

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: 13th October 2016

Appeal Ref: APP/X1545/W/16/3148737

Land west of Red Lyons House, Burnham Road, Latchingdon, Essex CM3 6EY

- 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 D Palmer against the decision of Maldon District Council.
 - The application Ref: OUT/MAL/15/00746, dated 15 July 2015, was refused by notice dated 23 October 2015.
 - The development proposed is one new dwelling including determination of new access.
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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 other than access reserved for subsequent consideration. The application included an indicative site layout drawing showing a dwelling set towards the front of the site, accessed from Burnham Road. I have had regard to this but, as layout was reserved for future consideration, have treated it as illustrative only.

Main Issues

3. The main issues in this appeal are:
 - The effect of the development on the character of the landscape; and
 - Whether the site is a suitable location for housing having regard to access to shops, services and employment opportunities and to the development plan.

Reasons

Character and appearance

4. Saved Policies S2, BE1 and CC6 of the Maldon District Replacement Plan 2005 (RLP) taken together, seek to protect the countryside for its own sake, ensure that developments are compatible with their surroundings and make a positive contribution to the landscape and open countryside. Although the RLP was adopted before the National Planning Policy Framework (the Framework) was published, I am satisfied that the policies are consistent with the Framework when taken as a whole.
 5. The Council has also referred to Policies D1, H4 and S8 of the emerging Maldon District Local Development Plan in the reason for refusal. I have been provided
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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, there is no suggestion that the plan is likely to be adopted in the near future and at this time the policies do not form part of the development plan. Consequently, I have given them only limited weight in my decision.

6. The appeal site forms part of the residential curtilage of Red Lyons House and is currently laid out as part of the garden. A tall hedgerow separates the site from the adjacent highway. The site lies well outside the main built up area of Latchingdon, which sits within a largely flat landscape of agricultural fields and groups of farm buildings with scattered buildings fronting the highways. Although the section of Burnham Road where the appeal site is located contains a number of other dwellings and a small group of commercial buildings adjacent to Red Lyons House, the open nature of the surrounding countryside, roadside hedgerows, the sparse nature of the existing built development, and the lack of footways and street lighting on the road give the area a manifestly rural character.
7. Although the appellant suggests that the site is a logical infill site and that, as it is screened by hedges and trees, it is not in the open landscape, not all landscape or countryside areas are unenclosed and the appeal site is significantly beyond the existing built up area of Latchingdon.
8. The introduction of a further building into the space between Red Lyon House and the adjoining property, Fairfields, would intensify the built form in the area and the removal of a section of the hedgerow to provide access would allow views, albeit fleeting, of the new dwelling from the road. Additionally, the presence of a drainage ditch to the front of the appeal site would require an engineered solution to facilitate access to the site and add further urban characteristics to the area, increasing the prominence of the new development.
9. At present the large garden area and continuous boundary hedgerow to Red Lyons House provide a significant visual break between the donor property and Fairfields which makes a strong, positive, contribution to the rural character of the area. This would be substantially diminished by the introduction of a new building, the removal of part of the hedgerow, and the provision of an engineered access point in the roadside verge. Cumulatively, this increase in urbanisation would be harmful to the rural character of the area.
10. I therefore find that the proposed development would cause harm to the character and appearance of the surrounding landscape. It would be contrary to the relevant requirements of RLP Saved Policies S2, BE1 and CC6 which seek to protect the countryside for its own sake, ensure that developments are compatible with their surroundings and make a positive contribution to the landscape and open countryside.

Suitability of the site as a location for housing

11. The appeal site is located outside of the village of Latchingdon and beyond the development boundary defined in the RLP. Saved Policy S1 of the Maldon Replacement Local Plan 2005 (RLP) seeks to direct new development to sites within the development boundaries. This policy has to be read in conjunction with RLP Policy S2 which states that outside the defined development boundaries, the coast and countryside will be protected for their own sake.

12. Within Latchingdon there are a range of shops and facilities available including a food shop, a public house and a school. These are located on the main street through the village and are approximately 1.2 kilometers from the appeal site. There is also a small industrial area located outside the village approximately 2 kilometres to the north west, in addition to the small commercial area near the appeal site, which provide local employment opportunities. The appeal site is close enough to the edge of the village not to be considered isolated, however, it is remote from these local services and the larger employment site.
13. Latchingdon is served by a bus service running approximately half hourly. The bus stops are located approximately 500 and 650 metres from the appeal site. Whilst the facilities in the village centre could be accessed by cyclists and the bus stops are within walking distance, I saw on my site visit that there is no footway on Burnham Road for about 180 metres to the west of the appeal site and that the road is unlit, heavily trafficked and subject to a 60 mph speed limit at this point. For this reason it would not be attractive to pedestrians or cyclists, particularly so during the winter months, and future residents would necessarily be reliant on the private car to meet their day to day living requirements and to travel to work.
14. I note the appellant's point that there is a grass verge adjacent to Burnham Road that could be used by pedestrians to reach the footway, however, at the time of my site visit, a large proportion of this was overgrown with tall grass and the surface beneath was uneven. As it is not surfaced, the utility of this as a pedestrian route will be highly dependent on weather and it would not be a suitable route for persons with mobility impairments or pushchairs at any time.
15. Although car journeys would be relatively short, and I am mindful that within more rural areas there is a higher dependence on private cars to meet transport needs, nevertheless, the development would not assist in promoting sustainable transport or assist in moving to a low carbon economy.
16. In support of their case the appellant has drawn my attention to other permissions in the vicinity of the appeal site, in particular at Red Lyons Lodge and a site approximately 200m to the west of the appeal site, adjacent to Springwood, Rectory Lane. I was able to view these sites during my site visit. I do not have full details of these cases and so cannot be certain that the circumstances are the same. However, I note that although planning permission was granted in 2013 at Red Lyon Lodge, the Council have referred to a more recent appeal decision in May 2016 on the same site¹ where the Inspector found that the development of the site would not represent sustainable development.
17. I saw that the site to the west adjacent Springwood, Rectory Lane, is located closer to the main village and is also located where there is a footway adjacent to the road and access to the bus stops and the village on foot would be a more practical option for residents on this site. Consequently, I do not consider that these sites are directly analogous to the appeal proposal and in any event I have determined the appeal on its own merits.
18. 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.

¹ Appeal references APP/X1545/W/15/3141388 and APP/X1545/W/15/3141513

Other matters

19. The Council have not raised objections on highways grounds to the proposed position of the access to the site, nor have they expressed any concern regarding the effect of the development on the living conditions of the occupiers of nearby residential properties. From the evidence before me, and from what I saw on my site visit, I have no reason to disagree with this. I also note that the Parish Council did not object to the proposal. However, none of these factors, either singly or in combination, would lead me to a different conclusion on the main issues.

Conclusions

20. 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 whether the basis of the Council's calculations are correct and whether delivery from strategic sites will occur as 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.
21. 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.
22. Paragraph 49 of the Framework requires that proposals for housing should be considered in the context of the presumption in favour of sustainable development. As the proposal is for only one new dwelling, it would make a very minor contribution to the housing supply in the area but would not significantly increase housing supply. It would have modest economic and social benefits through the investment in its construction and use of local services.
23. However, I have found that the development would cause clear and lasting environmental harm to the character of the area and from the reliance of the future occupants on the private car for their daily needs. 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