
Appeal Decisions

Site visit made on 27 September 2016

by Simon Warder BSc(Hons) MA DipUD(Dist) MRTPI

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

Decision date: 10 October 2016

Appeal A Ref: APP/X1545/W/16/3148836

Treelawn Nursery, Chelmsford Road, Purleigh, Essex CM3 6QP

- 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 Brown against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/00691, dated 30 June 2015, was refused by notice dated 22 October 2015.
 - The development proposed is the demolition of existing chalet dwelling and erection of 3No detached houses.
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Appeal B Ref: APP/X1545/W/16/3148839

Treelawn Nursery, Chelmsford Road, Purleigh, Essex CM3 6QP

- 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 Brown against the decision of Maldon District Council.
 - The application Ref OUT/MAL/16/00001, dated 31 December 2015, was refused by notice dated 2 March 2016.
 - The development proposed is the demolition of existing chalet dwelling and erection of 2No detached houses.
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Decisions

1. Appeal A is allowed and planning permission is granted for the demolition of existing chalet dwelling and erection of 3No detached houses at Treelawn Nursery, Chelmsford Road, Purleigh, Essex CM3 6QP in accordance with the terms of the application, Ref OUT/MAL/15/00691, dated 30 June 2015, subject to the conditions set out in the attached schedule.
2. Appeal B is allowed and planning permission is granted for the demolition of existing chalet dwelling and erection of 2No detached houses at Treelawn Nursery, Chelmsford Road, Purleigh, Essex CM3 6QP in accordance with the terms of the application, Ref OUT/MAL/16/00001, dated 31 December 2015, subject to the conditions set out in the attached schedule.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ only in that one proposal is for two dwellings and the other is for three. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. Both applications were made in outline with all matters except access reserved for further approval. Both were accompanied by site layout plans showing the re-use of the existing access to serve the proposed houses, which would be laid out in general alignment with the adjoining Rudley Oaks dwellings. I have taken the positioning of the proposed dwellings to be indicative.

Main Issue

5. The main issue in both appeals is the effect of the proposals in the character and appearance of the area.

Reasons

6. The reasons for refusal refer to Policies S1, S8, D1, H4 and N2 of the emerging Maldon District Local Development Plan (LDP). The Council maintains that significant weight should be attached to the LDP. However, in reviewing the interim findings of the Inspector initially appointed to examine the LDP, the Secretary of State for Communities and Local Government did not examine these policies and, therefore, has not reached a judgement on the soundness of the Plan as a whole.
7. Moreover, notwithstanding that some of the LDP policies were considered in the hearing sessions when the Plan was examined initially, in a letter dated 7 April 2016, the Inspector now appointed to examine the LDP confirmed his intention to explore further some of the questions debated in the previous hearings. Nor have I been made aware of the extent of any unresolved objections to the policies cited. Having regard to the advice at Framework paragraph 216 therefore, little weight can be accorded to these policies.
8. The appeal site is located outside the settlement limits defined in the Maldon District Replacement Local Plan (RLP). It sits on the north side of Chelmsford Road, some distance from the core of the settlement of Purleigh. The Council has drawn my attention to a Landscape Character Assessment (LCA)¹ which places the site within the Woodham Wooded Farmland area whose key characteristics include an open landscape of arable farmland framed by woodland and hedgerows and tree lined roads and lanes. The LCA also finds that the network of quiet rural lanes in the area is sensitive to change or increased traffic from new development.
9. I recognise this as a broad description of the area and its sensitivities. However, the vicinity of the appeal site is characterised by loosely spaced, mainly residential, development. This includes two fairly recently constructed dwellings immediately to the west and a short row of dwellings along Spa Lane to the east. The land between the Spa Lane dwellings and the appeal site is effectively screened by boundary planting.
10. The land to the north of the site, whilst open, rises fairly steeply. Together with the substantial planting on the northern site boundary, it therefore curtails views from that direction. Although a row of trees extends across the frontage, the site is open to views from Chelmsford Road. Nevertheless, overall it is fairly well contained in views from the wider landscape. Moreover, the site accommodates a modest dwelling, a number of single storey former horticultural buildings and areas of hardstanding. As such, it has the appearance of previously developed land which is somewhat unkempt. The site

¹ Chris Blandford Associates September 2006

is, therefore, distinguishable from the wider countryside and has minor negative effect on the character and appearance of the area.

11. The proposals, whether for two or three dwellings, would significantly increase the scale of built development on the site. However, the new dwellings would be seen in the context of the existing development to the west and east and would consolidate, rather than extend, the pattern of settlement. As shown on the indicative site layout plans, the new dwellings would be set well back from the road frontage, leaving space for meaningful new planting in front of the buildings, as well as the retention of the existing trees. These matters could be secured through the approval of the landscaping reserved matter and would ensure that the development would respect the character of the tree lined roads identified in the LCA.
12. Whilst the scale and layout of the development are reserved at this stage, having regard to the width of the site, I see no reason why two or three dwellings should appear cramped on the site, or out of keeping with the adjoining recent development.
13. I recognise that there were particular circumstances which led to planning permission being granted for the Rudley Oaks development which do not apply to the appeal proposals. Nevertheless, the permission has been implemented and the resulting development makes a material contribution to the character of the area.
14. Consequently, having regard to the current condition of the site, I find that the proposals would have a minor positive effect on the character and appearance of the area. The proposals would therefore, accord with Policy BE1 of the Maldon District Replacement Local Plan (RLP) to the extent that it requires proposals to be compatible with their surroundings. They would also comply with Policy CC6 which seeks to protect and enhance the natural beauty, tranquillity, amenity and traditional quality of the landscape and Policy S2 which seeks to protect the countryside for its own sake and for its landscape value.
15. The reason for refusal in respect of Appeal B also cites Policy CC7, which requires proposals to conserve or enhance Special Landscape Areas. The supporting text to that policy advises that it will be used in conjunction with the Landscape Character Assessment for the District. I have found that that the proposals would be consistent with the relevant aims of the LCA.

Other Matters

16. The reason for refusal also cites RLP Policy H1 which presumes against new housing outside of development boundaries unless it complies with other plan policies. The underlying aim of the RLP's housing distribution strategy is to direct development to sustainable locations. The Council accepts that the appeal site is sustainably located and I have found that the proposals would not harm the character and appearance of the area. As such, I consider that the degree to which the proposals would conflict with Policy H1 is limited.
17. Concern has been expressed locally regarding the effect of the proposals on highway safety. Whilst Chelmsford Road is fairly free flowing, there is no substantive evidence to suggest that it experiences particular highway safety problems. Looking west from the proposed access the site frontage is open.

Looking east, whilst the adjoining land is enclosed, the hedge is set back from the carriageway behind a footpath. As such, I consider that visibility from the access would be adequate to serve the relatively small number of vehicle movements generated by up to four dwellings (the appeal proposal for three dwellings, plus the right of access claimed by the occupiers of Tye Meadow). I note that the local highway authority did not object to the proposals.

18. The approval of reserved matters would allow, if necessary, control over the orientation of windows in the proposed dwelling closest to the Tye Meadow boundary in order to prevent overlooking.
19. I will frame the condition dealing with the landscaping reserved matter ensure to that those details allow for the retention and protection of existing trees and hedges at the site.

Planning Balance

20. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together. The construction of the developments would bring minor, short term, economic benefits. The appellant's final comments indicate that it no longer disputes the housing land supply position in the District. Nevertheless, the provision of two or three new dwellings would make a modest positive contribution to the social dimension of sustainability, irrespective of the housing land supply situation. Therefore, it merits a measure of weight in support of the proposals in accordance with Framework paragraph 47. Future occupiers could also be expected to make a limited contribution to the viability of local facilities and services.
21. I have already concluded that proposals would be consistent with the environmental role. Consequently, even if a five year supply of housing land currently exists, I find that the proposals would amount to sustainable development and so are supported by the presumption in favour of sustainable development set out in Framework paragraph 14. This finding would also outweigh the limited conflict with RLP Policy H1.

Conditions

22. The Council has suggested the same list of twenty conditions for both appeals and I see no reason why the conditions to be applied to the permissions should differ. I have considered the conditions in the light of the tests set out in the Planning Practice Guidance. Suggested conditions 4 (materials) and 5, 6 and 19 (boundary treatments, landscaping details and position of gates) fall within the scope of the appearance and landscaping reserved matters respectively and are, therefore, not necessary at this stage. Similarly, there is nothing to indicate the need for a condition dealing specifically with ground and building levels (suggested condition 20). This information could be provided as part of the appearance and layout reserved matters.
23. Suggested conditions 8, 9 10 and 11 set out detailed requirements for the assessment and treatment of land contamination on the site. Whilst I recognise that the former horticultural use may have resulted in some contamination, on the basis of the evidence available, I am not persuaded that the likely level of contamination present justifies the measures set out in the suggested conditions. I will, therefore, impose a simpler, more proportionate

condition to deal with contamination. With amendments for simplicity and clarity, I find that the other conditions meet the tests set out in the PPG.

24. Since the only matter not reserved for further approval is access and both proposals would re-use the existing access, I will not impose a condition specifying the approved plans. However, conditions dealing with the configuration and surfacing of the access and the prevention of surface water discharging onto the highway, as well as the provision and retention of parking on the site are necessary in the interests of highway safety. A condition requiring a Construction Management Statement is necessary for the same reason and to protect the living conditions of neighbouring occupiers. However, in view of the scale of the proposal, there is no need for it to deal with phasing. Conditions controlling foul and surface water drainage are required in the interests of public health.

Conclusion

25. For the reasons set out above, both appeals should be allowed.

**Schedule of conditions attached to
Appeal Refs: APP/X1545/W/16/3148836 and
APP/X1545/W/16/3148839
Treelawn Nursery, Chelmsford Road, Purleigh, Essex CM3 6QP**

- 1) Details of the appearance, landscaping (including details of the planting to be retained and how it will be protected during construction), layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the report being completed and approved in writing by the local planning authority.

- 5) Prior to occupation of the development the existing vehicular access shall be re-constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be not less than 5.5m and that width shall be maintained for 6m within the site. A dropped kerb vehicular crossing of the footway/highway verge shall be provided in accordance with local highway authority standards.
- 6) No unbound material shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.
- 7) There shall be no discharge of surface water onto the highway.
- 8) No development shall take place until details of car parking to serve the development have been submitted to and approved in writing by the local planning authority. The parking areas shall be constructed in accordance with the approved details prior to the first occupation of the dwelling to which they relate and shall be retained for that purpose thereafter.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 10) No development shall take place until details of the foul drainage scheme to serve the development have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development.
- 11) No development shall take place until details of the surface water drainage scheme to serve the development have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development.