

Appeal Decision

Site visit made on 9 August 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 29 September 2016

Appeal Ref: APP/X1545/W/16/3147984

Land east of Brights Villa, Chelmsford Road, Purleigh, Essex, CM3 6QN

- 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 and Mrs Weston against the decision of Maldon District Council.
 - The application Ref: OUT/MAL/15/01210, dated 16 November 2015, was refused by notice dated 14 January 2016.
 - The development proposed is demolition of all buildings and structures (except stable block) with the cessation of all commercial uses. Outline application with all matters reserved for the construction of one dwelling with parking and other associated works.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The proposed development has been applied for in outline with all matters reserved for subsequent consideration. I have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - Whether the site is a suitable location for housing having regard to access to shops, services and employment opportunities and to the development plan;
 - The effect of the development on the living conditions of the occupiers of Brights Villa with particular regard to noise and disturbance; and
 - The effect of the development on the character and appearance of the landscape and surrounding countryside.

Reasons

Suitability of the site as a location for housing

4. The appeal site is located outside of the village of Purleigh and beyond the development boundary. Saved Policy S1 of the Maldon Replacement Local Plan 2005 (RLP) seeks to direct new development to sites within the development boundaries. RLP Policy S2 states that outside the defined development boundaries, the coast and countryside will be protected for their own sake.
 5. Within the village there are a very small range of facilities available, including a small shop and post office, a public house and a primary school. It is
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approximately 800 metres from the appeal site to the primary school and approximately 1 kilometre to the shop in the village. These are technically within walking distance or could be accessed by cycle, and there is a footpath alongside the highway between the appeal site and the village. This notwithstanding, I saw that the route to the village is not lit and as a result it is not likely to be attractive to pedestrians or cyclists, especially during the winter months.

6. The town of Maldon is approximately 7 kilometres by road and there are bus services to Maldon from the village centre. However, the bus stops are approximately 1 kilometre from the appeal site and there are only five services daily. Due to the distance involved, I consider that it is less likely that occupiers of the new dwelling would use cycles to access goods and services or to travel to work in Maldon. There is a bus service which stops closer to the appeal site, however, this is a school service which only runs twice daily. Whilst opportunities to use alternative means of transport do exist, because of the distance from the appeal site to the bus stops, the very limited number of bus services, and the restricted range of facilities and employment opportunities available within Purleigh, I consider that future occupiers of the new dwelling would be largely dependent on the private car in order to meet their day to day living requirements.
7. I therefore find that the site is not a suitable location for housing and is contrary to Saved Policy S2 of the RLP which seeks to protect the countryside and direct new development to sites within development boundaries.

Living conditions of the occupants of Brights Villa

8. Saved Policy BE1 of the RLP addresses the design of new development and as part of this seeks to ensure that the living conditions of neighbouring properties are not affected. Emerging Policy D1 of the Maldon Pre-Submission Local Development Plan (PSLDP) has similar aims. 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 therefore, I have given this policy only limited weight in my decision.
9. The proposed access to the new dwelling would pass approximately 2 metres from the side elevation of Brights Villa and would result in additional vehicle movements, close to windows on the side and rear of the house. Although the number of vehicle movements associated with a single dwelling would not be large, the proximity of the access to the side of Brights Villa would exacerbate any disturbance caused by passing vehicles.
10. Whilst I note the point about the previous commercial use of the wider site and the appellants' occupancy of Brights Villa, the commercial activity was carried on by the occupier of the house and in the longer term, during the lifetime of the development, the occupancy of Brights Villa will inevitably change. Consequently, I consider that the proximity of the proposed access to the new dwelling is such that noise and disturbance from passing vehicles would cause substantial harm to the living conditions of the occupiers of Brights Villa.
11. I therefore conclude that the development would cause harm to the living conditions of the occupiers of Brights Villa with particular regard to noise and

disturbance. It would be contrary to the relevant requirements of Saved Policy BE1 of the RLP and emerging Policy D1 of the PSLDP which seek to protect the living conditions of neighbouring occupiers and would also be inconsistent with the requirements of the Framework which seeks a high standard of amenity for all occupiers.

Character and appearance

12. Saved Policies BE1 and CC6 of the RLP seek respectively to ensure that any new development outside the defined settlement boundaries makes a positive contribution to the landscape and open countryside and that it does not cause harm to the landscape character in the locality. These policies are consistent with the policies in the National Planning Policy Framework (the Framework) which seek a high standard of design and to conserve and enhance the natural environment.
13. The surrounding countryside consists of small to medium sized fields with hedgerow boundaries and contains some scattered blocks of woodland and areas of vineyard. Although there is residential development outside of the established settlements this takes the form of small groupings of buildings generally arranged linearly along roads. Where buildings are set back from the road, these are agricultural buildings.
14. To the north west of the appeal site are a group of single storey buildings. These appear to be largely disused apart from a timber stable block and dogs being kept in one building. The remainder of the land was primarily used for the grazing of horses at the time of my site visit. The application proposes the demolition of these buildings with the exception of the stable block, although they are outside the red line boundary of the development site. Whilst the proposed dwelling would be set back from the road, which is atypical of other residential properties nearby, due to hedging around the site and other tree cover nearby, the development would not be widely visible.
15. Apart from being beyond the defined development boundaries, the area where the development is located is not subject to any particular designation in respect of the character of the landscape and, whilst the development is likely to be two storey, the existing building on the site is relatively large. As a result of the screening around the site, its replacement with a two storey house, would not materially increase the effect on the appearance of the area over that which the current building has.
16. There is disagreement between the parties as to whether the demolition of the other buildings beyond the appeal site could be required as part of the development. Whilst the demolition of these buildings would increase the openness of the countryside, for the reasons set out above, regardless of whether the other buildings are removed, the development would not have a significant effect on its appearance.
17. I therefore conclude that the proposed development would not cause harm to the character and appearance of the landscape and surrounding countryside. It would comply with the relevant requirements of Saved Policies BE1 and CC6 of the RLP which seek to ensure that any new development makes a positive contribution to the landscape and open countryside and does not cause harm to the landscape character.

Other matters

18. It is suggested that the site is previously developed land, having previously been used for dog breeding and kennels, and that the re-use of previously developed land should count in favour of the proposal. The Council contend that the site has an agricultural use and that as a result cannot be considered to be previously developed. There is no compelling evidence either way in respect of the lawful use. The building on the appeal site, whilst designed as a typical agricultural building, was in use for the storage of domestic items at the time of my site visit. The remainder of site was largely disused but did not have the appearance of having previously been in agricultural use.
19. There is insufficient evidence to allow me to conclude on the current lawful use of the appeal site. However, as I am dismissing the appeal on the grounds that the site is not a suitable location for a dwelling with regard to access to shops, services and employment opportunities and the harm that it would cause to the living conditions of the occupiers of Brights Villa, even if I were to conclude that the appeal site is previously developed land, this would not lead me to a different conclusion on the main issues. Similarly, if the land has an agricultural use, whilst there may be fallback position in terms of converting the existing building to a residential use under the terms of Part 3, Class Q of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, I do not consider that this would be demonstrably more harmful than the appeal proposal or lead me to a different conclusion on the main issues.
20. My attention has also been drawn to a number of recent developments nearby which are also located outside the defined development boundaries. I do not have full details of these schemes and so cannot be certain the circumstances are the same. The Council suggest that these schemes were allowed at a time when there was a clear and acknowledged lack of a five year supply of housing land and that the site at Hackmans Lane was in commercial use and considered previously developed. On this basis, I do not consider that these cases are directly analogous to the current appeal and in any event I have determined the appeal on its own merits.

Conclusion

21. There is some dispute between the parties over whether there is a five year supply of housing land in the district and consequently whether the relevant policies for the supply of housing in the Local Plan can be considered up to date. The Council's current 5 year figure has not been tested as part of a local plan examination and the evidence from appellant suggests that there is some doubt as to whether delivery from strategic sites will occur when predicted. As Policies S1 and S2 seek to restrict development, including new housing, outside of defined settlement boundaries, they are relevant policies in this respect.
22. However, even if the policies are not up to date, this would not mean that little or no weight can be given to them as settlement boundaries are still a useful tool to establish whether development is appropriately located in relation to services, facilities and public transport. As such the policies would therefore still have some weight.
23. Paragraph 49 of the Framework requires that proposals for housing should be considered in the context of the presumption in favour of sustainable

development. The proposal would make a very minor contribution to the housing supply in the area and would have modest economic and social benefits through the investment in its construction and use of local services. Although I have found that the proposal would not cause harm to the character and appearance of the landscape and surrounding countryside, nevertheless, there would be clear environmental harm through the reliance of the future occupiers on the private car for their daily needs and substantial harm through its adverse effect on neighbours' living conditions. This harm would significantly and demonstrably outweigh the benefits, and the proposal would therefore not constitute sustainable development.

24. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR