
Appeal Decision

Site visit made on 19 July 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date:

Appeal Ref: APP/X1545/W/16/3146920

The Old School House, Southminster Road, Mayland, Essex CM3 6EB

- 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 Mr Mark Goodey against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/00824, dated 30 July 2015, was refused by notice dated 1 October 2015.
 - The development proposed is the construction of three 2 bedroom cottages.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline form and the application form makes it clear that all matters are reserved for future consideration. The submitted site plan is entitled 'Indicative' and I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area.
 - Whether the development would provide a suitable site for housing, having regard to the proximity of services and facilities.
 - The effect on highway safety.

Reasons

Policy Context

4. When read together, Policies S2, BE1 and CC6 of the Maldon District Replacement Plan 2005 ('RLP') seek to locate growth in the most accessible and sustainable locations, protect the countryside for its own sake, require that proposals make a positive contribution to the landscape and open countryside and are compatible with their surroundings. Policy S2 is read in association with Policy S1 and although not referred to in the reason for refusal I have been provided with a copy of the policy.
 5. Whilst the RLP is of some age and pre-dates the National Planning Policy Framework ('the Framework') the RLP policies are not out of date simply because of the age of the plan. However, the Council has confirmed that the
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RLP was produced using national planning policies prior to the Planning and Compulsory Purchase Act 2004 and accordingly, the Framework is clear that in such cases due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

6. Although the blanket protection of the countryside is not supported by the Framework I find these policies are, when taken as a whole, consistent with the Framework insofar as the need to recognise the intrinsic character and beauty of the countryside, that development should respond to local character, reinforce local distinctiveness and that good design is indivisible from good planning. The issue of the housing land supply position is a matter I turn to later.
7. The Council has also referred to Policies D1, H4, S8 and T2 of the emerging Maldon District Local Development Plan ('ELP') in the reason for refusal and I have been provided with a copy of the Secretary of State's letter dated 6 March 2016 confirming that the examination of the plan can proceed under a newly appointed Inspector. However, I have no information to suggest the plan is likely to be adopted in the near future and nor have I been made aware of the extent of any unresolved objections to the policies cited. As the Inspector has not yet delivered his findings and the policies do not form part of the development plan, in accordance with paragraph 216 of the Framework I have given them only limited weight in my decision.

Character and appearance

8. The appeal site is located outside the settlement limits defined in the RLP. It lies on the corner of Southminster Road and Buttons Hill at the junction with Mayland Hill and there is an existing field access to the site from Mayland Hill, close to the junction. The site has a somewhat overgrown appearance and is screened by a mature hedgerow.
9. The prevalent character of residential properties in the locality is one of large dwellings located on spacious plots and the area is defined by the open rural landscape which surrounds it. In my view, the appeal site has a strong connection to the open countryside and a rural character and appearance.
10. Although all matters of the scheme would fall to be assessed in greater detail at a later stage, in trying to achieve an appropriate scheme at the reserved matters stage for three dwellings, given the size and nature of the appeal site there are a limited number of ways in which it could be developed. Such buildings are highly likely to end up being sited uncharacteristically close to the side and rear boundaries, in particular the flank elevation of Plot 3 and any future layout would appear essentially suburban in style.
11. The existing boundary hedgerow, with the exception of the access point will be retained. Despite this, the site lies in a prominent location and views into it from Southminster Road are available through the existing hedge, especially when soft landscaping is not in leaf. The introduction of three dwellings would represent a harmful visual intrusion and although the land is somewhat overgrown and of an unkempt appearance, this would be at serious odds with the prevailing rural character and appearance of the site and area. The contention from the appellant that the land will not benefit from regular maintenance is not adequate justification for the development.

12. For these reasons, the proposal would cause significant harm to the character and appearance of the area and would conflict with Policies S2, BE1 and CC6 of the RLP which, seek to protect the countryside for its own sake, require that proposals make a positive contribution to the landscape and open countryside and are compatible with their surroundings. In this respect the proposal would also conflict with the Framework insofar as it includes similar aims.

Proximity of services and facilities

13. The proposal would add to an existing group of houses which sit alongside Southminster Road. It would not constitute an isolated dwelling in the countryside therefore.
14. However, it was evident from my site visit that it is remote from local services and future residents would therefore not be able to access a range of services and facilities on foot. The village centre of Southminster is approximately two miles away and although Althorne is closer, services appear to be limited to a shop and post office. Moreover, access would be along an unlit and busy rural road with no footway for a considerable distance. This would not be perceived as an attractive route for cyclists or pedestrians.
15. The appellant has referred me to bus services which could be used to access facilities such shops, school, work, health, leisure and other day to day services and facilities further afield. However, there did not appear to be a bus stop within the vicinity of the appeal site on Southminster Road when I visited the site. Even if buses could be 'hailed' as suggested by the appellant the service is not a regular or frequent one and I consider it is highly likely that future residents would opt to use private cars rather than more sustainable modes of transport in order to access day to day services both within the village and further afield.
16. Notwithstanding its location outside the settlement boundary, the proposal would result in three new dwellings in a location that would be poorly located in terms of access to services and facilities and in this respect it would not be a suitable site for housing. Furthermore, I have no meaningful evidence to suggest that the proposal would enhance or maintain the vitality of rural communities.
17. For these reasons, I find that the development would not be on a suitable site for housing in terms of access to services and facilities. It would conflict with Policy S2 of the RLP which, when read in association with Policy S1 seeks to locate growth in the most accessible and sustainable locations and protect the countryside for its own sake. Furthermore, it would also conflict with the Framework which seeks to actively manage patterns of growth to make the fullest possible use of public transport walking and cycling, reduce greenhouse gas emissions and focus development in rural areas where it will enhance or maintain the vitality of rural communities.

Highway safety

18. The existing site access on Mayland Hill would be re-used and I note that the Inspector who decided the appeal in 2007 concluded that traffic would be proceeding with caution when turning into Mayland Hill and that there would be scope to cut back vegetation to improve site visibility. Road markings would slow traffic down on the entrance to Mayland Hill from Southminster Road and I

am also mindful that the proposal is in outline form with all matters reserved. Therefore it is not unreasonable to conclude that improved visibility splays could be achieved by condition, were I minded to allow the appeal. On the evidence before me, I have no reason to disagree with the findings of the previous Inspector in this regard and there would not be harm to highway safety in terms of failure to achieve visibility splays.

19. Whilst I have been provided with confirmation that there have been three recorded collisions between 22 December 2013 and 29 December 2014, within the 'vicinity' of the junction I have not been provided with the full details so cannot be certain they are relevant to consideration of this issue.
20. However, to comply with the requirements of Policy T8 of the RLP, two spaces are required per two bedroom dwelling albeit that these are maximum requirements. The indicative site plan shows that three spaces would be located in the corner of the site next to the access and an extended footpath installed to give access from them to the two dwellings on the frontage. Such a provision is, in my view, inadequate in this rural location and takes little account of the site's location, the likelihood of additional vehicles being owned by future occupiers and visitors to the development. I also find that given the constraints of the site there would be limited opportunities to include additional parking at the reserved matters stage.
21. Given the very limited opportunities for safe parking of vehicles on the highway, the overall parking provision for the proposal would not be adequate and would be highly likely to result in a level of on-street parking that would harm the free flow of traffic and highway safety. I am also not persuaded that the development would not result in conflict between pedestrian users accessing the two dwellings on the frontage and other users of the highway, although I am mindful that this could be resolved by condition.
22. For these reasons, the proposal would fail to provide adequate car parking provision and this would cause harm to highway safety. It would conflict with Policies T2 and T8 of the RLP which, when taken as a whole and amongst other things, require development to improve the surrounding location in terms of traffic impact and provide parking in accordance with adopted standards. In this respect, the proposal would also conflict with the highway safety and parking objectives of the Framework.

Other matters

23. I have been referred to two recent appeal decisions, at Washfields, Post Office Lane, Little Totham, Maldon, Essex and Land at Brook Lane, Asheldham, Essex where permission was granted for two, three bedroom bungalows. The appellant contends that in these cases, sustainable transport and access were pivotal in the allowing of the appeals. In the Little Totham case, the Inspector took the view that although paragraph 29 of the Framework recognises that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Whilst I have reached a different view based on the merits of the appeal before me, planning permissions had also recently been granted on application and at appeal for residential development in Little Totham. This is not the case in the appeal before me and moreover the Inspector found the proposal would be beneficial to the character of the area, whereas I have identified significant harm.

24. In the Brook Lane appeal, the Inspector had no substantive evidence to suggest that the site was not well located and therefore did not need to fully consider locational sustainability or accessibility. In both cases, I do not find that the considerations and judgements are directly comparable to the appeal before me and in any event, each case must be determined on its own merits.

Overall conclusions and planning balance

25. There is some disagreement as to whether the Council can demonstrate a deliverable five year supply of housing land. The appellant considers a five year supply doesn't exist, that the RLP is out of date and that the policies in the Framework are most relevant. Whilst I have considered the numerous appeal decisions and submissions brought to my attention, the evidence before me does not enable me to reach a definitive conclusive in relation to the housing land supply position.
26. Nevertheless, paragraph 8 of the Framework advises that the three roles of sustainable development should not be considered in isolation, because they are mutually dependant. The construction of the development would bring some limited economic benefits. Regardless of the housing land supply situation three houses would provide a limited contribution to the supply of housing but I have no meaningful evidence to suggest that the proposal would enhance or maintain the vitality of rural communities and therefore the proposal gains very little support from paragraph 55 of the Framework. With regard to the environmental role, I have found that the proposal would cause significant harm to the character and appearance of the area and harm to highway safety.
27. Even if I were to conclude there is a shortfall in five year supply of the scale suggested by the appellant, that the plan is out of date and that relevant policies for the supply of housing should not be considered up to date, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore be the sustainable development for which the Framework indicates a presumption in favour.
28. For the reasons set out above and having considered all other matters raised, the proposal would conflict with the development plan, when read as a whole and the Framework. I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR