The Planning Inspectorate

Appeal Decision

Site visit made on 7 February 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/X1545/W/16/3160262
Land Rear of No 60 Maldon Road, Goldhanger, Essex CM9 8AS

- 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 Clive Stevenson-Roberts against the decision of Maldon District Council.
- The application Ref FUL/MAL/16/00819, dated 8 July 2016, was refused by notice dated 31 August 2016.
- The development proposed is change of use of land and proposed development of four 5 bedroom detached dwellings with detached/attached garages together with access drive from new adjoining development.

Decision

1. The appeal is allowed and planning permission is granted for change of use of land and proposed development of four 5 bedroom detached dwellings with detached/attached garages together with access drive from new adjoining development at Land Rear of No 60 Maldon Road, Goldhanger, Essex CM9 8AS in accordance with the terms of the application, Ref FUL/MAL/16/00819, dated 8 July 2016, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

Preliminary Matter

2. I have used the address of the appeal site as described by the Council and referred to by the appellant in his appeal form, which replaces 'Church Street' with 'land rear of 60 Maldon Road' as I find this more accurately identifies the site.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. I observed and appreciated at my site visit that dwellings along Church Street and Maldon Road are largely highway fronting. However, I do not share the Council's view that this is representative of the prevailing character of the area, as within the vicinity I observed a number of residential developments notably in Hall Estate, Peartree Close and St Peters Close which do not front the main highway and are not too dissimilar in layout to the appeal scheme before me.

5. The appeal site is enveloped by built form; from both residential dwellings and gardens, and agricultural related buildings positioned immediately on its southern boundary. I am as such not persuaded that the appeal site plays any meaningful role or makes any significant contribution to the rural quality of the area, or that it forms an important rural backdrop, particularly as the appeal site is largely flat and it is not readily visible from vantage points in the vicinity now the site's frontage is being developed. The proposed development would therefore not intrude upon or project outwards into the open countryside. The proposed dwellings are well designed and would assimilate successfully into its surroundings and would not appear unduly noticeable, prominent or incongruous notwithstanding the prominence of smaller properties under construction to the frontage with Church Street and Maldon Road.

6. I therefore find the proposed development would not cause any significant harm the character and appearance of the area. I find no conflict with policies BE1 and CC6, CC7 and CC11 of the Maldon District Replacement Local Plan 2005 (RLP). These state that development must be design-led and that development in the countryside will only be permitted where no harm is caused to the open and rural character of the area, and would make a positive contribution to the landscape character in the locality and with the surroundings, the open countryside and with special landscape areas.

7. It would also accord with policy D1 of the Maldon District Pre-Submission Local Development Plan 2014-2029 (LDP), which generally reflects the above-mentioned policies from the RLP. However, because the LDP has yet to complete its examination, I cannot give more than limited weight to the policy at the current time.

Other Matters

8. The Council states that it can demonstrate a five year housing land supply, which is not disputed by the appellant. However, notwithstanding references in its officer's report to RDP policy S2, it has not been made explicitly clear as to whether the Council objects to the principle of the proposed development having regard to the site's location outside of the settlement boundary.

9. Even if I was to accept that the Council were objecting on matters of principle, my overall conclusion on the appeal would not change. This is because RLP policy S2, which states that the countryside will be protected for its own sake, is, in my judgement unduly restrictive and inconsistent with the Framework's general approach to significantly boosting the supply of housing. It is therefore out-of-date and I afford it little, if any, weight to it in my decision.

10. Because of this inconsistency, paragraph 14 of the National Planning Policy Framework would be engaged and the existence of a five year housing land supply would not change this. In applying the tilted balance of bullet point 4(1), the absence of any significant harm arising from the proposed development that I have found above would accordingly not significantly and demonstrably outweigh the benefits the proposed development would bring. The proposal would amount to sustainable development in applying the Framework as a whole, and the balance would therefore lie in the scheme's favour.

11. Concerns have been raised in respect of the appeal site's proximity to local services and facilities. However insufficient evidence is before me as to the

location and ease in which the future occupiers could navigate the local area without reliance on the private motor car. I noted at my site visit that a bus service operated along Church Street suggesting that public transport is an available option although neither party has indicated the frequency of this service. The Council has not raised this as an issue and I have no obvious reason to disagree.

12. Matters relating to flooding have not been substantiated in evidence before me, and the Council has not identified any particular concern in this regard, subject to a suitable condition in respect of surface water drainage. I am satisfied on the evidence before me that the proposed development would not cause any significant harm in this regard. The Council has also raised no concerns in respect to parking and access to the proposed development and I have no reason to form an alternative view.

Conditions

13. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions relating to materials, landscaping, boundary treatments are necessary to ensure the appearance of the development would be satisfactory. A condition requiring details of surface water drainage is necessary in the interests of promoting sustainable drainage. A condition restricting unbound material is necessary in the interests of the protecting the highway conditions. A construction method statement condition is necessary to ensure the construction of the development would not prejudice the living conditions of occupiers of neighbouring properties. While no specific evidence of the likelihood archaeological remains on the site have been advanced by the Council, I will nonetheless take a precautionary approach and impose such a condition in the interest of protecting any potential heritage assets on the site.

14. As foul sewage drainage is controlled under other legislation, and the Council has not identified any particular concern in this matter, I find a condition in this regard is unnecessary. I also find conditions relating to bin and cycle storage are also unnecessary given the nature of the proposed development.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; drawings 08; 14; 16; 17; 20B; 22 and 23.

3) No development shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved materials.

4) No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to the Local Planning Authority for approval in writing. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and shall thereafter be retained.

5) No development shall take place until full details of both hard and soft landscape works to be carried including details of a planting implementation scheme, aftercare and maintenance and replacement programme out have been submitted to the Local Planning Authority for approval in writing. The landscape works shall be carried out in accordance with the approved details with soft landscape works carried out within the first available planting season (October to March inclusive) following the commencement of the development.

6) No development shall take place until a scheme for the provision and implementation of surface water drainage incorporating sustainable urban drainage schemes has been submitted to the Local Planning Authority for approval in writing. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of any part of the development.

7) No unbound material shall be used in the surface finish of the driveway within a distance of 6.0m from the highway boundary of the site.

8) No development shall take place including any works of demolition until a Construction Method Statement has been submitted to the Local Planning Authority for approval in writing. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; details of vehicular turning for service and delivery vehicles; and wheel and under body washing facilities.

9) No development or groundworks shall commence until a Written Scheme of Investigation, in response to an archaeological brief, has been submitted to the Local Planning Authority for approval in writing, and carried out in accordance with the approved scheme. The scheme shall include:

   - The programme and methodology of site investigation and recording;
   - The programme for post investigation assessment;

- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation; and
- Provision to be made for archive deposition of the analysis and records of the site investigation

10) No part of the development hereby approved shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 9, and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.