
Appeal Decision

Site visit made on 10 January 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/X1545/W/16/3159546

Land adj Godfreys bungalow, Sheepcoates Lane, Great Totham, Essex CM9 8NT

- 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 Mr J Purdy against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00440, dated 15 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is Construction of an agricultural storage building (barn) to serve farm holding utilising existing farm access to Sheepcoates Lane.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The emerging Maldon District Local Development Plan (MDLDP) is at an advanced stage having been subject to recent examination hearings. To ensure that the appeal was determined having regard to the up to date situation regarding this, I invited the Council to provide details concerning relevant emerging Policies and provided an opportunity for the Appellant to comment on the information received. I have taken the comments received in response into account in my decision.
3. I have also taken the Appellant's agricultural statement into account, albeit noting that the Council has indicated that a map referred to in this was not submitted with the application, and was therefore not part of the information on which interested parties were consulted.

Main Issues

4. The main issues are:
 - (a) The effect of the proposal on the character and appearance of the site and the surrounding area;
 - (b) The effect of the proposal on the living conditions of occupiers of nearby dwellings; and
 - (c) Whether any harm caused by the proposal would be outweighed by other considerations, including agricultural need.
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Reasons

Policy Context

5. The current development plan for the area, with which my decision must accord unless material considerations indicate otherwise, is the Maldon District Replacement Local Plan (MDRLP) 2005. The National Planning Policy Framework (the 'Framework') is also an important consideration.
6. As Policies BE1, CC6 and S2 and paragraphs 3.95 and 3.97 of the MDRLP are all relevant to the appeal, the development plan is not silent. For this reason, and as the Policies themselves are not out-of-date, the first indent of bullet point 4 in paragraph 14 of the Framework is not triggered. However, I have also given substantial weight to paragraph 28 of the Framework which stresses the need to promote the development and diversification of agricultural and other land based rural industries.
7. Policies of the emerging MDLDP are also, to an extent which is guided by the factors in paragraph 216 of the Framework, material to my decision. The Council has indicated that, whilst there are unresolved objections to some emerging Policies, there are no such objections to Policy E4, which covers proposals for agricultural buildings. I have given it fairly substantial weight in my decision. As it relates to agricultural need I address it under main issue c).

Character and appearance

8. The appeal site covers part of an agricultural field which, apart from some hedging and scattered trees along its boundaries, is of an open nature. Although neighbouring buildings form a scattered ribbon of development along this part of Sheepcoates Lane, the surrounding area is characterised by open countryside.
9. The proposed building would cover an area of about 16X 11.6 metres with a ridged metal clad roof of about 8.7 metres in height¹. It would introduce a substantial structure into views across the field, including from Sheepcoates Lane. Whilst its design would contain some similarities to a traditional barn, a combination of its substantial scale and metal roof would lend it a rather industrial appearance. The building would, being some distance from the dwellings to either side, not be closely grouped with any existing structures.
10. The building would be set back some distance from the highway frontage and additional boundary planting could be required by condition which would in time soften its visual impact. If set back further within the site it would be further from existing buildings to either side and may require a long internal access road. However, these points would not fully counteract the visual impact of the proposal.
11. I conclude that the proposal would cause moderate harm to the character and appearance of the site and the surrounding area and to this extent would conflict with the provisions of Policies BE1, CC6 and S2 of the MDRLP and Policies S1, S8, D1 and H4 of the emerging MDLDP relating to this matter.

¹ Information based on application form, question 10 and submitted plan

Living conditions

12. The submitted details indicate that the building would be used to store hay and equipment such as tractors, trailers, mowers, and toppers. As it would act as a hub for the Appellants holding of 42.11 hectares, most of which is located elsewhere, it would be likely to intensify the use of the site, leading to increased coming and going and manoeuvring of vehicles and machinery. The Appellant's intention to expand the farming enterprise may increase the use of the site further.
13. However, whilst any noise may be noticeable given the quiet nature of the area, the nearest dwellings are some distance to either side of the proposed building. The Appellant has also confirmed that some equipment would be stored overnight during periods of usage elsewhere on the holding and only be brought back to the site for longer term storage. Whilst late night activities may take place from time to time, if the use of the building were limited to agricultural storage as proposed it would be unlikely to cause excessive noise or disturbance over any substantial period.
14. For these reasons, I conclude that, despite the limited nature of the details which have been provided, the use is unlikely to cause substantial harm to the living conditions of occupiers of nearby dwellings. Its approval would not materially conflict with the relevant provisions of Policies BE1 or CON5 of the MDRLP, or S1, D1, D2 or H4 of the emerging MDLDP relating to this matter.

Other considerations

15. The proposed use of the building would, as well as supporting the Appellant's businesses elsewhere, be connected with that of the field containing the appeal site and a nearby field located across Sheepcoates Lane. At the time of my site visit these two fields were both in active agricultural use and lacked any on site internal storage facility. Due to its proximity to other sites which form part of the Appellant's landholdings, the building would be sited in a way which would help control transport costs and impacts. It would also help address security, maintenance, and arson risks and I note that the Appellant's other landholdings are outside existing settlements.
16. However, the submitted details contain little analysis of whether the Appellant's established need for indoor storage could not be less harmfully met through the provision of one or more buildings elsewhere within the Appellant's land holdings in the area. As a result it is not clear that the locational need for a building of this size and impact on this site is sufficient to outweigh the harm that I have identified earlier. A justified and functional need for the specific building proposed has not been established as required by Policy E4 of the emerging MDLDP.
17. I acknowledge that under Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO') the proposed barn could constitute permitted development², subject to prior approval of siting and design being obtained. The site is also not subject to one of the protective designations referred to in paragraph 3.97 of the MDRLP. However, as paragraph 3.97 refers to Annex E of the former Planning Policy Statement 7, which is no longer in force, it is out of date. Furthermore, paragraph 3.97 is

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clearly aimed at proposals submitted via the prior approval route, and which are therefore subject to the restrictions imposed on permitted development by the GPDO, rather than as full planning applications. Having regard to these factors, and as it constitutes supporting text rather than policy, paragraph 3.97 of the MDRLP does not weigh heavily in my findings.

18. Whilst I note that the Appellant would be willing to make provision for wildlife, for example through the installation of bird boxes, it is not clear that any resultant ecological enhancement would be sufficient to weigh heavily in support of the proposal.

Conclusion

19. I have found that the proposed development would cause moderate harm to the character and appearance of the site and the surrounding area. Whilst the Appellant has submitted some details to establish a functional need for a storage building, they do not convincingly demonstrate that other less harmful options are not available to meet this need. Whilst the proposed development would not materially harm the living conditions of occupiers of nearby dwellings, this does not outweigh the harm caused in relation to my first main issue.
20. Having carefully balanced the arguments in support of and against the proposal I conclude, in the absence of a clearer justification for a building of this size within the appeal site, the harm caused by the proposal would outweigh its benefits. Whilst the proposal would, by supporting a rural enterprise, bring material economic and social benefits, it would also bring environmental harm which is not adequately justified. It has therefore not been demonstrated that it would constitute sustainable development.
21. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR