

Appeal Decision

Hearing held on 22 November 2016

Site visit made on 22 November 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 03 January 2017

Appeal Ref: APP/X1545/W/16/3150788

Tillingham Hall Farm, North Street, Tillingham, Essex CM0 7ST

- 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 The Dean and Chapter of St Pauls Cathedral against the decision of Maldon District Council.
 - The application Ref FUL/MAL/15/00677, dated 28 June 2015, was refused by notice dated 24 November 2015.
 - The development proposed is demolition of redundant agricultural buildings and the erection of 21no detached, semi-detached and terraced dwellings (including 2no. bungalows) with associated garages, parking areas, gardens, new vehicular and pedestrian access from North Street and associated external works and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Maldon District Council against the Dean and Chapter of St Pauls Cathedral. 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 (PSLDP). 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 attach limited weight to them.

Main Issues

4. The main issues are:
 - whether the proposed development would make appropriate provision for affordable housing;
 - the effect of the proposed development on the character and appearance of the area bearing in mind it would be within the Tillingham Conservation Area (CA).
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Reasons

Affordable housing

5. Saved Policy H9 of the Maldon District Replacement Local Plan (2005) (LP) states that the Council will seek the provision of up to 30% of the total number of dwellings permitted on any appropriate site, subject to this policy, for affordable housing.
6. Two separate planning obligations have been submitted with the appeal. One includes an agreement to provide 25% of the total number of dwellings as affordable housing on site. The other includes an agreement to provide contributions towards affordable housing off site equivalent to 25% of the total number of dwellings.
7. In accordance with s38(6) of the Planning and Compulsory Purchase Act (2004) I am required to make my determination in accordance with the development plan unless material considerations indicate otherwise.
8. I acknowledge that the Council's Strategic Housing Services have consistently requested 25% of the total number of homes as affordable housing which is justified on the basis that it is in accordance with draft Policy H1 of the PSLDP. However, for the reasons given I have attached limited weight to the draft policy.
9. There is no substantive evidence before me, such as an up to date viability assessment or any other substantive evidence which demonstrates why the proposed development should not provide 30% of the total number of dwellings as affordable housing in accordance with saved Policy H9 of the LP. Thus, even though I acknowledge that the Council have raised no objection to the provision of 25% of the total number of homes as affordable housing, this would not meet the requirements of the development plan.
10. With regard to whether, the affordable housing should be provided on or off site. Saved Policy H9 of the LP states the affordable housing provision will be made as part of the development in settlements where there are adequate local facilities including a primary school, shops and public transport adequate to allow access to employment. In other settlements, a commuted sum may be required for equivalent provision in an alternative location.
11. Thus in settlements such as Tillingham which benefits from the examples of local services listed, to meet the requirements of Policy H9 of the LP, affordable housing should be provided on site as part of the development. Whilst the Council have consistently requested a contribution towards off site provision, there is no substantive evidence before me which justifies this approach. Thus, had I found the amount of affordable housing to be acceptable, on the basis of the information before me, I would have been led to the conclusion that the affordable housing should be provided on site as part of the development.
12. In reaching these conclusions, I acknowledge that the level of contribution proposed by the appellant is lower than that requested by the Council without justification. However, as this matter would not influence my findings with regard to this main issue, I have not considered it in detail.
13. However, for the reasons given, I find the proposed development would not make appropriate provision for affordable housing. Thus, it would be in conflict

with the development plan, specifically saved Policy H9 of the LP which seeks to ensure new development makes appropriate provision for affordable housing to meet the housing needs of the district.

Character and appearance

14. The appeal site is a complex of agricultural buildings accessed from North Street and on the edge of the built up part of the village. The majority of the appeal site is within the Tillingham Conservation Area (CA).
15. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
16. This part of the CA is characterised by dwellings of a variety of styles, however a defining feature is the thick hedging and mature trees along the North Street frontage which starts at the existing entrance to the appeal site and extends deep into the village. The existing agricultural buildings are not widely visible from North Street except for gaps in the planting and the spaces between the buildings. Overall, I find the relevant part of the CA has a varied and verdant character and appearance.
17. The appeal proposal would include a varied mix of dwellings constructed from materials which would match those commonly found in the village. I acknowledge that the proposed vehicle access would involve widening the existing Tillingham Hall access and the removal of some of the vegetation on the road frontage. I also note a number of trees would need to be removed to make way for the development and create the new access road.
18. However, the majority of the trees within the appeal site would be retained and to achieve the appropriate visibility only a relatively small proportion of the hedging along the North Street frontage would require removal.
19. I acknowledge that part of the appeal site falls outside of the settlement boundary as defined by saved Policy S1 of the LP. However, a strip of woodland which includes mature trees runs parallel with the eastern boundary of the appeal site.
20. There is nothing before me to indicate that this woodland would be removed or diminished as a result of the proposed development. Therefore, even though buildings and domestic gardens would be outside of the settlement boundary, they would not be significantly visible in the open countryside beyond the woodland. Furthermore, any glimpses of the proposed development would be viewed with the wider village in the background. Thus, I find the proposed development would not result in an urbanising effect on the countryside.
21. For these reasons, I find the proposed development would not harm the character or appearance of the area or the significance of the designated heritage asset. Thus, I find that the character and appearance of the CA would be preserved.
22. In reaching these conclusions, I have considered the appeal decisions¹ where new developments in the countryside have been dismissed where Inspectors

¹ Appeal Ref: APP/X1545/W/15/3141230 & Appeal Ref: APP/X1545/W/16/3148737

have found they would be harmful to the character and appearance of the area. However, these 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.

23. In this regard the proposed development would therefore accord with the design and conservation aims of the development plan, the statutory duty and the design and conservation aims of the Framework. It would specifically comply with saved Policies BE1 and CC6 of the LP, which seek to ensure, good design and that new development responds positively to the character of an area.

Other Matters

24. I have considered all other matters, including whether or not the agricultural buildings are redundant, traffic, ecology, land ownership and infrastructure capacity. However, as these matters do not influence my findings with regard to the main issues and I am dismissing the appeal for other reasons, I have not considered them in detail.

Conclusion

25. For the reasons given above, and with regard to all other matters, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Steven Sensecall

Planning Consultant (Kemp & Kemp)

FOR THE COUNCIL

Rebecca Greasley

Principal Planner

Matthew Leigh

Principal Planner

Mark Woodger

Principal Planner

INTERESTED PERSONS OBJECTING TO THE DEVELOPMENT

Tracey Silcock

Mick Hamblion

Kevin Knight

DOCUMENTS

- 1 Final Signed Statement of Common Ground
- 2 Maldon District Local Plan (2005) Saving Direction
- 3 S106 Agreement (including on site provision of affordable housing)
- 4 S106 Agreement (including contributions towards affordable housing off site)