



Appeal Decision

Site visit made on 4 July 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 28th July 2017

Appeal Ref: APP/X1545/W/17/3173125

John Thresh Way, Langford, Essex CM9 6FR

- 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 Sunbury Developments LLP against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00265, dated 1 March 2016, was refused by notice dated 5 October 2016.
 - The development proposed is described as 'six detached dwellings with associated garage and parking and access road (formerly consented for four detached dwellings – consent has been implemented)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In connection with the appeal the appellant has entered into unilateral undertaking (UU) made pursuant to Section 106 of the Act. The executed UU would obligate the appellant to make a contribution of £173,500 for the provision of off-site affordable housing. I have taken account of the UU.
3. At my request the Council on 24 July 2017 provided an update on the status of its development plan. That update took the form of the submission of a copy of the Secretary of State for Communities and Local Government's letter of 21 July 2017 advising the Council that he had approved the Maldon District Local Development Plan (2014-2029) (the MDLDP), further to the consideration of the examining Inspector's report of 29 June 2017. As the MDLDP now forms part of the Council's development plan, I have disregarded all of the policies of the Maldon District Replacement Local Plan of 2005 cited in the reasons for refusal. That is because those policies are listed in Annex four¹ of the examining Inspector's report as being replaced by various policies of the approved MDLDP. I have used the schedule of Main Modifications appended to the examination report, which includes necessary amendments highlighted by the examining Inspector, as the basis for identifying the approved wording of the MDLDP's relevant policies.
4. Reference has also been made to the emerging Langford and Ulting Neighbourhood Plan (emerging NP) which was examined in April 2016. The NP's examiner concluded that the NP could not be made by the Council

¹ List of Superseded Policies – Maldon District Replacement Local Plan 2005 Saved Policies and Maldon District Local Development Plan 2017

without modification and that will require this plan being resubmitted for examination. I therefore consider that no weight can be attached to the emerging NP and I shall make no further reference to it.

Main Issues

5. The main issues are: the effect of the development on the character and appearance of the area; whether the development would provide an appropriate mix of dwelling types; and whether the site in accessibility terms would be an appropriate location for additional housing, having regard to the availability to everyday local services and facilities.

Reasons

Character and appearance

6. The development would involve the construction of six detached houses, with each house being provided with a double garage. The vacant site forms part of a larger site that benefits from multiple planning permissions (the extant permissions) for a total of eleven houses. Seven of the previously permitted houses have been built and occupied (plots 1 to 7) and the site for the appeal scheme concerns plots 8 to 11.
7. The site is situated within the Chelmer and Blackwater Conservation Area (the CA) and lies immediately adjacent to the Langford Conservation Area. The Chelmer and Blackwater Conservation Area encompasses the water courses and land immediately adjoining them that gives rise to this heritage asset's name. Langford is a small village, which is characterised by sporadic, linear, built development, lining the roads within its confines.
8. The houses benefiting from the extant permissions for plots 8 to 11 would in effect be frontage properties bounding John Thresh Way, the estate road that serves the new residential development as well as providing access to the neighbouring Museum of Power and waterworks. Long back gardens were designed into the layout for the houses occupying plots 8, 9 and 10 and those gardens would back onto a mature tree belt that marks the site's boundary with Hatfield Road. Long back gardens having been designed into the scheme to avoid habitable accommodation being sited with the 'Flood Zone 2' identified on the flood risk maps prepared by the Environment Agency (EA). A flood risk assessment has however demonstrated that the land is at a lower risk of fluvial flooding than shown on the flood risk map and the appellant has therefore promoted the appeal scheme as a more efficient use of the site.
9. The layout for the six houses would take the form of a cul-de-sac within a cul-de-sac and I consider that layout would be at odds with the linear one exhibited within the first phase of the development at John Thresh Way, as well as that found in Langford as a whole. I consider that this development would not be respectful of the established pattern of low density, linear residential development that characterises Langford. Increasing the number of houses in the second phase of the development from four to six properties would also leave this phase with a denser appearance, in a rural location where low density housing is prevalent.
10. I consider that the development would neither preserve nor enhance the character or appearance of the CA, which is characterised by lower density built development where it arises.

11. I am of the opinion that in combination the layout and density of this scheme would give rise to a development that would have the appearance of a piece of non-descript suburbia that could be found anywhere, which would not be respectful of Langford's distinctiveness. In this respect I am not persuaded that the more sporadic pattern of housing that is found to the west of the bridge over the river Blackwater provides a justification for the development. In terms of the development found to the south of Hatfield Road I do not consider that parallels can be drawn with the waterworks and the commercial premises at Oval Park, which lie off spur roads given their unique nature for the wider area. Ulting Lane is characterised by linear housing fronting that road and therefore does not share the same layout characteristics of the appeal scheme.
12. I accept that the development would be largely screened from view from Hatfield Road by the mature belt of planting that adjoins that road, which will be bolstered by the planting that forms part of the development benefitting from the extant permissions. However, I consider that the limited views of the development that would be possible from Hatfield Road does not provide a justification for allowing a development that would not be respectful of its surroundings. An argument that a site is hidden from view is one that could be used frequently and if accepted could result in harm arising incrementally. The commercial development, which benefits from an extant planning permission, would have a layout and appearance that would not be in keeping with the dwellings in the area. However, I consider that difference is now of little consequence given that the commercial development is now incapable of being fully implemented.
13. I consider that there would be nothing objectionable about the architecture of the individual houses within the development, with it reflecting that of phase 1 of the development. I am also of the opinion that the height of the houses would be appropriate to their surroundings. However, neither the architecture nor height of the houses would address the uncharacteristic nature of the development's layout.
14. For the reasons given above I conclude that the development would give rise to unacceptable harm to the character and appearance of the area. The development would therefore be in conflict with Policies S1, D1, D3 and H4 of the MDLDP and paragraph 17 (the fourth and tenth core planning principles) and section 7 (Requiring good design) of National Planning Policy Framework (the Framework). That is because the development would not represent high quality design, with its layout and density not respecting and enhancing the local context, while the development would fail to preserve or enhance the historic environment.
15. With regard to the provisions of the Framework (paragraphs 132 to 134) and Policy S8, I consider the harm to the CA would be less than substantial. That being said I consider that there would be no public benefits to the CA weighing in favour of this development.
16. The first reason for refusal cites conflict with Policy S8 of the MDLDP, which addresses the protection of the countryside's general landscape quality. However, given that the site possesses no particular landscape quality and there are extant permissions for residential development within its confines, I

consider that the appeal development, of itself, would not give rise to any significant conflict with Policy S8.

Mix of dwelling types

17. The development would comprise two, four bedroom houses and four five bedroom houses and it is contended that dwelling mix would not address the need for smaller sized dwellings in the Council's area. However, the extant permissions would allow this site to be occupied by dwellings of comparable sizes, in terms of their bedroom numbers, to those now proposed. Given the relatively small number of houses this site would yield, I consider that the second phase of its development, whether it be for four or six dwellings, would have very limited scope to address the imbalance between smaller and larger new homes being provided in the Council's area.
18. The appellant has entered into a planning obligation, via the previously mentioned UU, which would secure the making of an affordable housing contribution. That contribution would go a modest way towards securing the delivery of some additional affordable housing in the Council's area and that contribution could potentially be directed towards providing smaller sized dwellings.
19. On this issue I therefore conclude that the development, when compared to that subject to the extant permissions, would not materially frustrate the delivery of a mix of homes, as sought by Policies S1 and H2 of the MDLDP.

Location for additional housing

20. The development would involve a two unit net increase in the provision of houses on the site. The site's rural location would mean that the occupiers of the houses would have limited access to everyday local services and facilities, given what is available in Langford. It is therefore likely that there would be a high dependency on private motor vehicle usage amongst the development's occupiers. However, that position would be no different to the situation arising for the occupiers of the first phase of the development or for the occupiers of the four dwellings already benefiting from the extant permissions.
21. Having regard to this site's recent planning history, I consider that providing six houses, as opposed to four, within the development's second phase cannot be considered as a change of circumstances rendering this now to be an unsuitable location for housing.
22. I therefore conclude that this would be an appropriate location for two further dwellings, in terms of the accessibility to everyday local services and facilities. In that limited regard I find that there would be no conflict with Policies S1 and S8 of the MDLDP and paragraph 55 of the Framework.

Other Matter

23. In connection with the appeal the Health and Safety Executive has advised that planning permission should not be granted because of the potential risk arising from the storage of chlorine at the nearby water works. As the appeal is to be dismissed for other reasons I consider it unnecessary for me to give detailed consideration to the concern raised by the Health and Safety Executive.

Conclusions

24. I have found that the location and housing mix would be appropriate, when regard is paid to the site's specific planning history. However, I consider those aspects of the development would be outweighed by the harm to the character and appearance of the area that I have identified. The harm that I have identified could not be addressed by the imposition of reasonable planning conditions. I therefore conclude that the appeal should be dismissed.

Grahame Gould

INSPECTOR