

Appeal Decision

Hearing held on 15 November 2016

Site visit made on 15 November 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 21 December 2016

Appeal Ref: APP/X1545/W/16/3152606

Land North West of Stitches Farm, Lower Chase, Althorne, Essex CM3 6BY

- 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 Stuart Davis Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00055, dated 19 January 2016, was refused by notice dated 14 April 2016.
 - The development proposed is re-siting of an agricultural workers dwelling approved at FUL/MAL/14/01008.
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Decision

1. The appeal is allowed and planning permission is granted for re-siting of an agricultural workers dwelling approved at FUL/MAL/14/01008 at Land North West of Stitches Farm, Lower Chase, Althorne, Essex CM3 6BY in accordance with the terms of the application, Ref FUL/MAL/16/00055, dated 19 January 2016, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Stuart Davis Ltd against Maldon District Council. This application is the subject of a separate Decision.

Planning Policy

3. The Council's decision notice refers to draft Policies from the Maldon District Pre-Submission Local Development Plan 2014-2029. In accordance with paragraph 216 of the National Planning Policy Framework (the Framework) weight may be given to emerging policies subject to the extent of unresolved objections. There is no evidence before me which allows me to make this judgement and as these Policies have not yet been fully examined, I cannot attach significant weight to them. However, the aims of the draft Policies referenced do not appear so materially different from the relevant saved Policies of the Maldon District Replacement Local Plan (2005) (LP) such that they would have significantly influenced the outcome of the appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.
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Reasons

5. The appeal scheme is identical to that dismissed at appeal in November 2015¹ except for the submission of a Unilateral Undertaking (UU).
6. In the November 2015 appeal decision the Inspector found that there was an essential need for one agricultural workers dwelling. However, due to the absence of a binding legal agreement, to allow the appeal would have effectively allowed two dwellings. The need for one agricultural workers dwelling is not disputed between the main parties and within the UU the appellant agrees not to implement planning permission reference FUL/MAL/14/01008 should the appeal be allowed.
7. The Inspector in the 2015 decision found that the proposed siting of the appeal scheme, next to the access to the poultry sheds, would help to maintain the visual connection to the agricultural buildings. Furthermore, the Inspector found that the proposed dwelling by virtue of its modest size, traditional design and separation of about 100 metres from the nearest existing dwelling, it would not significantly harm the rural character and appearance of the area.
8. I am not aware of any significant developments nearby which have taken place since November 2015 which have altered the character or appearance of the area in the vicinity of the appeal site in any way. Furthermore there have been no changes to the development plan since that decision.
9. My attention has been drawn to two appeal decisions² where new dwellings in the countryside have been dismissed where Inspectors have found they would be harmful to the character and appearance of the area. However, the examples are some distance from the appeal site and thus have no influence on the character and appearance of the area which is relevant to this case. I have therefore afforded them limited weight and attach significant weight to the previous appeal decision relating to this site.
10. The area is characterised by sporadic development along the Burnham Road frontage with the space between the buildings widely visible in the rural landscape with views of the buildings broken up by mature planting. In my view the proposed dwelling is of a relatively modest size, comparable to other properties nearby.
11. Furthermore, the hedgerow along the road frontage and landscaping which could be provided as part of a landscaping scheme would soften the appearance of the proposed dwelling within the rural landscape. Thus, subject to appropriate planning conditions, when viewed from distance in any direction or passing by the appeal site, I find that the proposed development would be in keeping with the pattern and form of development in the area.
12. Thus, for these reasons which are consistent with the findings of the Inspector in the 2015 decision, I find the proposed development would not harm the character and appearance of the area. The proposal would therefore comply with the development plan and the good design aims of the Framework. It would specifically accord with saved Policies BE1 and CC6 of the LP which taken together, aim to ensure that new development is compatible with its surroundings and does not harm the character of the landscape.

¹ Appeal Ref: APP/X1545/W/15/3131017

² Appeal Ref: APP/X1545/W/15/3141230 & Appeal Ref: APP/X1545/W/16/3148737

Conditions

13. The conditions imposed are those which have been suggested by the Council but with some variation having had regard to the advice on imposing conditions set out in the Framework and the Planning Practice Guidance.
14. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
15. The appeal proposal is justified on the basis that there is an essential need for an agricultural worker to live permanently at or near their place of work. Hence, it is necessary to impose an agricultural occupancy condition to ensure that the dwelling remains available to meet that need.
16. In the interests of safeguarding the character and appearance of the area, I have also imposed conditions which require materials, boundary treatments and an appropriate landscaping scheme to be agreed. However, in the interest of efficient development, I have amended the conditions suggested by the Council to allow preliminary site works to take place before such matters are agreed.
17. Furthermore, conditions are also necessary to ensure appropriate parking provision, appropriate surface water and sewage management. Moreover, in order to safeguard the rural character and appearance of the area and ensure the dwelling remains an appropriate size, exceptional circumstances exist which justify the removal permitted development rights. I have therefore imposed a condition to this effect as suggested by the Council.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

L Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Caroline Legg	Planning Consultant (Smart Planning Ltd)
David Wallis	Planning Consultant (Smart Planning Ltd)
Stuart Davis	Appellant
Paul Mills	Appellant
Daniel Davis	Appellant

FOR THE COUNCIL

Rebecca Greasley	Principal Planning Officer
Emily Hall	Planning Officer
Bob Boyce MBE	Councillor Maldon District Council

DOCUMENTS SUBMITTED AT/AFTER THE HEARING

- 1 Final Signed Statement of Common Ground
- 2 Maldon District Local Plan (2005) Saving Direction
- 3 Appeal Decision Ref: APP/X1545/W/16/3148737
- 4 Appeal Decision Ref: APP/X1545/W/15/3141230
- 5 Copies of the responses to consultation on the planning application
- 6 S106 Unilateral Undertaking

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 15.2843/M001 Location Map, Drawing No 15.2843/M002 Location Plan, Drawing No 15.2843/E101 Existing Site Plan, Drawing No 15.2843/P201 Proposed Site Plan and Drawing No IP/SD/01 Elevations.
- 3) Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 4) No works shall begin on constructing the walls of the dwelling hereby permitted until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
- 5) No works shall begin on constructing the walls of the dwelling hereby permitted until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include the layout and materials of all hard surfaced areas. Details of soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plant species, plant size and proposed numbers / densities, where appropriate and an implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development. Any tree or plant which within a five year period from the completion of the development dies; is removed or becomes seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.
- 6) No works shall begin on constructing the walls of the dwelling hereby permitted until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railing and piers have been submitted to and approved in writing by the local planning authority. The boundary treatments as approved shall be constructed prior to the first occupation of the development and shall be retained as such thereafter.
- 7) The dwelling hereby permitted shall not be occupied until the land as shown for vehicle parking on Drawing No 15.2843/P201 Proposed Site Plan has been constructed and made available for parking. The parking spaces shall be retained for parking at all times thereafter.
- 8) The dwelling hereby permitted shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

- 9) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow, widower or surviving civil partner of such a person and to any resident dependents.
- 10) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking or re-enacting that Order) no garages, extensions or separate buildings (other than ancillary outbuildings not exceeding 10 cubic metres in volume) shall be erected within the site without planning permission having been obtained from the local planning authority.

END OF SCHEDULE