

Appeal Decision

Site visit made on 6 December 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 30 December 2016

Appeal Ref: APP/X1545/W/16/3154503

Bourchiers Lodge Farm, Back Road, Tolleshunt D’Arcy, Maldon, Essex

- 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 Phillip Scott against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/01234, dated 20 November 2015, was refused by notice dated 3 February 2016.
 - The development proposed is 1 No four bedroom detached house with detached garage and extension to existing drive.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application is in outline; with all matters reserved for future consideration. A layout plan has been submitted which I will treat as for indicative purposes only.
3. The Council submitted an appeal decision (APP/X1545/W/15/3139154) subsequent to my site visit in support of their stance on the five year housing land supply. I note the appellant’s request that I do not take it into account due to its late submission. However, the decision merely reiterates a point already made by the Council that I have dealt with below. I have therefore noted its contents.

Main Issues

4. The main issues are firstly the effect of the proposal on the character and appearance of the area and secondly, whether the proposal would provide a suitable site for housing with particular regard to its location.

Background

5. The Council have stated that they have a five year housing land supply in accordance with their Maldon District Council Five Year Housing Supply Advisory Note 2016. They refer to two appeal decisions which support their stance (APP/X1545/W/15/3053104 and APP/X1545/W/15/3139154). Furthermore, they consider that policies in the Pre-submission Local Development Plan 2014-2029 Consultation (the LDP) can be given significant weight based on its current advanced stage of preparation.
 6. The appellants dispute this and refer to two recent appeal decisions where the Inspector has found that the Council could not, at the time, demonstrate that
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they have a five year housing land supply (APP/X1545/W/15/3032632, APP/X1545/W/15/3029774).

7. Both parties refer to the letter dated 6 March 2016 from the Secretary of State regarding the examination of the LDP and its status. Furthermore the appellant refers to the letter of the 7 April 2016 from the Inspector appointed to continue the examination of the LDP together with a statement detailing his concerns regarding the Council's claim to having a five year housing land supply.
8. Having reviewed the information supplied, particularly the penultimate paragraph of the letter dated 7 April 2016, together with the Inspectors conclusions on the above appeals and the appellant's and Council's statements, I consider that I do not have sufficient information in front of me to interrogate and make an accurate assessment as to the state of the current housing supply figure.
9. The Inspector in his letter of 7 April 2016 states that he will be seeking further clarifications and updates on housing. Also the housing policies are closely linked to the policies for economic development which have not yet been examined. While I note that the Inspector does not raise the issue of objectively assessed housing need within his letter, the fact that he is unable to reach a firm and final conclusion on housing matters, in my view, limits the weight I can give to the housing policies in the plan.

Reasons

Character and appearance

10. The appeal site is within an area of open countryside where there is sporadic residential development. There are a small number of houses of individual designs which are sited within large plots also containing substantial trees and planting. However, overall the area has a strong rural character and appearance. The appeal site has some existing small buildings located to the edge of it but is mainly undeveloped and laid to grass within the open countryside. As a result therefore it makes a significant contribution to the rural character and appearance of the area.
11. I acknowledge that the proposed plot is large and could accommodate a considerable amount of planting as well as a house. Furthermore I do not doubt that the house would be well designed using appropriate materials. However, it would also have a significant visual impact in the countryside location by encroaching into the rural area reducing the openness particularly as the site adjoins fields and has extensive views across open countryside. This would be reinforced through the introduction of further residential paraphernalia such as washing lines, car parking and refuse bins and be accompanied by further traffic generation and more intensive domestic activity in and around the building all of which would detract from the rural character of the area.
12. I appreciate that the location of the proposed house is not fixed. Nevertheless views of the site and therefore the house would be available from the main road along the access track particularly in the autumn and winter months when the surrounding deciduous trees would lose their leaves.
13. For the reasons above I conclude that the proposal would be harmful to the character and appearance of the area. It would therefore be contrary to saved Policies BE1 and CC6 of the Maldon District Replacement Local Plan 2005 (the Local Plan), emerging Policies D1 and H4 of the LDP and paragraph 17 of the

National Planning Policy Framework (the Framework). These require that the natural beauty, tranquillity, amenity and traditional quality of the District's landscape will be protected, conserved and enhanced, that proposals are compatible with their surroundings and development recognises the intrinsic character and beauty of the countryside.

14. The Council also refer to saved Policy CC7 of the Local Plan within their reason for refusal. This Policy relates to Special Landscape Areas. I have not been advised though that the site lies within a Special Landscape Area. Furthermore the appellant has referred me to three decisions of the Secretary of State (APP/X1545/A/12/2174982, APP/X1545/A/12/2179484, APP/X1545/A/12/2179225) where he considers that Policy CC7 is not in broad accordance with the requirements of the Framework. The Policy has not therefore been determinative in this instance.

Suitable site for housing

15. New development is directed to sites within the development boundaries of settlements as defined by Policy S1 of the Local Plan. There is no dispute between the parties that the appeal site is located outside of any defined settlement boundary.
16. Emerging Policy S8 of the LDP allows appropriate development outside of development boundaries in order to maintain a sustainable rural economy while protecting the intrinsic beauty and character of the countryside. In this instance, as I have already found that the proposal would be harmful to the character and appearance of the area, the proposal would be contrary to Policy S8 of the LDP as it is also beyond the development boundary.
17. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances. The Framework does not define the meaning of 'isolated'. In my experience there are two main aspects to be assessed when considering 'isolation', these being whether the appeal site is physically isolated relative to settlements and other built development and whether it is functionally isolated relative to services and facilities.
18. The appeal site is a grassed area accessed via a narrow single lane track which also provides access to Bouchiers Lodge. There are a small number of dwellings situated in the vicinity of the appeal site. However this is a loose and relatively sporadic grouping that does not form part of a recognised settlement and is surrounded by open countryside. In the context of this small and dispersed grouping, the proposal would have the sense of being in a physically isolated location.
19. I saw at my site visit that some facilities are available in Tolleshunt D'Arcy and Tollesbury both over a kilometre away. Furthermore, there is a bus stop about 800 metres away in Tolleshunt D'Arcy. The appellant suggests that there are three different services to the main towns of Colchester and Maldon running on a regular service providing a bus every hour. Nonetheless, I have no further details and cannot be sure that it would conveniently serve the needs of people accessing services or commuting to work. The journey for pedestrians and cyclists from the appeal site to the facilities would, in any case, be along a narrow unlit road with no footway.

20. The Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas, however, in this particular circumstance the combination of the darkness of the route, particularly in the winter months, with no footway or cycle path, together with the distance to the majority of services means that there would not be a safe or convenient pedestrian or cycle access to local services or bus stops. As a result local services would not be easily accessible in terms of the social role of the planning system for the occupiers of the proposed house.
21. As such, I find that the proposed development would be a functionally isolated development in the countryside due to its remoteness from everyday services and facilities. It would leave future occupants of the proposed dwelling largely reliant on private vehicles with limited travel choices. It would also undermine the Framework's aim of locating new dwellings in rural areas close to services and facilities as a means of reducing unnecessary travel by car, with its associated carbon emissions, as one measure to cumulatively limit the effects of climate change
22. Whilst I recognise that there is generally a greater reliance on the private car in more remote rural areas, it remains the case that there would be a lack of sustainable transport choices available to enable future residents to conveniently access services and facilities. There would be a lack of relationship between the site and the nearest settlements able to provide basic services and in this respect the dwelling would be functionally isolated.
23. My overall finding, therefore, is that the appeal site is both physically and functionally isolated. Leading on from this I do not consider there to be special circumstances to justify the erection of an isolated dwelling, including those cited in the Framework namely that it would be essential for a rural worker; would secure the future of a heritage asset; would re-use a redundant or disused building or would be of exceptional quality or design.
24. Paragraph 55 of the Framework refers to development in small villages potentially supporting services either in the immediate environment, or in a village nearby. However, the proposal is not within a small village nor have I seen substantive evidence to suggest that the location of the appeal site is well placed by way of public transport connectivity, to the available facilities in nearby settlements. One dwelling would in any event, make a limited contribution in this regard.
25. The appellant has drawn my attention to a number of appeal decisions in the local area, where housing has been approved outside of settlement boundaries and is considered to be comparable to the appeal site. However the Inspector considered in APP/X1545/A/14/2215598 the location of the site in relation to Tiptrees and the A12 transport corridor represented an acceptable level of sustainability. In APP/X1545/A/13/2201061 the site was on the fringe of a core settlement and the location was such that occupants would have options to use other modes of transport. Finally in APP/X1545/A/14/2215795 the site was directly abutting the development boundary. A local shop could be accessed via a wide grass verge and bus stops were only 100-140 metres from the appeal site.
26. I therefore consider that there are a number of significant differences between the three examples raised by the appellant and the appeal site sufficient for me

to reach a different decision. In any case I have determined the appeal based on its own merits.

27. The appellant further suggests that the proposal could be viewed as a windfall site. However, the appeal site is mainly green field which I have found to be in an isolated location and therefore could not be considered as a windfall site that would accord with development plan policy.
28. For the reasons above therefore I conclude that the proposal would not provide a suitable site for housing with particular regard to its location. It would therefore be contrary to saved Policies T1 and T2 of the Local Plan, emerging Policies S1, S8, D1, H4, T1 and T2 of the LDP and paragraphs 7, 17 and 55, of the Framework. These require that development is located within development boundaries and avoids isolated houses in the countryside. Furthermore it should offer an alternative choice of transport modes and encourages travel by walking, cycling, public transport and motor cycles instead of private motor vehicles.

Other matters

29. The appeal site is close to Bouchiers Lodge a Grade II Listed Building and Bouchiers Hall a Grade II* Listed Building. Both are large properties set in considerable grounds. Bouchiers Hall is surrounded by a significant amount of planting which screens it to an extent from the appeal site. Nonetheless the open countryside which the appeal site is part of contributes to the setting and significance of both buildings.
30. However the intervening distance and oblique angle between the properties and the appeal site would ensure that the provision of a house would not have a harmful effect on the setting of both Listed Buildings.

Balancing and conclusion

31. The provision of dwellings, can in accordance with paragraph 7 of the Framework be considered a social benefit that can be afforded some weight. However, in this instance as the proposal is only for one dwelling I can only give the benefit limited weight.
32. In addition, the construction of the dwelling would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant.
33. The proposed development would be in an isolated location resulting in the inherently harmful effects I have already identified. It would also harm the character and appearance of the area and therefore fail to fulfil the environmental role of planning to protect and enhance the natural environment. These impacts would be contrary to both national and local policy. I therefore give them considerable weight.
34. Therefore, even if the Council does have a housing shortfall, and paragraphs 49 and 14 of the Framework are relevant, the considerable harmful impacts of the proposal would significantly and demonstrably outweigh the limited benefits. The proposal would conflict with the Framework and Development Plan when taken as a whole and consequently the proposal is not sustainable development for which the Framework carries a presumption in favour. For this reason, and having

regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR