
Appeal Decision

Hearing held on 13 December 2016

Site visit made on 13 December 2016

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 19th January 2017

Appeal Ref: APP/X1545/W/16/3153141

Land south of Riversleigh, Nipsells Chase, Mayland, Essex CM3 6EJ

- 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 Millwood Designer Homes against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/00610, dated 12 June 2015, was refused by notice dated 24 May 2016.
 - The development proposed is for 50 new dwellings, new vehicular access onto Orchard Drive, internal roads, footways and cycle links, open space and landscaping (outline application with all matters reserved except access).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I was handed at the Hearing a copy of a signed Unilateral Undertaking pursuant to S106¹ dated 12 December 2016 signed by the developer and current owners of the land. The Council accepts that the obligations contained in this document would successfully overcome its second refusal reason. However, there is no need for me to consider it any further because its obligations are conditional on the grant of permission and I am dismissing the appeal.

Main Issues

3. Consequently the main issues are the effect of the proposed development on the character and appearance of the area and whether it would be sustainable development having regard to adopted policy in the development plan, the emerging Local Plan and the National Planning Policy Framework (NPPF).

Reasons

Character and Appearance

4. The appeal site is a 5.18 hectare agricultural field on the northern edge of Mayland. It is flat like most of the surrounding land. It is bounded by mature hedgerows, including an especially thick and high hedge to its western boundary beyond which there is a site of mixed use and further west the suburban residential development on North Drive, Maylandsea. Its northern boundary is a hedge to an adjoining field (the woodland referred to in the

¹ of the Town and Country Planning Act 1990

- parties' statements having been recently cleared) and to the garden of Riversleigh, an isolated dwelling. Next to the hedge on its southern boundary is St Peter's Way, an historic long distance footpath, beyond which are the modern houses on Orchard Close. Access to the development is proposed to be taken off Orchard Close's northern spur, currently a cul-de-sac.
5. Its eastern boundary is the hedge running along Nipsells Chase, which at this point is a rutted unpaved private track which further north narrows and eventually joins Sea View Parade, on which there are a number of detached dwellings. To the east of Nipsells Chase opposite the site is the site of a recently proposed residential development of 150 dwellings by Gladman, which was dismissed on appeal on 7 December 2016². The Inspector concluded that the appeal site in that case is viewed as part of the open countryside to the north and east of the settlement, which sweeps out towards the estuary at Lawling Creek and Mayland Creek.
 6. The appellant argues that this site differs from its neighbour and would form a logical 'elbow' of development at the junction of Mayland and Maylandsea. I agree that the site would not be as visible as that site from the footpath atop the sea wall running along Mayland Creek to the east. But I agree with the Inspector that the character of Nipsells Chase changes markedly from a suburban paved highway south of Nipsells Farm Lodge to a rural unmade track and that there is a distinct sense that you are leaving the settlement at this point and entering the countryside.
 7. The proposed residential development, as set out on the Parameters Plan 14091/CO1E, would be substantially landscaped by wide areas of planting to most of its boundaries and contain generous areas of public open space. The former is intended to screen the development in views from the wider countryside to the north and east. However, as the Inspector concluded in respect of the neighbouring site, trying to entirely screen new development in this area rather than softening its integration with the wider landscape is difficult to do. I also consider such an attempt is misplaced because disguising new development by screen planting here cannot deny that it would nonetheless be extended into an area of undeveloped countryside detrimental to the locality's open rural character and appearance.
 8. The Parish Council representatives at the Hearing pointed out that the design of this enclave of new housing, with a single access point mainly surrounded by screen planting, is at odds with the existing development in the village. I agree with that view. The layout and single point of access to new residential development would fail to integrate well with existing development and appears to turn its back on it.
 9. The previous Inspector highlighted how the networks of footpaths allow the attractive countryside to be appreciated. I agree that this is so and this includes Nipsells Chase next to this site. I also agree with his view that the local landscape has a high sensitivity to change, which includes this site.
 10. For all these reasons I conclude that the proposed extension of residential development would have an intrusive urbanising effect, cause significant harm to the character and appearance of the area and fail to recognise the

² APP/X1545/W/15/3139154

intrinsic character and beauty of this sensitive area of countryside, notwithstanding that the site lies on the edge of the settlement's existing built-up area.

11. It would be contrary to Policies CC6 and BE1 of the Maldon District Replacement Local Plan (RLP), which together state that development will only be permitted provided that no harm is caused to local landscape character. These Policies accord with paragraph 17 of the National Planning Policy Framework, which states that planning policies and decisions should recognise the intrinsic character and beauty of the countryside.

Sustainable Development?

12. Like the neighbouring appeal site the site is located outside Mayland's settlement boundary, although its southern boundary adjoins it. RLP Policy S2 states that outside development boundaries the coast and countryside will be protected for their own sake including in terms of landscape. RLP Policy H1 states that new housing will not be allowed in such areas unless it complies with other policies in the adopted Plan, which in this case the proposal does not.
13. It would therefore be contrary to these Policies in the development plan, to which I give full weight because they accord with the NPPF's aims to recognise the intrinsic beauty of the countryside and because there is no dispute that the Council can demonstrate a five year housing land supply (5YHLS).
14. The appellant also highlights the policies in the Maldon District Local Development Plan, the emerging Local Plan (ELP). The main parties state that the majority of the draft policies are not the subject of the Examination hearings currently underway and that weight should accordingly be attached to them. Consequently I address relevant policies in the ELP below.
15. Policy S2 sets out that the Council will plan for a minimum of 4,410 dwellings between 2014 and 2029 or 294 per annum and that a proportion of these will be directed to the rural villages in relation to the settlement hierarchy, reflecting the size, function and physical capacity of the settlement. 420 dwellings are to form 'rural allocations'. I accept the appellant's implied assumption that the 'larger villages' as defined by Policy S8, such as Mayland, would be expected to accommodate many of these 420 dwellings whilst also accepting that the *Rural Allocations Development Plan Document* (DPD) will be the means by which such greenfield sites are allocated through a plan-led system. Progress on the DPD is well under way.
16. The parties agree that Mayland is a sustainable settlement that could accommodate some greenfield development because it has a reasonable range of facilities. The Chair of the Neighbourhood Plan (NP) Committee on Mayland Parish Council confirmed at the Hearing that there would be a need for 100 to 150 new dwellings in Mayfield on greenfield land (rather than the 200 suggested by a local resident at the Inquiry relating to the neighbouring site), but considered that the NP was the appropriate means to deliver them.
17. I agree that Mayland is likely to have to accommodate some greenfield development but the means by which this should be done is through the DPD

and the NP, as set out by the ELP policies above. This is because of the Council's current ability to demonstrate a 5YHLS and the NPPF's stress on the importance of the plan-led system in delivering objectively assessed needs. I conclude this notwithstanding that the NP is at an early stage in its development and that the above figures for the rural area do not comprise a ceiling on development in such areas.

18. Some weight should be attached to the policies in the ELP for the reasons indicated by the parties and because these policies are based on more up-to-date evidence than policies in the RLP, but the ELP Examination has not concluded and so it is possible they may still change. Nonetheless, as set out above, regardless of the weight I attach to ELP policies, the proposed development would fail to comply with extant development plan policies and the appeal should be decided in accordance with such policies unless material considerations indicate otherwise.
19. In considering whether the development is sustainable I must weigh up the three dimensions: economic, social and environmental as indicated in paragraphs 6-10 of the NPPF. The proposal would deliver 50 new dwellings, 40% of which would be affordable, in a settlement that has a reasonable range of day-to-day facilities. I accept that there is a priority need for such affordable housing. The delivery of housing, especially affordable housing in the context of this need, is an important social benefit of the scheme in view of the NPPF's aim to boost significantly the supply of housing.
20. I also accept that there may be some benefit from the scheme in supporting the local construction trades, although this would be limited for the duration of the building work and there is no guarantee that the work would be undertaken by local businesses. There would also be some economic benefit from the new dwellings in terms of support for local shops and facilities.
21. But these social and economic benefits would be merely proportionate and must be seen in the context of the Council's current and proposed spatial strategies for the District which do not support development on this site. These benefits would otherwise accrue to sites which do currently meet the Council's planning policies for such development. Like the Inspector on the neighbouring site, there is no reason for me to believe now that the housing including affordable housing needs of the District and Mayland in particular will not be delivered through a plan-led approach.
22. Moreover the injunction of NPPF paragraph 8 is that social, economic and environmental gains should be sought jointly and simultaneously through the planning system. In this case there would be significant environmental harm to the character and appearance of the area through inappropriate expansion of urban sprawl into the countryside. For these reasons the proposal would not be sustainable development.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

Nick Fagan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Bland BA(Hons) MRTPI
Martin Hull

For Appellant
Kember Loudon Williams

FOR THE LOCAL PLANNING AUTHORITY:

Rebecca Greasley BSc PGDip
Mathew Leigh BA Hons MA MRTPI
Mark Woodger

Planning Officer, Maldon DC
Planning Manager
Planning Policy Strategic Sites Team

INTERESTED PARTIES

Cllr Peter Spires
Linda Haywood
Cllr John Oatham

Mayland Parish Council, Chair of NP Committee
Chair of Mayland Action Group
Local Cllr & resident

End of Appearances

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter advertising date, time and place of the Hearing, 25 August 2016
2. Map of local road network submitted by Cllr Oatham
3. List of developments granted in Rural South of District since 1 April 2014 compiled by Mr Woodger
4. Site Allocations DPD Briefing Note dated 1 July 2016 submitted by LPA
5. ELP Policy S2
6. Signed Unilateral Undertaking dated 12 December 2016
7. ELP Schedule of Further Matters, Issues and Questions set out by Examining Inspector dated 15 November 2016

End of Documents