



Appeal Decision

Site visit made on 28 May 2019

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2019

Appeal Ref: APP/A1530/W/18/3217708

Easting 594547 Northing 225340 Arable land, forming a triangular shape

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Burwood and Go Homes Ltd against the decision of Colchester Borough Council.
 - The application Ref 181846, dated 19 July 2018, was refused by notice dated 18 October 2018.
 - The development proposed is residential development of up to 25 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was in outline with all matters reserved with the exception of access. I have regarded the details shown on the Indicative Site Plan and Indicative Street Scene solely on the basis that they have been submitted for illustrative/indicative purposes.

Main Issues

3. During the course of my consideration of the appeal, a unilateral undertaking has been provided by the appellants. The Council has confirmed that in the light of the undertaking, it no longer wishes to contest the third reason for refusal. Therefore, the main issues are:
 - The effect of the development on the character and appearance of the landscape, with particular reference to the location of the site relative to Colchester and Eight Ash Green.
 - Whether the development would provide acceptable living conditions for future occupants, with particular regard to air quality and the effect of the development on the Lucy Lane Air Quality Management Area (AQMA).
 - The effect of any necessary noise mitigation/attenuation measures required to provide acceptable living conditions for future residents on the layout and design of the development.

Reasons

Character and appearance

4. There is no dispute between the parties that the site lies outside the limits of existing development and the Council has confirmed that it is not allocated for development. Policy SD1 of the Colchester Borough Council Core Strategy (2008 revised 2014) (the Core Strategy) sets out the Council's overall hierarchical development strategy. It seeks to direct most new development to the town centre and defined growth areas and takes a sequential approach that gives priority to accessible locations and previously developed land (PDL).
5. The site lies between the main built up area of the suburbs of Colchester which in this particular location are principally defined by the A12 and Eight Ash Green which is an expansive linear village. The boundaries of the site are formed by Halstead Road, a railway line and existing development on the edge of Eight Ash Green, including the Holiday Inn hotel. As a result of the tree screens to the railway and the hotel grounds, Halstead Road is the dominant feature in the area. However, neither this dual carriageway nor the distant views of the hotel above the extensive tree screen associated with it detract from the general sense of openness. The site makes a significant contribution towards this landscape character, the protection of which is essential to provide separation between the suburbs of Colchester and Eight Ash Green.
6. The proposed development would result in the construction of up to 25 dwellings on the site. There is very limited evidence before me to demonstrate that the development falls within any of the criteria for development outside village boundaries which is supported by Policy ENV2 of the Core Strategy. Consequently, the development does not accord with this policy.
7. Although the application is in outline, the indicative plans demonstrate that a development of this scale would fundamentally alter the appearance of the site and the contribution which it makes to the surrounding area. Given the importance which I have attributed to the site in maintaining the separation between Colchester and Eight Ash Green, the development would lead to a coalescence of the two settlements and would be harmful to the character and appearance of the landscape.
8. The appellants argue that the railway line and associated embankment would continue to provide sufficient separation between Colchester and Eight Ash Green if the site were to be developed. The railway line and its planting are a comparatively narrow linear feature. In contrast the appeal site is an extensive green space particularly given the width of its frontage to Halstead Road. From this direction the development would be highly visible in the public domain, notwithstanding the change in levels between the road and the appeal site.
9. The appellants also consider that there has been no detailed justification for the Council ruling the site out as an allocation for housing development. This is not a matter which falls within my remit of the determination of this appeal.
10. I conclude that the appeal scheme would have a harmful effect on the character and appearance of the landscape, with particular reference to the location of the site relative to Colchester and Eight Ash Green. The development is therefore contrary to Policies SD1 and ENV1 of the Core Strategy. These policies, jointly, amongst other things, protect unallocated greenfield land outside settlement boundaries and seek to sustain the character of the countryside and achieve compatibility with local character.

Air Quality

11. Halstead Road which bounds the site accommodates a steady flow of traffic that would be likely to affect air quality. The Council has confirmed that the site does not lie within an AQMA, however it has referred to the Lucy Lane AQMA. Houses within the Lucy Lane AQMA face directly towards an elevated section of the A12 which accommodates a substantial number of heavy goods vehicles. The Lucy Lane AQMA is considerably closer to the A12 than the appeal site.
12. Whilst the layout of the site is not a matter under consideration for this appeal, there is potential for some dwellings to be close to Halstead Road. However, I have very limited evidence that occupiers of such properties would be exposed to an unsuitable environment with respect to air quality. Neither is there any information to quantify the effect of the development on the Lucy Lane AQMA.
13. In the absence of any substantive evidence to demonstrate otherwise I conclude that the appeal scheme would provide acceptable living conditions for future occupants, with particular regard to air quality, and that it would not have a harmful effect on the Lucy Lane AQMA. The development would accord with Policy DP1 of the Core Strategy which, amongst other things, requires that all development protects existing public and residential amenity including in relation to pollution. I do not find Policy UR2 of the Core Strategy, which deals with the provision of high quality and inclusive design to be directly relevant to this main issue.

Noise mitigation/attenuation measures

14. The proximity of the site to Halstead Road, the A12 and the railway line has the potential to result in the occupiers of the site being exposed to noise. A Noise Impact Assessment (NIA) was submitted with the planning application. This document established that an appropriate internal and external noise environment could be achieved for future residents. However, this outcome would be reliant on mitigation measures being incorporated into the design of the development. The Council is concerned that if noise issues are to be addressed effectively this may lead to the design of the development being compromised.
15. The scheme has been brought forward for outline consent and matters of layout and appearance do not fall to be included in any grant of planning permission. The layout as shown on the indicative plans, in combination with the NIA conclusions suggests that some of the buildings on the development could act as a noise shield for others. Nevertheless, there is no certainty about either the layout or appearance of development at this stage and on this basis the effect of noise on the overall design of the development is also uncertain.
16. The NIA concludes that the site is susceptible to a medium to high risk of adverse noise during the daytime and at high risk during night time. On this basis the site is located in a noisy environment and this is likely to place constraints on the design of the dwellings. However, there is limited evidence before me to demonstrate that this would manifest itself in such a way that all options for the future design of the houses would be inappropriate in the site context or would not provide appropriate living conditions for future residents.
17. On the basis of the evidence, I conclude that the effect of any necessary noise mitigation/attenuation measures required to provide acceptable living

conditions for future residents would not necessarily have a harmful effect on the layout and design of the development. The development would accord with Policy UR2 of the Core Strategy and Policy DP1 of the Core Strategy. These policies, amongst other things, promote and secure high quality and inclusive design and require that all development protects existing public and residential amenity including in relation to noise and disturbance.

Other Matters

18. The appellants cite the benefits of the development as having an economic dimension in respect of the contribution which future residents would make to the local economy and a social role in contributing towards the supply of housing. Whilst there is limited evidence to substantiate these benefits, they attract moderate weight in favour of the development.
19. The Council states that it can demonstrate a five-year supply of housing land (5YHLS) and has submitted evidence to demonstrate this which I find convincing. The appellants consider that the Council cannot demonstrate a 5YHLS. Even if I were to conclude that there is a shortfall in the 5YHLS and that relevant policies for the supply of housing should be considered out of date, the adverse environmental impact of the development which would arise from the harmful effect on the character and appearance of the landscape would significantly and demonstrably outweigh the benefits which I have identified.
20. My attention has been drawn to a planning application for development at Fiddlers Farm (Council Ref. 171529). I have very limited information before me regarding that development, consequently it has attracted limited weight in my determination of the current appeal.
21. I acknowledge the concerns raised by local residents, in addition to those relating to the main issues which I have identified, including access, traffic, use of land as open space and potential for the development of the site to undermine the neighbourhood planning process. Given that I find the proposal to be unacceptable for other reasons, and any such concerns would have no bearing on my overall planning balance, it is not necessary for me to address these matters any further as part of this decision.

Conclusion

22. For the reasons set out above, the appeal is dismissed.

Sarah Dyer

Inspector