
Appeal Decision

Site visit made on 18 September 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 25th September 2017

Appeal Ref: APP/X1545/D/17/3181375

Spring Elms Farm, Spring Elms Lane, Little Baddow, Chelmsford, Essex CM3 4SQ

- 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 Robert Jones against the decision of Maldon District Council.
 - The application Ref HOUSE/MAL/17/00399, dated 30 March 2017, was refused by notice dated 30 June 2017.
 - The development proposed is the construction of a tennis court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's decision it has adopted the Maldon District Local Development Plan 2014-2019 (adopted 2017) (LDP). The policies contained therein have superseded Policies S2, BE1, CC6, CC7 and CC23 of the Maldon District Replacement Local Plan 2005.

Main Issue

3. The main issue in this appeal is the effect of the appeal scheme on the character and appearance of the area.

Reasons

4. The appeal site encompasses a parcel of land located to the south of former poultry units. It is understood that these are now used, or were last used, for commercial storage. The land in the ownership of the appellant, marked by the blue line on the application site plan, is collectively known as Spring Elm Farm. It used to be a poultry farm until the storm of 1987, which resulted in significant damage and loss of livestock from which the business could not recover. The appellant's land can be divided into three distinct areas.
5. Firstly, there is Spring Elms, which is a large detached dwelling the residential curtilage of which is well defined by boundary hedging. The erection of a cart lodge has recently been approved in close proximity to the eastern elevation of the property. The second area encompasses the former poultry units surrounded to the north and west by what appears to be regularly mown grass. The units have planning permission to be demolished and a detached dwelling erected in their place. The Council have suggested that the low hedge to the immediate south of the former poultry units would mark the boundary of the

- residential curtilage of the permitted dwelling. I have seen nothing of substance that leads me to question this.
6. The low hedge to the south of the poultry units forms a natural boundary as the land beyond it is less tended, more informal and with the appearance of a small pasture or meadow. It is viewed in the context of fields and paddocks to the west and woodland to the south. The residential curtilages to the east, including that of Summerfield, are well screened from the appeal site. The area may have been formed by soil disposal and gravel winning but it now has a settled, verdant and rural character.
 7. Therefore, the area to the south of the former poultry units and beyond the hedge forms the third character area within the appellant's ownership. The proposed tennis court would be located in this area just beyond the hedge.
 8. Although submitted and registered as a householder application the proposed development would not, on the balance of the information before me, be located within the residential curtilage of Spring Elm. I have come to this view for a number of reasons. Firstly, the land upon which the tennis court would be sited was used in connection with the former poultry farm. Upon this enterprise ceasing the land would not have automatically reverted to a residential use in connection with Spring Elms as suggested by the appellant. Instead, a residential use would have been a material change of use requiring planning permission. There is nothing before me to suggest this has been applied for and granted.
 9. Additionally, the land still has a rural character rather than a domestic one. The field is pasture that appears to be cut less frequently than the grass to the north around the former poultry sheds. The hedging around the site is not ornamental and there is no domestic paraphernalia within the small field. Furthermore, the field is located on the far side of the former poultry units from Spring Elms. These buildings are a non-domestic intervening use. Moreover, there is a clear boundary between the field in which the proposed tennis court would be located and the garden of Elms Farm. As such, the appeal scheme would result in an encroachment of domestic paraphernalia beyond the residential confines of Spring Elms.
 10. The proposal would involve the laying of a large hardstanding and an enclosing fence in an otherwise open and undeveloped grassland field. This would inherently urbanise and domesticate part of the pasture and would erode the rural character and attractive landscape setting of the appeal site and the field within which it is located.
 11. Moreover, the proposed tennis court would appear remote and isolated from a residential dwelling/curtilage. Thus, it would appear as an undesirable incursion into the open countryside. In this respect it would be a strident and incongruous feature in the public views from Spring Elms Lane and private views from surrounding parcels of land. Although the public views would be limited, they would still be sufficient to ensure the tennis court would be visible and therefore harmfully apparent.
 12. The presence of the approved dwelling immediately to the north of the proposed tennis court would provide some screening from Spring Elms Lane and a more domestic context to the appeal site. However, works have not started and it is unclear whether reserved matters have been submitted. The

construction of this house may be some time off or may not happen at all. Thus, it cannot be given more than limited weight at this stage as something that may mitigate the adverse impacts of the appeal scheme that I have identified. A landscaping scheme may soften the impact of the tennis court over time but landscaping should not be used to hide unacceptable development as its longevity cannot be guaranteed.

13. There are tennis courts located nearby but from what I have observed these appear to be positioned within residential curtilages and therefore have a different and acceptable impact on the rural character of the area. As such, this is not a matter of sufficient force to justify the appeal scheme.
14. I therefore conclude that the appeal scheme would harm the character and appearance of the area and this would place it at odds with Policies D1 and H4 of the LDP, which seek to ensure new development respects and enhances the character and local context and makes a positive contribution in terms of landscape setting.

Conclusion

15. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR