



Appeal Decision

Hearing Held on 5 February 2019

Site visits made on 5 and 6 February 2019

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st March 2019

Appeal Ref: APP/A1530/W/17/3191363

Land north of The White Hart, Nayland Road, West Bergholt CO6 3DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Punch Partnerships Ltd against the decision of Colchester Borough Council.
 - The application Ref 170839, dated 29 March 2017, was refused by notice dated 13 October 2017.
 - The development proposed is residential development of 10 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's reasons for refusal included one relating to the absence of provisions for affordable housing. The appellant has now submitted a Planning Obligation which contains provisions for affordable housing, to the satisfaction of the Council.

Main Issues

3. The main issues in this appeal are;
 - Whether the location is appropriate for residential development
 - The effects on the character of the area
 - The effects on the setting of the adjacent Listed Building
 - Whether the proposed mix of dwelling types is acceptable
 - Whether the Council can demonstrate a suitable supply of housing sites and the consequent implications for the weight that its policies are given

Reasons

Location

4. Policy ENV1 of the Council's Core Strategy 2008 (CS) states, amongst other things, that unallocated land outside settlement boundaries will be protected, and that development will be strictly controlled to conserve the environmental

assets and open character of the Borough. Policy SD1 of the CS seeks to direct development to the more accessible locations and previously developed land. It adds that pressure on the natural and historic environment (and others) should be minimised or mitigated against.

5. The appeal site sits outside the settlement boundary of West Bergholt. It is a relatively flat parcel of land of rough grass-land with boundary hedges. It is within the same ownership as, and sits adjacent to, The White Hart public house, which is a grade II listed building. Land to the west, on the opposite side of the road is open. To the north is a horticultural business which comprises some larger building for plant propagation and to the east are other residential properties and their gardens. I have carefully considered the various opinions set out at the Hearing in relation to the character of the site and area and in my judgement the immediate locality is heavily influenced by the openness of the junction of the roads, the greenness and openness of the public house frontage and open land on the opposite side of the road. The site itself is open and grassed and has 3 sides which contain boundary hedges. The buildings that are present in the immediate area are either rural in character or modest in relation to the openness of the surrounding land. The area is one where the rural qualities are dominant and the buildings, where they exist, are secondary and subservient to the openness.
6. Taking account of my assessment of the character of this locality and the fact that it sits outside the defined settlement boundary, I find that there is clear conflict with Policy SD1 in particular, as a matter of principle.

The effects on the character of the area

7. The proposal would involve the construction of a terrace of 4 houses and a detached house on the frontage, and 5 detached houses sited within the site. A new, central road access would be formed and would run into the site providing vehicle access to the individual properties, their garages and a parking area.
8. The proposed frontage buildings would present a hard edge to the site with little space between their front elevations and the site boundary. It seems inevitable to me that the majority of the existing hedge here would be lost. The proposed terrace of houses would represent a considerable built form here and would be particularly noticeable. This and the layout of the remainder of the site would result in a suburban character where the presence of buildings and hard-surfacing would dominate.
9. I have set out my impression of the character of the site and its surroundings, above. Within that context and taking account of the fact that, for planning purposes, the site is within open countryside, I consider that the form and character of the proposal would have a significantly harmful effect on the existing area. It is set within a predominantly rural area and has an open rural character of its own and this would be replaced with a small estate of house with a sub-urban character. Therefore, I find that the proposal would have a harmful effect on the character of the area, contrary to Policies SD1 and UR 2 of the CS and Policy DP1 of the Development Policies 2010 (partial revision 2014).
10. In addition, the Council identify harm arising from the form and design of the proposed dwellings. In relation to materials, I am satisfied that, if the appeal

were successful, a suitable condition relating to materials could have resolved any such matter. However, I agree that the form and style of the individual buildings does reinforce its sub-urban and generic style, which would be harmful to the character of this area.

Setting of Listed Building

11. The White Hart public house is said to date from the 17th Century. It is a 2 storey building, timber framed building, with a ridged and gabled roof. The public house has an open area to its frontage which provides the main front elevation with a sense of openness and allows views of it.
12. The appeal site is within the same ownership as the public house. It is suggested that this has been the case for some considerable time and some evidence presented at the Hearing suggests that the appeal site may have been used for food production for the public house. Although there are some areas of planting between the public house and the appeal site, views between the 2 areas are readily available. Views of the frontage of the pub, taking in its front elevation also include views into the appeal site where its open and rural character are apparent. Views from the appeal site to the listed building are also readily available, notwithstanding some areas of planting.
13. In my judgement the appeal site adds to the significance of the listed building by providing part of its setting which reinforces its character as a rural inn. There are clear views into the appeal site from the frontage of the public house and in this context, the appeal site provides an open and rural element to its setting. The boundary of the appeal site is relatively close to the rear of the listed building. From those areas identified above, the new houses would be visible and prominent within the back-drop of the public house. I consider that the proposal would significantly alter this part of the setting of the listed building which currently adds to its significance. As a result, the proposal would fail to preserve the setting of the public house.
14. The NPPF states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to its conservation, and this is irrespective of whether any potential harm amounts to substantial harm or less than substantial harm. In relation to the level of harm, I consider that the proposal would result in less than substantial harm to the significance of the listed building. As a result, the proposal conflicts with Policy ENV1 of the CS and Policy DP14 of the Development Policies.

Housing Mix

15. Policy H3 of the CS states that development should contain a range of housing types in order to create inclusive and sustainable communities which reflect the needs of a community. It adds that the mix of housing types should be informed by an appraisal of community context and housing need.
16. The proposal contains 4 three-bedroom houses, 4 four-bedroom houses and 2 five-bedroom houses. The Council indicates that this is inconsistent with the need to provide smaller homes for which there is a stated demand and this demand/need is set out within the supporting text of its policies.
17. The appellant has not sought to support the proposed mix of dwelling sizes by any form of appraisal but indicates that the need for new homes in the area will include 3, 4 and 5 bedroom homes. From what has been presented for this

appeal, it appears that there is a considerable demand/need particularly for smaller homes in the Borough. The intent of Policy H3 is that a suitable range of home sizes should be provided; this should be in an inclusive and mixed way. It seems to me that the proposal fails to acknowledge and cater for the need for smaller dwellings. The appellant's indication that their scheme would cater for some demand ignores the demand for smaller homes and seems to indicate that other schemes should cater for this. In my judgement this ignores the requirement in Policy H3 for schemes to be mixed and inclusive. Therefore, I consider that the proposal is contrary to Policy H3 for these reasons.

Planning Balance and Conclusions

18. The appellant argues that the determination of this appeal should be made by engaging the 'tilted balance' contained within paragraph 11 of the NPPF because it is alleged that the Council is unable to demonstrate a suitable supply of housing sites. The appellant also suggests that certain policies are out of date or that there is an absence of specific policy intent. The relevant section within paragraph 11 of the NPPF which refers to the use of the 'tilted balance' includes a caveat that the tilted balance would not be engaged where the application of policies in the NPPF which protect, amongst other things, designated heritage assets, provides a clear reason for refusing the development proposal. As I have identified that the proposal would have an unacceptable effect on the significance of the listed building, this is relevant to this appeal and indicates that the 'tilted balance' is not engaged.
19. In addition, considerable discussion at the Hearing related to housing land supply. The appellant indicated that the Council can only demonstrate a supply of 4.48 years. Evidence submitted at the Hearing suggests that the Council's assessment lies between 5.37 and 7.03 years. For the reasons set out above, this matter has no determinative significance on the use of the 'tilted balance' and so I consider that it is not necessary for me to arrive at a conclusion on housing land supply as it does not affect this aspect of the consideration of the appeal. I shall refer to the more general aspect of the provision of new homes later.
20. The harm that I have identified as arising from the proposal needs to be balanced against the benefits that the scheme would bring about. The appellant indicates that the proposal would provide 10 new homes of a mixture of sizes, including an element of affordable homes; it will support construction jobs and local businesses will benefit from the additional spending of new residents; a new footpath is proposed along the frontage of the site; the decommissioning of the cess-pits on the site would be an environmental benefit.
21. I have taken account of the benefit of providing 10 new homes, possibly in the context of the housing supply situation as suggested by the appellant. I acknowledge that affordable homes would be a benefit. However, these benefits are tempered somewhat by the failure to provide an appropriate mix of dwelling sizes. I also acknowledge that some modest benefits would arise from the construction jobs and spending by new residents. The benefit of a new footpath in terms of pedestrian safety would be off-set to some degree by its consequent loss of the soft verge to the road-side. In relation to the cess-

pits, I have not been made aware that they cause any problems within the area.

22. Taking all of these matters together, and even contemplating the appellant's worst case in relation to housing supply, I consider that the benefits of the scheme are insufficient to outweigh the harm that I have identified. With specific relevance to the effects on the listed building, I find that the public benefits are insufficient to outweigh the harm to its significance.
23. As a consequence, I conclude that the appeal is dismissed.

S T Wood

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

S Turnbull

FOR THE LOCAL PLANNING AUTHORITY:

K Syrett
S Cairns
A John
C Harden

INTERESTED PERSONS:

L Barber
B Butcher

DOCUMENTS SUBMITTED AT THE HEARING:

1. Planning Obligation (Submitted after Closing)
2. Internet article relating to The White Hart
3. Appeal decision APP/A1530/W/18/3207015
4. Council's 5 year land supply summary table
5. Suggested planning conditions
6. Statement and appendix of Mr B Butcher

Richborough Estates