
Appeal Decision

Site visit made on 7 July 2025

by **L Fleming BSc (Hons) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: APP/A1530/W/25/3365686

3 & 4 Cooks Hall Cottages, Cooks Hall Road, West Bergholt, Colchester, Essex CO6 3EY

- 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 Simon Wier against the decision of Colchester City Council.
 - The application Ref is 240861.
 - The development proposed is repair and renovate cottages on a like-for-like basis, as holiday accommodation (partly retrospective).
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. An Appeal Decision in 2008¹ confirmed the appeal building has no lawful use. Clearly some works have been undertaken to the appeal building as well as site clearance works since that appeal decision. However, it is not my role in determining an appeal under S78 of the Act to determine whether any unauthorised building works have taken place.
3. The proposal as described on the application form and as determined by the Council, is to use the appeal building as holiday accommodation. For the avoidance of any doubt, I have determined the appeal on the same basis.
4. Against this background, the main issue is whether the appeal site is a sustainable location for the proposal having particular regard to the need for tourism development, whether it would involve the development of previously developed land and its effect on the character and appearance of the area.

Reasons

5. The proposal would provide two holiday lets which the appellant confirms would be made exclusively available as self-catering visitor accommodation. The proposed visitor accommodation would be located towards the end of a narrow rural lane some distance from the West Bergholt settlement boundary. Thus, for the purposes of the development plan and national policy the proposed development would be in the countryside.
6. I acknowledge the comments with regard to paragraph 84 of the National Planning Policy Framework (the Framework). However, this is concerned with isolated

¹ Appeal Reference APP/A1530/X/08/2089175

homes in the countryside and not holiday accommodation as described in the description of development applied for.

7. Policy DM5 of the Colchester Borough Local Plan 2017-2033 Section 2 (2022) (LP2) says that development for new and extended visitor attractions, leisure, cultural and heritage facilities along with visitor accommodation will be supported in suitable locations subject to minimising their impact on, and demonstrating how the development could make a positive contribution to neighbouring areas and provide biodiversity enhancements. Furthermore, Policy OV2 of the LP2 acknowledges that tourism schemes may require a countryside location with its justification text explaining that development within the countryside will be limited to activities that help sustain a rural community and local economy and which help protect the rural character of the area where a development is being delivered.
8. Insofar as is relevant to this appeal, Policies DM5 and OV2 of the LP2 are broadly consistent with Paragraphs 88 and 89 of the Framework which seek to support a prosperous rural economy. Paragraph 89 of the Framework also recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. It goes on to explain the importance of ensuring that development is sensitive to its surroundings. It also says the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
9. With regard to the proposal before me, irrespective of the mode of transport, the occupants of the proposed development would be likely to use the local village services and facilities in West Bergholt for their day-to-day needs. Moreover, the site benefits from good access to the Essex Way which provides a recreational connection to other local facilities further afield. Furthermore, there would clearly be local economic benefits associated with construction and employment opportunities associated with servicing the enterprise. Thus, I accept the proposal may give rise to a positive contribution to neighbouring areas and this could help sustain the rural community and local economy, amounting to an economic benefit.
10. However, whilst I accept that neither Policy DM5 or OV2 of the LP2 explicitly require the submission of detailed evidence to demonstrate the need for tourism or visitor accommodation proposals, in this case, there is insufficient substantive evidence before me to assess the magnitude of any economic benefits to the local area that may exist. For example, it is unknown if it is expected the appeal property would be occupied all year round. Furthermore, if there was a lack of demand for the proposal in this location, the proposed units could be empty for lengthy periods and any benefits to the local community would be negligible. For these reasons I afford the economic benefits of the scheme only limited weight.
11. I note the comments with regard to the second paragraph of Policy DM5 which says proposals for tourism, leisure, culture and heritage development should be appropriate in scale and function to the surrounding area; be accessible by a choice of means of transport; and not cause significant harm to the amenity of people living and working nearby. I accept this part of the policy does not specifically refer to visitor accommodation. However, the justification text to Policy DM5 of the LP2 recognises that in rural areas existing visitor accommodation sites

may be an acceptable location for further small-scale development although not readily accessible by public transport.

12. The appeal proposal does not relate to an existing visitor accommodation site and whilst I accept there is some ambiguity in the application of Policy DM5 any development which is used as living accommodation (permanent or temporary) should preferably be accessible by a choice of transport modes. It is without doubt that in this countryside location, the occupants of the proposed development would inevitably need to rely primarily on the use of private motorised transport to meet the majority of their daily needs particularly in the evening and during inclement weather. This would have a negative environmental impact and weighs against the proposal. However, I am unable to reasonably assess, the number of likely vehicle movements expected based on the evidence before me.
13. Turning my attention to whether the site is previously developed land. Even though the appeal building has clearly been subject to recent works, it is obviously a permanent structure which has been in place for a considerable period of time. I have considered the photographic evidence of the appeal building prior to the recent works and note the current and historical condition of the walls and roof. However, even before the recent works, the building although partly covered in vegetation was identifiable as a structure with walls and a roof which was visible from the lane and the immediate surrounding rural landscape. Vegetation which previously partially screened the building has now been partly cleared and cut back. Overall, based on the circumstances of this particular case, in my view the structure comprising the appeal building has not blended into the landscape and falls within the definition of previously developed land given in the annex to the Framework. Thus, in line with paragraph 124 of the Framework its re-use would represent an effective use of land which carries weight in favour of the scheme.
14. However, even so, the appeal building is relatively modest and rural in character. It is set in an attractive rural landscape with space around it and is softened by the remaining vegetation. In my view it does not look out of place in the rural landscape and is not visually harmful in its current form. The proposals would introduce a gravelled driveway, two private domestic gardens, cycles stores, parked cars and inevitably other domestic paraphernalia into a location mainly devoid of such. Even though I note the proposed landscaping would soften the scheme, the proposal would urbanise the appearance of the appeal site particularly when in use and the lights are turned on outside of daylight hours. Consequently, even though I accept these effects would be relatively modest, they would still cause harm to the rural character and appearance of the area even accepting the site is previously developed land.
15. Thus, overall, there would be a benefit associated with the redevelopment of previously developed land. However, without substantive evidence which allows me to understand the extent to which the scheme could make a positive contribution to neighbouring areas and help sustain a rural community and local economy, I find any modest benefits there may be are outweighed by the harm I have identified to the character and appearance of the area and dependence on private motorised transport.
16. Therefore, on balance the appeal site would not be a sustainable location for the proposal having particular regard to the need for tourism development, whether it involves the development of previously developed land and its effect on the

character and appearance of the area. Consequently, the scheme would conflict with the aims of Policies DM5, OV2 and ENV1 of the LP2 which aim to support visitor accommodation in sustainable locations and aim to safeguard the character and appearance of the countryside. Policy PP9 of the West Bergholt Neighbourhood Plan (2024) is concerned with new dwellings and is not therefore relevant to the development applied for.

Other Matters

17. The appeal site is close to the grade II* Cooks Hall, Cooks Hall Road which is a substantial architecturally significant medieval house forming part of a complex of high quality traditional farm buildings. Insofar as is relevant to this case the significance of the heritage asset derives from the architectural detailing of the buildings and as a traditional farmstead in a rural landscape. Due to the separation distance, intervening features and the scale of the proposals the effect of the scheme on the significance of the designated heritage asset would be neutral.
18. I have also noted the comments with regard to biodiversity enhancements and biodiversity net gain. However, meeting any such development plan or statutory requirements is not a benefit and carries neutral weight in any planning balance. In any event, as I am dismissing the appeal for other reasons I have not needed to deal with this matter any further, because even if there was a benefit in biodiversity over and above requirements this would not outweigh the harm I have identified above.

Conclusion

19. For the reasons given above and taking into account all other matters raised, on balance the scheme would conflict with the development plan as whole and there are no other material considerations sufficient to indicate a decision should not be made in accordance with it. I therefore conclude that the appeal should be dismissed.

L Fleming

INSPECTOR