
Appeal Decision

Site visit made on 15 May 2018

by C Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2018

Appeal Ref: APP/X1545/W/17/3190651

Maldon Hall Farm, Spital Road, Maldon, Essex CM9 6SQ

- 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 J Speakman against the decision of Maldon District Council.
 - The application Ref FUL/MAL/17/00320, dated 16 November 2017, was refused by notice dated 13 June 2017.
 - The development proposed is 3 no. 2 bedroom dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 3 no. 2 bedroom dwellings at Maldon Hall Farm, Spital Road, Maldon, Essex CM9 6SQ in accordance with the terms of the application, Ref FUL/MAL/17/00320, dated 16 November 2017, subject to the conditions in the attached schedule.

Procedural Matter

2. Since the application was determined, the Council has adopted its Local Development Framework (LDP). This supersedes the policies in the Maldon District Replacement Local Plan (2005), and I have had regard to the LDP policies in this decision. I have also had regard to the Maldon District Design Guide, which was adopted in December 2017.

Main Issues

3. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - Whether future occupiers of the proposed dwellings would have satisfactory access to services and facilities.

Reasons

Character and appearance

4. The appeal property is a steel barn located within Maldon Hall Farm, a complex of former farm buildings accessed by two single track lanes from the A414 Maldon ring road. Maldon Hall Farm ceased to be a working farm in the early 1990s and various agricultural buildings of traditional appearance have since been converted into residential use. The barn subject of this appeal is the last remaining building not in residential use within this part of the estate. As such, notwithstanding the location of the appeal site outwith the defined settlement

boundary of Maldon, the immediate vicinity of the site is residential in character.

5. The appeal proposal would involve the demolition of the steel barn and a small outbuilding and the erection of an L-shaped part single storey and part two storey building that would enclose an existing courtyard area on two sides. The building would be of traditional appearance with black feathered weatherboard elevations and tiled roof, and would incorporate a cart lodge style double parking bay. The building footprint would be slightly bigger than the barn but shallower in depth, and even taking account of the two storey element would not be substantially greater in ridge height than the existing pitched roof steel barn. Accordingly the proposed building would not appear out of scale with the neighbouring properties.
6. An existing grassed area to the north and east of the barn would be divided into private gardens with post and rail fencing and enclosed by existing trees and shrubs around the site boundaries which would be retained and enhanced. As a result the proposed building would not necessarily appear as three separate dwellings when approaching the development along the access road and the private gardens would not be particularly prominent or visible from the wider area. In any case, domestic paraphernalia associated with three dwellings would be unlikely to have a materially greater impact than that associated with a single large dwelling, and its likely extent would not harm the established character of the area.
7. The Council is concerned that open frontage parking would be at odds with the character of the larger properties, but the parking spaces would be within the semi-enclosed courtyard, which is set back from the access lane and would be partially screened by the building itself. Aside from some additional soft landscaping, the courtyard would not look markedly different from that which currently exists.
8. Moreover, the materials to be used in the construction of the proposed dwellings, which could be secured by condition, would reflect those of the surrounding barn conversions, and therefore would appear more sympathetic to the surrounding pattern of development than the existing building. It would therefore accord with the Maldon District Design Guide (2017), which requires that the appearance of the development should respond to its surroundings.
9. For the reasons set out above I conclude that the proposal would not harm the character and appearance of the area, and indeed there would be an improvement. The proposal would thus accord with policy D1 of the LDP. However, there would be a conflict with the development plan by virtue of the site's location outside the defined settlement boundary, contrary to LDP Policies S1 and S8.

Access to local services and facilities

10. The Maldon Hall Farm complex lies a short distance from the A414 Maldon ring road, and approximately 1 mile from the town centre, along Spital Road (the A414), which has segregated footpaths and street lighting. As such, although it is located outside the defined settlement, the appeal site is not remote from shops and services. A large supermarket and business park are located about 15 minutes' walk to the south of the appeal site along the A414. Regular bus services to and from Maldon, with connecting services to nearby towns and

villages are also available from bus stops on Spital Road close to the junction with the access road.

11. I therefore conclude that future occupiers would have satisfactory access to local shops and services via a choice of modes of transport other than the private car, and the development would thus accord with the expectations of the National Planning Policy Framework (the Framework).

Other Matters

12. There are two grade II listed buildings in relatively close proximity to the appeal site. A property described in the listing description as the 'Barn to the north west of Maldon Hall', also known as Headland Barn, is situated some 35 metres from the steel barn, but separated to a degree by an intervening band of trees. Granary and cart lodge, also referred to as Maldon Wycke Barn, is situated to the east of the convergence of the two access roads, and on the other side of the northern most access road to the appeal site.
13. The Council's conservation officer considers that the existing modern steel barn does not complement the setting of the heritage assets and the new dwellings would be more attractive architecturally, reflecting the form and materials of the adjacent historic farm buildings. In addition, the layout would loosely reflect that of previous structures on the site shown on 19th century Ordnance Survey maps. On the basis of all that I have seen and read the proposal would cause no harm to the significance of these listed buildings and other non-designated heritage assets in the locality, and would enhance the setting of these assets.
14. Even if the site does not comprise previously developed land as defined by the Framework this does not alter my findings above. As permitted development rights for barn conversions under Class Q¹ have already been taken up within the holding this is a consideration of little significance.

Balancing and Conclusion

15. The proposal would be contrary to policies S1 and S8 of the LDP due to the location of the appeal site outside the defined settlement boundary. However, it would not harm the character and appearance of the surrounding area and would be an improvement on the existing situation as it would result in the removal of an agricultural building of modern utilitarian appearance which does not complement the setting of nearby designated heritage assets, and its replacement with a more sympathetically designed building that would improve the setting.

Neither would it adversely impact the spatial pattern of development as it would not encroach into open countryside and the dwellings would be located on land forming part of an historic farmstead where buildings previously stood. Furthermore, as the steel barn is the last building in the vicinity that has not been converted to residential use, the development is unlikely to lead to pressure for additional residential development in the area. Future occupants would have satisfactory access to local shops and services. The development would also meet an identified local housing need for two bedroom dwellings, albeit this would make only a modest contribution to housing supply.

¹ General Permitted Development Order (England) 2015 – Class Q

16. On balance, these material considerations outweigh the conflict with the development plan in respect of location, and in these particular circumstances planning permission should be granted for development not in accordance with the development plan.
17. I shall impose a condition specifying the approved plans for certainty, and shall require details of external materials to be used in the construction of the approved building, boundary treatments and hard and soft landscaping, to safeguard the character and appearance of the surrounding area.
18. A condition requiring archaeological investigations is necessary due to evidence of medieval and post medieval development of Maldon Hall, and mapping showing an earlier building on the site of the appeal property and possible Roman villa in the vicinity of the farm. In addition, due to the previous farm use and proposed residential use of the building, site investigations for environmental contamination and where appropriate site remediation are necessary, taking a precautionary approach.
19. Conditions requiring details of surface and foul water drainage to be submitted and approved are also necessary in order to reduce flood risk and minimise surface water run-off beyond the site.
20. For the reasons set out above I conclude that the appeal should be allowed.

C Victory

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 drawings: 1619/LOC01A; 1619/LOC02A; 1619/03; 1619/04C; 1619/05; 1619/06; and 1619/07.
- 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 and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
- 4) Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 5) Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 6) Notwithstanding the details submitted with this application, no development shall commence, other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: a survey of extent, scale and nature of contamination; an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and an appraisal of remedial options, and proposal of the preferred options. The contaminated land site investigation must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the local planning authority.
- 7) No development shall commence, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will

not qualify as contaminated land under Part 2A of the Environmental protection Act 1990 in relation to the intended use of the land after remediation. The development hereby permitted shall not commence until the measures set out in the approved scheme have been implemented, unless otherwise agreed in writing by the local planning authority. The local planning authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the local planning authority.

- 8) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.
- 9) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the local planning authority.
- 10) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition 7.
- 11) Prior to the commencement of the development details of the siting, height, design and materials of the treatment of all boundaries including hedges, gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the occupation of the building to which it relates and be retained as such thereafter.

- 12) No works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.
- 13) No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents; the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.
- 14) No development, apart from site clearance, shall take place within the site until the applicant or their agents; the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.