



Appeal Decision

Site visit made on 24 June 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/X1545/W/19/3224512

Land north of Farthings, Sheepcotes Lane, Southminster CM0 7AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Cottam against the decision of Maldon District Council.
 - The application Ref OUT/MAL/18/01447, dated 3 December 2018, was refused by notice dated 5 February 2019.
 - The development proposed is outline planning permission for the demolition of the existing garage and machinery store and replacing them with a single dwelling house, landscaping, parking, new vehicle turning area and other associated works with all matters reserved apart from access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form gave the site address as '17 Sheepcotes Lane, Southminster CM0 7AF'. Number 17 Sheepcotes Lane is also named Farthings. The Council's decision notice and the appeal form refer to the site as 'Land north of Farthings, Southminster, Essex CM0 7AF'. This more accurately reflects the address of the appeal site and I have therefore referred to this in my heading above.
3. The application form described the development as an 'outline planning permission for the demolition of the existing garage and machinery store and replacing them with a single dwelling house, landscaping, parking, new vehicle turning area and other associated works with all matters reserved apart from access'. However, the Council's decision notice describes the proposal as 'outline planning permission for the demolition of the existing garage/store and the erection of a single dwelling house with all matters reserved apart from access'. This description appears to have been accepted by the appellant and I have determined the appeal accordingly.
4. The original application was made in outline with only access to be determined at this stage. All other matters were reserved for future determination. I have had regard to the existing and proposed site plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative apart from the details of the access.

Main Issues

5. The main issues are:

- whether or not the appeal site is a suitable location for a new dwelling having regard to local and national policy for the delivery of housing; and
- the effect of the proposed development on the character and appearance of the countryside.

Reasons

Suitable location

6. The Council's strategy for managing the location of development is set out in Policy S8 of the Maldon District Local Development Plan 2017 (the LDP). This identifies a settlement hierarchy and supports sustainable development within defined settlement boundaries, the Garden Suburbs and the Strategic Allocations. The policy restricts development outside these areas within the countryside unless it does not adversely impact on the intrinsic character and beauty of the countryside and provided it meets certain criteria set out within a closed list. This includes amongst other things agricultural and essential workers' accommodation and affordable housing.
7. The appeal site is located within the northern part of the garden of Farthings which is a detached house located on the northern edge of the village of Southminster. The settlement boundary runs through the garden of Farthings and therefore for the purposes of planning policy, the appeal site is outside the defined settlement boundary of the village.
8. The proposed development would not lead to an isolated dwelling in the open countryside in terms of paragraph 79 of the National Planning Policy Framework (the Framework) due to its close proximity to the existing settlement, it would nevertheless lie outside the settlement boundary. It would therefore result in a detached dwelling which would be in the open countryside. It would not provide housing for any of the identified needs set out in Policy S8. The proposal would therefore conflict with this policy.
9. The Council has a five year housing land supply (5YHLS) and the LDP policies are therefore considered to be up to date. However, I acknowledge that the Council's ability to demonstrate a 5YHLS does not preclude the development of additional suitable sites. Section 38(6) of the Planning and Compulsory Purchase Act 2004 is clear that planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.
10. Regardless of the extent of the curtilage of Farthings and whether the site can be considered previously developed land, the settlement boundary has been established through the Local Plan process. It marks a clear boundary to the built up area of the village and the open countryside beyond, with the garden to Farthings forming part of the transition between these two different areas. I note that the appellant has questioned why the Council did not extend the settlement boundary limits around the whole of the garden to Farthings when the boundaries were reviewed as part of the Local Development Plan 2017. However, this is not a matter before me. The boundary has been set and it is not the purpose of the section 78 appeal process to amend the boundary.

11. My attention has been drawn to a recent decision by the Council to grant permission for a detached property at Land adjacent to 21 Cripplegate, Southminster which was also outside the settlement boundary, despite the Council being able to demonstrate a 5YHLS. From the information before me, I note that a previous permission existed for the site and that the frontage of the site was located within the settlement boundary. These factors provide a different set of circumstances to the appeal before me. Furthermore, from my observations on site, I saw that the new house was immediately adjacent to No 21 and directly opposite another property, which differs to the appeal proposal where the proposed house would be set apart from other properties.
12. I have been referred to a number of recent appeal decisions¹ where new residential development outside a settlement boundary has been allowed. In all these cases, from the limited evidence before me, the context appears to be different from the appeal before me in that the new houses would be surrounded by other residential properties on at least two sides. This is not the case in the proposal before me. I therefore do not find the circumstances in any of these appeals directly comparable to the appeal before me
13. I conclude that the location would not be suitable for a new dwelling having regard to local and national planning policy for the delivery of housing. It would therefore conflict with Policies S1, S8 and H4 of the LDP which together promote sustainable development and the effective use of land in appropriate locations, and restrict development in the countryside. It also does not accord with the housing supply objectives of the Framework.

Character and appearance

14. Both Farthings and Number 26 Sheepcotes Lane (No 26), which are opposite each other, mark the end of continuous linear housing development fronting Sheepcotes Lane although Farthings has a detached garage/store separated from the main house by an enclosed swimming pool. Both properties have large side gardens which give way to fields at their northern boundaries. Open fields lie to the west of the appeal site.
15. The appeal site, which is part of the garden to Farthings, is characterised by lawns and mature trees. It is enclosed by a tall hedge on its boundary with Sheepcotes Lane and low fencing on its north and west boundaries. Sheepcotes Lane narrows away from the built up area between the boundary hedges of Farthings and No 26 with open fields beyond, becoming more like a country lane with a strong rural character. Continuing the road frontage development along the western side of Sheepcotes Lane would extend the settlement into the countryside. Due to the gap between Farthings and the site of the proposed house occupied by the swimming pool, there would be a gap in the frontage and the house would appear as standalone property along this lane.
16. I accept that the site is already a residential garden. However, this part of the garden, comprising lawn and trees, has a semi-rural, natural and undomesticated character. I also accept that the freestanding garage/store, which would be demolished under the appeal proposal, is a more urban form of

¹ APP/X1545/W/18/3198533 Hedge End, Stoney Hills, Burnham-on-Crouch, APP/X1545/W/18/3207171 Stapleton, Stoney Hills, Burnham-On-Crouch CM0 8QA and APP/X1545/W/18/3199192 Nathilda, Purleigh Grove, Cold Norton CM3 6HN

development. However, the new dwelling with a detached garage and area of hardstanding, would result in a significant increase in the amount of built development in this part of the garden compared to what is currently there. It would also be significantly different in character and appearance to an ancillary outbuilding within a garden.

17. I have had regard to the indicative layout and accept that from some directions the proposed house would not be visually prominent. I have also noted that the appellant has proposed that the existing boundary hedge could be retained to reduce the visual impact of the development. I also accept that as part of any reserved matters approval, it could be ensured that scale, design and materials would all be compatible with other dwellings in the area. While these factors may reduce the overall visual impact of the development, it would not overcome the domestication and urbanisation of this semi-rural site and the change in character that would result from the development. It would also not overcome the creep of village development along this rural lane into the open countryside. Consequently, the development would significantly harm the intrinsic character and beauty of the countryside.
18. I acknowledge that the appellants say they could construct further outbuildings or structures within their garden under permitted development rights set out the Town and Country (General Permitted Development) Order (as amended) 2015 without the need for planning permission. This is disputed by the Council. However, even if this is the case, buildings ancillary to a dwelling are quite different from a standalone house which is the subject of this appeal. In any case, the matter before me is to consider the merits of the proposed development subject to this appeal.
19. I conclude that the proposed development would significantly harm the character and appearance of the countryside. It would therefore conflict with Policies D1, H4, S1 and S8 of the LDP which together require development to respect and enhance character and protect the countryside for its intrinsic character and beauty. It also does not accord with the conservation objectives of the Framework in relation to the protection of the countryside.

Other Matters

20. I accept that the proposed house would be in an accessible location where services and facilities can be accessed by means other than the private car. I also accept that the construction process and future occupation of the house would bring about some limited economic benefits and make a small contribution to the viability of local services. I have also noted that the proposed new vehicle turning area would be a benefit to users of Sheepcotes Lane in providing space for drivers to turn around on this narrow lane. These, together with the letters of support from some residents, are factors that weigh in favour of the scheme.
21. The appellant has highlighted that the proposal would comply with the Council's housing standards, highways standards, sustainable standards and noise and air quality standards. Also, that it would not impact on landscape, trees and ecology or neighbouring properties. Be that as it may, an absence of harm in these respects is a neutral factor.

Planning Balance and Conclusion

22. The Government is seeking to significantly boost the supply of housing and Council's ability to demonstrate a 5YHLS does not preclude the development of additional suitable sites. There would be some limited social and economic benefits from the provision of one additional dwelling. However, the environmental harm I have identified to the character and appearance of the area and the conflict with the Council's spatial strategy outweighs these limited benefits. For this reason, I therefore conclude the appeal should be dismissed.

Rachael Pipkin

Inspector