
Appeal Decision

Site visit made on 23 May 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 27 June 2017

Appeal Ref: APP/X1545/W/17/3167869

Rockleys Farm, Church Road, Tolleshunt Major, Essex CM9 8AW

- 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 Jonathon Wade against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/01186, dated 21 September 2016, was refused by notice dated 6 January 2017.
 - The development proposed is the creation 2No.new dwellings on previously developed commercial land known as the Poultry Houses currently and historically used for business use. The demolition of the poultry houses addition of new dwellings with own gardens, car parking and garaging.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice refers to Policies D1, H4 and E2 of the emerging Maldon District Pre-Submission Local Development Plan (MDLDP). The MDLDP is at an advanced stage and has been subject to recent examination hearings. However, as I do not have evidence before me as to whether there have been any significant objections to the above policies and the Inspector's report has not yet been published, having regard to the advice provided in the National Planning Policy Framework (the Framework)¹, I give these policies in the emerging Development Plan limited weight as a material consideration.

Main Issues

3. The main issues are (i) the effect of the proposed development on the character and appearance of the area, (ii) loss of an employment site, and (iii) whether the proposal would represent a suitable site for housing development having regard to principles of sustainable development.

Reasons

Character and appearance of the area

4. The appeal site comprises of two former agricultural poultry buildings and associated hardstanding located adjacent to a detached property known as Rockleys Farmhouse and its associated outbuildings. The western building is in

¹ Paragraph 216 of the National Planning Policy Framework (2012)

a dilapidated condition and the eastern building is falling into a state of disrepair and are both accessed via a long access track from Church Road to the south-east of the site. To the east is a dwelling and the appeal site is surrounded by mature hedgerows and set in attractive countryside, defined by gently undulating fields punctuated by hedgerows and trees. The proposal would entail the demolition of the two agricultural buildings and the erection of two traditional style dwellings with detached car ports and associated parking and gardens.

5. In visual terms, given the enclosed nature and the topography of the site and immediate surroundings, the appeal site would not be highly visible in the wider landscape. Nevertheless, given the scale of the development, it would represent a shift of the built up housing development into the open countryside and would impact on the rural landscape setting of the area. Whilst I recognise that the boundary trees and vegetation provide some visual containment, the degree of visibility will vary according to the seasons. The appeal site can be viewed at distance across the fields from Church Road to the north-east of the site and would be particularly visible on the approach along the track into the site. I therefore consider that the development would adversely harm rather than positively contribute to the open rural landscape of the area.
6. I have considered the appellant's statement that the site layout and the design of the proposal have been carefully considered in order to minimise any impacts on adjacent dwellings and the area. However, whilst the high quality design, use of traditional materials, fenestrations, the retention and enhancement of the hedgerows around the site would assist in integrating the proposed development with the area, these aspects do not overcome the adverse effects outlined above.
7. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The development conflicts with saved Policies BE1 and CC6 of the Maldon District Replacement Local Plan (2005) (RLP) which seek to ensure that development is compatible with its surroundings, harmonises with the character of the area, protects and conserves the landscape character in the locality and seeks to control development outside the settlement boundaries within the countryside. It also would not accord with the aims of the Framework that development should seek to secure a high quality of design (paragraph 17); to respect the local character (paragraph 58); and promote or reinforce local distinctiveness of the area (paragraph 60).

Loss of an employment site

8. The current lawful use of the appeal site is light industrial use. The western building is used for storage and the eastern building was until recently occupied by a book binding company and is now vacant.
9. Saved Policy E6 of the RLP states that developments which would cause the loss of an employment site will not normally be permitted unless they meet one of a number of criteria. The criteria that will need to be considered include (a) whether the present use of the site irreparably harms the character and amenities of the adjacent area and there are no other remedies available; or (b) if the site would have a greater benefit to the community if an alternative use were permitted; or (c) if there is evidence of advertisement in the area for a period of at least three months at a price to reflect its current lawful use and

this evidence is submitted showing the site has been marketed by agents operating in the locality; and that (d) there is confirmation of a lack of interest. The Council contends that the proposal has not been supported by sufficient evidence to address the requirements of the policy in this instance.

10. The appellant has stated that the current buildings are poor condition and from the evidence before me and my observations during my site visit, I would concur with the appellant. However, irrespective of current condition of the buildings or recommended course of action to demolish and rebuild, there is no evidence to suggest that the use of the site is causing irreparable harm to the character or amenity of the surrounding area. Criterion (a) is therefore not relevant and would not be a reason for permitting the building to be lost and replaced with one with an alternative use.
11. The appellant argues that the removal of the building with associated commercial and vehicular activities and the replacement with two high quality dwellings within an area of previously developed land would be beneficial to the local area and the housing stock in the area. However, I find insufficient public benefit to the local community arising from this proposal under criterion (b) to offset the identified harm to which I attach significant weight.
12. The appellant considers that, given that the current condition of the buildings, the continued commercial use in a rural area is no longer viable. I am mindful that the Framework place emphasis upon ensuring viability and deliverability of development. However, I have not been supplied with any evidence or marketing particulars to clarify how and where the site has been advertised and at the time of my site visit, I saw no publicity to that effect displayed at the premises. No details have been provided to show what enquiries have been received and what comments have been made by prospective occupiers to demonstrate why there is a lack of interest in the site.
13. The Maldon District Council Local Development Plan: Employment Evidence and Policy Update (July 2015) advises that there are a limited number of employment sites scattered throughout the District and there is an identified need for more employment land in the area as part of the emerging MDLDP. The study acknowledges in line with the Framework that not all current employment sites are suitable for the needs of those seeking new premises.
14. In this respect I note the appellant's review of available commercial space within the district. However this and the circumstances outlined above do not provide clear and substantive justification for the loss of the employment site in this case. I also note the reference by both parties to the appeal dismissed for loss of a rural employment site at The Old Dairy at Great Totham². I acknowledge that there are some parallels between this case and the current appeal. Nonetheless, each proposal falls to be assessed primarily on its own merits and in any event I am unaware of the full circumstances associated with this other case.
15. Consequently, I conclude that the proposal would involve the unacceptable loss of an employment site contrary to saved RLP Policy E6 which seeks, amongst other things, to retain and improve the existing employment sites, having regard to their existing and potential long-term market demand for employment use.

² APP/X1545/W/16/3154913

Sustainable development

16. The Council's Development Strategy is set out in saved RLP Policy S1 and seeks to direct development to within the district's settlements that have development boundaries. The appeal site is located outside the development boundary of Tolleshunt Major, wherein saved RLP Policy S2 seeks to protect areas from new development in the interests of protecting the countryside and coastal landscapes of the district.
17. The Framework postdates the RLP. However, as is pointed out in paragraph 2 of the Framework, although it is a material consideration in planning decisions, planning law nevertheless requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. It follows that the proposal conflicts with saved RLP Policies S1 and S2, key policies which define the Council's approach, which count significantly against the proposal. Furthermore, Paragraph 49 of the Framework states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable sites. However, this is not engaged by the proposal as there is no evidence before me to contradict the Council's statement that it has the required supply.
18. The provisions of Paragraph 55 of the Framework are relevant to my assessment. Paragraph 55 seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. Paragraph 55 goes on to state that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. These include where there is an essential need for a rural worker, or where the development would re-use redundant buildings or where the development would be of exceptional quality, or would be of a truly outstanding or innovative design, to help raise design standards more generally in rural areas, which does not apply in this case.
19. The appellant considers that the appeal site is not in an isolated position given the existing property and buildings at Rockleys Farmhouse and nearby dwellings. However, there are very few dwellings in this location and the proposal and dispersed group of properties read strongly as an integral part of the extensive surrounding countryside and as such would constitute an isolated form of development in this rural location.
20. The Framework also states that new residential development is most appropriate in locations where there is access to alternative modes of transport other than the private car (paragraph 30) and where journey lengths to services and opportunities for employment can be minimised (paragraph 37).
21. The appeal site is about 1.6km from Tolleshunt Knights that has a limited range of local services and facilities. This would, therefore, necessitate the need to travel for day to day services and facilities to other nearby villages and towns. These settlements are a reasonable distance away and are not readily accessible by safe public footpaths. The appellant and Council have indicated that a bus service runs to and from the nearby settlements every two hours between 07.30 and 16.30 and a bus stop is situated about 800m from the site. However, no information has been provided about the frequency of this service outside these hours, at weekends and in the evenings.

22. Therefore, the appeal site would, in my judgment, be sufficiently isolated in this rural location such that the future occupiers of the proposed development would be reliant on the use of the car to reach day to day services, facilities and employment elsewhere. It would be contrary to the aims of saved RLP Policy S2 and the Core Planning Principle set out in paragraph 17 of the Framework, in particular Core Principle 11. These aim to direct most development to the larger towns and villages in the settlement hierarchy and actively manage patterns of growth through the plan-led system to make the fullest possible use of public transport, walking and cycling, to which this proposal would not conform.
23. The appellant considers that the proposal would form a sustainable form of development that would provide some social and economic benefits, through contributing to local services and the mix of housing in the area. I also note the appellant states it would provide some environmental benefits, associated with the re-use and tidying up of the previously developed site, removal of the commercial use and reduced vehicular activities and the design of the appeal scheme. However, two dwellings would make a limited contribution to the vitality of this rural community and to the housing stock in the district.
24. Therefore, for the reasons given above, I consider that the adverse impacts arising from locating the proposed development in this rural location, together with harm identified to the character and appearance of the area and loss of an employment site, would conflict with the environmental and economic dimension of sustainable development. In my view, this would be sufficient to outweigh the scheme's benefits when assessed against the policies in the Framework as a whole.
25. Consequently, I conclude that the proposal would conflict with the requirements of saved RLP Policy S2 as set out above and would not amount to sustainable development in the terms of the Framework. In addition, it would conflict with paragraphs 17 and 55 of the Framework which seeks to avoid isolated homes in the countryside and to actively manage patterns of growth through the plan-led system.

Other Matters

26. A Grade II listed property at Rockleys Farmhouse is located immediately to the south-west of the appeal site. However, due to existing mature vegetation and separation distance between the appeal site and the listed building there is only limited inter-visibility. The development has a neutral material impact on the setting of the listed building. The setting is therefore preserved.
27. I have also noted the objections from Tolleshunt Major Parish Council and the comments from local residents to the proposal. However, in light of my findings on the main issues, my decision does not turn on these matters.

Conclusion

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR