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# Appeal Decision

Site visit made on 14 February 2017

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

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

**Decision date: 23 February 2017**

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**Appeal Ref: APP/X1545/W/16/3163300**

**Land between Buller Road, Fambridge Road and Rectory Road, Fambridge Road, North Fambridge, Essex CM3 6NL**

- 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 Lord Ronald Rayner against the decision of Maldon District Council.
  - The application Ref OUT/MAL/16/00858, dated 26 July 2016, was refused by notice dated 5 October 2016.
  - The development proposed is described as 'Proposed 5th Plot for a small two bedroom bungalow. (Plots 1 to 4 as separate application).'
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## Decision

1. The appeal is allowed and planning permission is granted for a small two bedroom bungalow at land between Buller Road, Fambridge Road and Rectory Road, Fambridge Road, North Fambridge, Essex CM3 6NL in accordance with the terms of the application, Ref OUT/MAL/16/00858, dated 26 July 2016, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. All matters except access and scale are reserved for further approval. The application included drawing number 05 A which shows a site layout, floor plan and elevations for the proposed bungalow. Although the drawing is labelled indicative, it shows the scale of the new building and access. Therefore, I will treat it as an application plan with regard to these matters.
3. The application form gives the description of development as set out in the heading above. However, the first and last parts of that description are not acts of development and I have, therefore, omitted them from the description used in paragraph 1 above.

## Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

5. The appeal site falls outside the settlement boundary defined in the Maldon District Replacement Local Plan 2005 (LP) where Policies S2 and H1 seek to restrain residential development. Policies BE1 and CC6 seek to preserve or enhance the character and natural beauty of the countryside. Policy BE1 also
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requires development to be compatible with its surroundings in terms of layout, site coverage and visual impact, among other things. Policy CC11 presumes against development which would adversely affect the open and rural character of the defined Coastal Zone.

6. The appeal site is bounded by established two storey residential development on Rectory Road to the south and by land which is currently being developed for four bungalows<sup>1</sup> (plots 1 to 4) on its western and northern boundaries. The eastern boundary adjoins Fambridge Road and is marked by a substantial hedge which is proposed to be retained. Therefore, the site will be effectively contained by significant built development and planting which will separate it from the wider countryside. The proposal is for a modestly sized single storey building would be seen against the backdrop of the taller Rectory Road houses or the larger bungalows approved on plots 1 to 4. Consequently, I consider that it would be inconspicuous in long or medium range public views.
7. I note that the Inspector in the appeal for plots 1 to 4 found that the impact of that development on the countryside would be minimal. By virtue of its more modest size and closer relationship with the existing and approved adjoining buildings, the current proposal would have negligible effect on the character of the surrounding countryside.
8. The approved site layout plan shows plots 1 to 4 laid out on one side of the access road with the current appeal site as a grassed area on the other side of the road. The previous Inspector found that this arrangement, albeit indicative at that time, would not be at odds with the prevailing pattern of development in the area. Whilst he noted the importance of landscaping and the spaciousness created by gaps to the side boundaries, there is nothing to suggest that he regarded the absence of development on what is now the appeal site as significant. Its development would have no effect on the relationship between the approved buildings and the adjoining countryside or the landscape on the external site boundaries. Nor do the conditions attached to the reserved matters approval require particular treatment of the appeal site so as to suggest that it was considered significant to the appearance of the approved scheme.
9. Moreover, whilst the proposed bungalow would be smaller than those on plots 1 to 4, its form and layout would be similar. The Council has expressed concern regarding the size of the plot. However, the plot size would be broadly comparable with approved plot 4 and the building would be smaller. There would be adequate gaps between the building and both side boundaries and a reasonable degree of separation between the new and approved buildings. There is nothing to suggest that the amount of external space proposed would be inadequate and there would space for soft landscaping at the front and side of the bungalow.
10. Consequently, I consider that the proposal would not be cramped, contrived or uncharacteristically urban in its appearance. It would not, therefore, be harmful to the character and appearance of the area, and would not conflict with LP Policies CC6, CC11 or BE1. Whilst there would be some conflict with Policies H1 and S2, those policies have been found to carry limited weight since they are not compliant with the National Planning Policy Framework (the

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<sup>1</sup> Outline application ref OUT/MAL/14/00076 and appeal ref APP/X1545/A/14/2219905; Reserved matters ref 16/00386/RES

Framework)<sup>2</sup>. Indeed, I note that the Council does not seek to rely on these policies in its statement for this appeal.

11. The reason for refusal also cites Policies S1, S8, D1 and H4 of the emerging Maldon District Development Plan. That plan is still at the examination stage and I have not been made aware of the extent of any unresolved objections or proposed modifications to the cited policies. In accordance with Framework paragraph 216 therefore, this limits the weight to be attached to the policies. In any event, there is nothing in the Council's evidence regarding Policies S1, S8 or D1 to lead me to reach a different conclusion on the main issue.
12. Policy H4 seeks to optimise the use of land subject to considerations including the location and setting of the site and the character of the area. I have already concluded that the proposal would be acceptable in these regards and there is no substantive evidence to suggest that it would conflict with the other applicable considerations set out in this policy. The proposal would provide an additional dwelling on land whose function would otherwise be uncertain. As such, I find that it draws support from Policy H4.

#### *Other Matters*

13. Concern has been expressed locally regarding the effect of the proposal on wildlife, surface water drainage, the living conditions of neighbouring occupiers, highway safety and the capacity of local facilities.
14. The proposal would retain the hedge on the Fambridge Road boundary and, if undeveloped, the site would be laid to grass in accordance with the approved scheme. As such, I consider it unlikely to have significant biodiversity potential. I will impose conditions requiring the approval and implementation of foul and surface drainage schemes.
15. Whilst the proposal would lead to an increase in the amount of built development to the rear of the Rectory Road houses, the new building would be modest in size and single storey in height. It would also be sited a reasonable distance from the boundary with the existing properties. The approval and implementation of a scheme of boundary enclosures would be secured through the approval of the landscaping reserved matter. With this measure in place, I consider that the proposal would not lead to a loss of privacy or have a harmful effect on the outlook from the rear of the neighbouring houses. The planning system does not exist to protect more general private views.
16. The provision of one additional dwelling would generate a very limited number of additional vehicle movements and I note that Essex County Council did not object to the proposal on highway safety grounds. Nor is there substantive evidence of particular highway safety problems in the area. I am not persuaded, therefore, that the proposal would pose a risk to highway safety.
17. The Inspector in the previous appeal found that the location was sustainable with regard to access to local services. One additional dwelling would also place a very limited demand on such facilities.
18. With regard to other matters raised, I am not aware of the details of any undertakings which may have been given to local residents by the developer

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<sup>2</sup> Appeal decision and Council's statement for appeal ref APP/X1545/W/16/3142883

with respect to the future of the site. Moreover planning decisions 'run with the land' and, as such, the identity of the developer or builder is not a matter I can take into account. My decision is, therefore, based on the planning merits of the proposal.

19. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together. The construction of the development would bring minor, short term, economic benefits.
20. The Council contends that it can demonstrate a five year supply of housing land in the District. This has not been disputed by the appellant. Nevertheless, the provision of a new dwelling would make a modest contribution to the supply of housing and, in accordance with Framework paragraph 47, merits a measure of support for the proposal. Having regard to the scale of the proposal, future occupiers could be expected to make a limited contribution to the vitality of the rural community. Overall therefore the proposal would make a modest positive contribution to the social role.
21. Taking into account my conclusions on the main issue and the other considerations above, I find that proposal would be neutral with regard to the environmental role. Consequently, I conclude that the proposal would amount to sustainable development and so is supported by the presumption in favour of sustainable development set out in Framework paragraph 14.

#### *Conditions*

22. The Council has suggested a list of eight conditions. Suggested conditions 3 (external materials), 4 (boundary treatments) and 5 (landscaping) fall to be considered as part of the appearance and landscaping reserved matters and are, therefore, not necessary at the outline stage. With amendments for clarity the other conditions meet the tests set out in the Planning Practice Guidance. I will also impose a condition specifying Drawing No 5 A as the approved plan insofar as it shows matters of scale and access.
23. A condition requiring the approval and implementation of surface water and foul drainage schemes is necessary in the interests of public health. A condition requiring the provision of the car parking spaces shown on Drawing No 5 A is necessary to ensure highway safety.

#### **Conclusion**

24. For the reasons set out above, the appeal should be allowed.

*Simon Warder*

INSPECTOR

**Schedule of conditions attached to  
Appeal Ref: APP/X1545/W/16/3163300  
Land between Buller Road, Fambridge Road and Rectory Road, Fambridge  
Road, North Fambridge, Essex CM3 6NL**

- 1) Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with approved plan reference Drawing No 5 A insofar as it shows matters of access and scale.
- 5) Prior to the commencement of development, details of the surface water and foul drainage schemes to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme schemes shall be implemented prior to occupation of the development hereby approved.
- 6) Prior to occupation of the development, the car parking spaces shown on Drawing No 5 A shall be constructed, surfaced and maintained free from obstruction. The spaces shall be retained for parking and no other purpose thereafter.