
Appeal Decision

Site visit made on 27 March 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/X1545/W/16/3165484

**Land adjacent The Bungalow, Southminster Road, Asheldham,
Southminster CM0 7DZ**

- 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 Mrs Mary Anderson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00331, dated 24 March 2016, was refused by notice dated 22 June 2016.
 - The development proposed is the construction of two chalet style houses and carport.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised site location plan, proposed block plan, landscaping plan access plan and vehicle tracking plan was submitted by the appellant with the appeal, along with a traffic speed survey and access appraisal. The Council has stated that these revised plans would materially alter the layout and access of the development and thus should be submitted as a fresh application.
3. However, the only changes shown on the revised plans are a smaller site area and the re-location of the proposed access approximately 10 metres to the east. The Council has confirmed that the Highway Authority is satisfied with the position of the re-located access and visibility splays on the basis of the further information submitted, and there were no objections to the scheme at application or appeal stage by third parties. Consequently I do not consider that anyone would be disadvantaged by my consideration of the revised plans in determining the appeal.
4. The Council has also referred to policies in the Submission Maldon District Local Development Plan and consultation has just ended on Post Examination Main Modifications (LDP) (March 2017). Given the progress made on preparing this plan I am able to give it substantial weight in determining the appeal, but in any case, neither party has identified any significant difference in the content of these policies compared with those in the adopted plan.

Main Issues

5. The main issues in the appeal are the effect of the proposal on the character and appearance of the surrounding area and on highway safety in the vicinity of the site.
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Reasons

Character and appearance

6. The Council has stated that it can demonstrate 6.04 years housing land supply, on the basis of an updated Five Year Housing Land Supply Statement published in August 2016, and this has not been challenged by the appellant. As the appeal site lies outside any designated settlement boundary the proposal would thus conflict with LP Policies S1 and S2 of the Maldon District Replacement Plan (LP) (2005). These seek to concentrate development within defined settlement development boundaries and to protect areas outside these boundaries in order to protect the countryside and coastal landscapes.
7. The appeal site is undeveloped aside from a group of outbuildings towards the rear of the site, some of which are in relatively poor condition. To the west of the site is The Bungalow, a detached dwelling with a detached triple garage. An Essex County Council depot abuts the site to the east. Whilst there are some properties grouped close together, such as the semi-detached dwellings on Brook Road and End Way Cottages further east along Southminster Road, the predominant building form is detached dwellings, and the rural character of the area is emphasised by the irregular and informal positions of these dwellings within spacious plots.
8. The proposal would involve the erection of two detached dwellings and a car port. The two dwellings would be approximately 10 metres from each other, and there would be a similar separation distance between The Bungalow and the nearest dwelling. The Bungalow is the only property on the north side of the road before the bend. Although the plots for each of the proposed dwellings are large, this is due to their long, narrow shape. The positioning of the dwellings in relation to The Bungalow would provide for a more suburban character that exists at present and would erode the rural character of the surrounding area. This would be exacerbated by the prominence of the appeal site close to a sharp bend in the road, and the associated hard landscaping that would be required for site access, parking and turning areas.
9. Whilst planning permission has been granted for the erection of a single dwelling on the site,¹ this would be located centrally within the plot, leaving considerable space on either side of the dwelling. The appellant has also pointed out that an appeal was allowed for a dwelling on land at St Ann's Cottage, on the south side of Southminster Road. However the Council has confirmed that permission exists for an outbuilding on that site of a similar form, and so that scheme is materially different to the proposal before me.
10. I have also had regard to the existing buildings on the site but these are much further back from the site frontage than the proposed dwellings would be and smaller in scale and thus are not as prominent in the street scene.
11. For the above reasons I conclude that the development would harm the character and appearance of the surrounding area, and would conflict with LP Policies S1, S2, BE1 and CC6. LP Policy BE1 requires development outside defined development boundaries to make a positive contribution to the landscape and open countryside and are compatible with their surroundings, in terms of layout and site coverage, amongst other things. LP Policy CC6

¹ ref. FUL/MAL/14/00252

requires developments to protect, conserve and enhance the natural beauty, tranquillity, amenity and traditional quality of the District's landscape. It would also conflict with LDP Policy D1.

Highway safety

12. The site is located close to a sharp bend in the road. The location of a landscaped bund just outside the appeal site close to the bend provides poor visibility for users of the road. The Highway Authority has identified the need for highway improvements in this location² and it is proposed to level the landscaped bund, which is shown as outside the red line of the appeal site in the revised site location plan. The Council has suggested a condition to require details of works to lower the earth bank, timings of the works and proposed finishing surface, and for the work to be carried out and retained thereafter.
13. However the condition as worded does not specify when the works should be carried out. A Grampian style condition would therefore be necessary to prevent the occupation of the dwellings until the levelling works have been completed. As the land affected lies outside the site but within the appellant's ownership and the works are necessary in order to make the development acceptable, I consider that such a condition would be appropriate and should be imposed were the development to be acceptable in all other respects.
14. A condition would also be required to provide and retain the appropriate visibility splays on either side of the re-located site access, also in the interests of highway safety. The Highway Authority has confirmed that these works would overcome its objection to the proposal.
15. I therefore conclude that subject to the aforementioned conditions, the proposal would not have an adverse effect on highway safety in the vicinity of the appeal site. It would thus accord with LP Policies T1 and T2. LP Policy T1 states that priority will be given to developments within defined development boundaries which promote safety and security, and LP Policy T2 requires that proposals provide safe access to and from the highway including adequate visibility and junction capacity. It would also accord with LDP Policy T2.

Conclusion

16. I have found in the appellant's favour on highway safety grounds, but the harm to the character and appearance of the surrounding area is decisive.
17. For the reasons set out above I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR

² Referred to as the Asheldham Bends Improvement Project