



Appeal Decision

Site visit made on 22 June 2009

by **John Papworth DipArch(Glos) RIBA**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
26 June 2009

Appeal Ref: APP/Z1510/A/09/2099495

Newcombes, Poole Street, Great Yeldham, Halstead, Essex CO9 4HP

- 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 Mr Robert Oliver against the decision of Braintree District Council.
- The application Ref 08/02296/FUL, dated 22 December 2008, was refused by notice dated 3 February 2009.
- The development proposed is the erection of detached dwelling and outbuilding.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are;
 - The effect of the proposed development on the character and appearance of the Poole Street area within a Special Landscape Area.
 - The effect of the proposed development on highway safety and the free flow of traffic.

Reasons

Character and Appearance

3. The site lies outside settlement boundaries as defined in Policy RLP2 and within the countryside where policies of restraint apply, such as in Policy RLP78. The site is also within a Special Landscape Area and Policy RLP79 seeks to protect the essential landscape character. However, there are policies providing exceptions to the general restraint and RLP16 has been drawn to my attention, which does not rely on specific uses for the dwelling or a specific occupation for the resident. The appellant also refers to Planning Policy Statement 3 "*Housing*" and the need to make better use of previously developed land in providing a mix of housing size and types. There is no sign of any previous building on the site, but the large grounds, or garden, attached to 'Newcombes' may be regarded as previously developed land. The Central Government guidance goes on to say that there is no presumption that land that is previously developed is necessarily suitable for housing development or that that the whole of the curtilage should be developed.
4. It is my view that Poole Street may be considered as 'a defined nucleus of at least ten dwellings' and hence the possibility of an exception under Policy

RLP16 arises. The proposal is for a single dwelling in a gap but is not 'the *filling* of a gap, for a single dwelling' in my opinion as the proposal would leave a substantial area to the south between it and the host dwelling, Newcombes. The policy goes on to say that 'this policy will not apply to gaps, which could accommodate more than one dwelling'. I find this large gap capable of accommodating two dwellings at a similar roadside grain as exists in other places in the group. It has been suggested that two dwellings would breach the policy requirement of not being detrimental to the character of the surroundings, but if the proposal was for two dwellings, it would not fall to be considered under Policy RLP16 in the first place and the general policies of countryside restraint would persist. No such proposal is before me.

5. The gap is not 'between existing dwellings' as there is the Woodpecker Court Industrial Estate adjacent to the north. I have been directed however to another appeal decision where a commercial use was considered as a suitable neighbour to the gap for the purposes of Policy RLP16, and so do not discount the acceptability of this situation. The lack of a neighbouring dwelling, but more particularly, the predominantly set-back form and large area of hardstanding of those commercial buildings adds to my view that the neighbouring use substantially reduces the appearance, as well as the fact, of this being a gap within a group of dwellings, and that the insertion of the proposed dwelling, with the substantial gap between the appeal building and Newcombes referred to previously would tend to make this proposal appear isolated and not readily linked to the general run of development along the road with a weak link to the built form to both the north and south.
6. I consider that the outbuilding and the possibility of additional items; garden furniture, parking, play equipment and similar, would appear as an intrusion of domestic character and appearance into the countryside, causing harm. I acknowledge that the land is presently domestic garden but consider that it would be more likely that these items would be closer to the existing dwelling and not dispersed further afield. In the circumstances of this case, the existence of the commercial neighbour weakens the ability of the site to accord with the requirements of Policy RLP16 and the size, and particularly the width, of the site is such that more than a single dwelling could be accommodated. The development, including the formation of the access and sightlines, would cause harm to the character and appearance of the area through the location of built form and separate domestic activity poorly related to the group. In conclusion, the proposal would be contrary to the countryside policies of restraint previously identified with no exceptional circumstances indicating its acceptability in this area, and the development and site should not, in my judgement, be considered as an exception under Policy RLP16 for the reasons set out.

Highways

7. The development would involve a new access off the A1017 in a location subject to a 40mph speed limit. There does not appear to be any policy forbidding a new access, only that these should be kept to a minimum and be created in a manner which minimises the impact on the right and safe passage of all highway users.

8. The new access could be constructed to acceptable standards with adequate sightlines for the speed of traffic on a straight section of road with those sightlines being able to be kept clear as they would be within the appellant's control. There would be a benefit to the egress from the adjoining industrial estate as the sightlines passing over the appeal property would be more open. I note the reference to heavily used new access on a section of road to the south where the national speed limit applies, although the tourist nature of this may have weighed in the balance. Nevertheless, it is my view that safe access can be placed here to serve a single dwelling without causing undue delay or an increase in accident risk to road users and hence the aim of minimising the impact on the right and safe passage of all highway users could be achieved, secured by condition.

Conclusions

9. The site is within the countryside and outside settlement boundaries where policies of restraint apply, but there is policy backing for single dwellings in gaps in this type of location. However, the nature and size of the gap results in there being room for more than one dwelling and the development proposed would cause harm to the character and appearance of the area, including the Special Landscape Area. Whilst access to the highway can be provided safely, and there would be some improvements to an adjoining access sightlines, these matters do not outweigh the harm and the fact of the development being contrary to well established countryside policies. For the reasons given above I conclude that the appeal should be dismissed.

S J Papworth

INSPECTOR