Because of its elevated position, long distance views are possible across the field which adds to its value within the local scene. Even if the dwellings were limited to single storey, the attributes of the land as an unspoilt and largely undeveloped area would be lost if the proposed development, including a new access and hard surfacing, took place. As a result, its importance to the locality would be seriously diminished.
15. Furthermore, given that it is likely that the buildings would be arranged to face the road as shown on the illustrative layout, the proposal would effectively create a longer continuous line of buildings. It would link the properties to the south to what the appellant describes as the “hamlet” at the top of the hill. This coalescence would be at odds with the pattern of sporadic housing along the bottom part of the road. Because of the width of the frontage, the scheme could not reasonably be described as “infilling” because the gap between existing buildings is not narrow.
16. Part of the existing hedge would need to be reduced to accommodate visibility plays around the bend but it is not obvious that the trees next to the road would need to be removed. Such matters could be covered at reserved matters stage.
17. Nevertheless, the proposed dwellings would harm the character and appearance of the surrounding area. There would therefore be conflict with Policy OV2 of the Section 2 Local Plan which establishes that new development in the countryside should respect the character and appearance of landscapes and the built environment. The proposal would also be contrary to the place shaping principles in Policy SP7 of the Section 1 Local Plan and Policy DM15 of Section 2 which is concerned with design and amenity.

Community and sport and recreation facilities

18. The Council expects new development to provide, or contribute towards, the provision of community facilities to meet the needs of expanded communities and mitigate impacts on existing communities. In this case, the proposal is estimated to add to the population by 17 thereby significantly increasing demand.
19. The amount sought has been calculated using the Council’s standard methodology and there is no evidence that it is not fairly and reasonably related in scale and kind to the development. Any payment would also be directly related to it. This would go towards the provision of a new porch at the village hall which is 1.1km from the site. Based on the evidence provided, the contribution is necessary to make the scheme acceptable in planning terms. However, there is no mechanism in place to

collect this sum. As a result of the proposal, there is therefore the potential that local facilities would be overloaded.

20. Therefore, the effect on the provision of community and sport and recreation facilities in Chappel and Wakes Colne would be a negative one and the proposal would conflict with Policies SG7 and DM2 of the Section 2 Local Plan.

Essex Coast habitats sites

21. The appeal site is within the zone of influence of the ecologically rich and diverse Essex Coast habitats sites. The proposed dwellings would be likely to increase recreational disturbance at these sites as future residents would be liable to travel to them. In combination with other development, the proposal would therefore lead to a likely significant effect on the designated features of the habitats sites.
22. 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 measures. Policy SP2 of the Section 1 Plan confirms this approach. However, the required payment has not been secured.
23. Therefore, following an appropriate assessment, the integrity of the habitats sites would be adversely affected. In these circumstances, the Conservation of Habitats and Species Regulations preclude the proposal from proceeding and the proposal would also be contrary to relevant development plan policies.

Other Matters

24. The appellant has no objection to providing policy compliant financial contributions but has not provided a planning obligation. This is because the Planning Inspectorate's *Procedural Guide* indicates that they should be received at the time of making the appeal. The level of contribution required was not made clear until after the appeal was submitted. However, obligations received after the deadline can be taken into account at the Inspector's discretion. The position is nonetheless that nothing has been provided and so the need for the requested contributions has been decided above.
25. The Council's Five Year Housing Land Supply Statement of 2023 indicated that there was a 5.17 year supply of deliverable housing. An updated Position Statement will not be published until at least April 2025. However, there is no evidence that the supply of housing is currently less than Government expectations as set out in the Framework. Five extra houses would nonetheless make a useful contribution to the stock of dwellings and bungalows would be likely to appeal to a particular section of the community. Nevertheless, this boost to the supply of housing does not outweigh the objections identified.
26. The Council's original objection about whether adequate visibility splays could be provided has been satisfied by the further information provided with the appeal and there would be sufficient space for off-street parking. The appellant's contamination assessment has shown that none is present and this reason for refusal has also been set aside, subject to the imposition of a condition. The proposal would also be well separated from the impressive Grade II listed viaduct and would not adversely affect its setting.

27. Other objections have been raised in relation to various matters including traffic, neighbouring living conditions, surface water run-off and drainage but given that the appeal will be dismissed there is no need to deal with them in any detail.

Conclusion

28. The proposed dwelling would not be in a suitable location having regard to relevant policies, would harm the character and appearance of the area, would have a negative effect on community facilities and would adversely affect the integrity of habitats sites. There are no material considerations that warrant reaching a decision other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR