
Appeal Decision

Site visit made on 27 August 2019

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2019

Appeal Ref: APP/X1545/W/19/3229871

**Land adjacent Little Hill Farm, Mope Lane, Wickham Bishops,
Essex CM8 3JP**

- 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 A Stott against the decision of Maldon District Council.
 - The application Ref OUT/MAL/19/00345, dated 12 March 2019, was refused by notice dated 21 May 2019.
 - The development proposed is a single dwelling including determination of access.
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Decision

1. The appeal is allowed, and outline planning permission is granted for a single dwelling, including determination of access at land adjacent to Little Hill Farm, Mope Lane, Wickham Bishops, Essex CM8 3JP, in accordance with the terms of the application Ref OUT/MAL/19/00345, dated 12 March 2019, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr A Stott against Maldon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was made in outline with all matters reserved except for access. The submitted drawing 19.5669/P201 Rev A shows details of the access including the proposed visibility splays. Although it shows the location of a dwelling, I have given this location limited weight as details of appearance, landscaping, layout, and scale are reserved matters.
4. The description of development on the application form included the words "outline application for", which I have omitted above as they do not describe the development.

Main Issues

5. The main issues are (i) the effect of the proposal on the character and appearance of the area, and (ii) whether or not the site is a suitable location for development having regard to national and local policy.

Reasons

Character and appearance

6. The existing character of Mope Lane is of large, semi-rural dwellings on the fringes of the village. This character is contributed to by the host dwelling, its neighbour and others nearby.
7. The site itself is a grassed, garden area, with a fenced-in tennis court, adjacent to an existing large, detached dwelling, set behind substantial boundary screening and sitting somewhat above the road. It lies between the host dwelling, and the neighbouring Rectory with the village beyond.
8. As a result, the character and appearance of the site is domestic, appearing as a large, well-maintained garden which lies between the village and the host dwelling. This character is reinforced by the tennis court, ancillary buildings and evidence of use as a garden.
9. The plot is a large one, extending some distance back from the road-frontage, which is well-screened in any event. The siting of a dwelling on the site would be in-keeping with the character and appearance of both Mope Lane and the wider character of this edge of the village. The appeal site does not contribute to an open, or rural character of the immediate area.
10. Whilst the proposed dwelling would be likely to be visible from the road, I do not consider that this would be harmful to the character and appearance of the area. When travelling along Mope Lane and Station Road, dwellings are apparent in filtered, distant views along the road, and this contributes to the fringe character I have identified above.
11. I note the concerns of the Parish Council with regard to the topography of the site but consider that there is sufficient control in the reserved matters process to ensure that the final form of any development will be appropriate, and I have addressed the issue of ground level above.
12. Although the appeal site is outside the defined settlement boundary and therefore in the countryside, I do not consider that its development would have the domesticating and urbanising effect that the Council fears. Instead, I consider that development of the appeal site in line with the proposal would appear consistent with the character and overall appearance of this part of the village.
13. As the application is in outline, the Council has the opportunity to ensure that the final appearance of the dwelling, including final scale, mass and boundary treatments, is satisfactory.
14. Therefore, I consider that development of the appeal site would not be harmful to the character and appearance of the area and would not result in an unacceptable level of domestication and urbanisation of the area.

15. As a result, I do not consider that the proposal is contrary to the requirements of Policy D1 of the Maldon District Approved Local Development Plan 2014 – 2019, adopted July 2017 (the Local Development Plan), which seeks to ensure that development is appropriate to the character of the local context. I also find that the proposal is therefore consistent with the aim of Policy S1 to support growth within environmental limits and to maintain the rural character of the District.
16. I also do not consider that the proposal would be contrary to Policy H4 of the Local Development Plan which seeks to ensure that land is developed at an appropriate density with regard to the location and setting of the site and the existing character and density of the surrounding area.

Whether or not the site is a suitable location for development

17. The development plan identifies the site as being in the countryside, beyond settlement limits. Policy S8 of the Local Development Plan supports development within defined settlement boundaries. It only allows for development outside those boundaries subject to meeting one of a number of requirements listed within the policy.
18. The appeal proposal does meet any of the exception requirements listed in that policy. It is therefore contrary to the requirements of Policy S8 of the Local Development Plan.

Planning Balance

19. Although I have found that the proposal is in conflict with the development plan with regard to settlement boundaries, I must have regard to any other material considerations which may suggest a decision contrary to the development plan.
20. The appellant and the Council have drawn my attention to a number of previous decisions and appeals, including the now expired appeal approval for the same development under consideration here (reference 3140362).
21. That decision is a material consideration in this appeal, and although there has been a shift in the policy context since that decision, I give weight to the conclusions within it on the suitability of both the site and the settlement for the development proposed.
22. In that decision, the Inspector found that the site was a relatively sustainable location, particularly within a rural area such as this. The Inspector also noted the role that new development has in supporting the vitality and viability of rural communities and the services that they support. The Inspector in that decision also found that the proposal would not have an adverse impact on the character and appearance of the area.
23. I note the comments from the Council that circumstances can change, and that a previous grant of planning permission does not in itself mean that permission will be granted again. However, I do not consider that the circumstances to the appeal with regard to the level of services in the village have changed to such a degree that they would render the previous conclusions on the suitability of the site no longer relevant.

24. Similarly, although the Local Development Plan, containing the settlement boundaries to which Policy S8 refer has now been adopted, the spatial relationship of the site to existing dwellings and the village has not changed since the previous appeal decision.
25. I note the appeals referred to by the Council. Although the Inspector in appeal reference 3186253 concluded that the proposal would be at odds with and would undermine the spatial strategy for housing, this was an appeal for five dwellings in a location which appears, from the content of that decision, to be markedly different from this one in terms of its character and appearance. The same conclusion on the effect of this appeal on the spatial strategy cannot therefore be reached.
26. Similarly, I do not find that the conclusions of the Inspector in appeal reference 3224512 lend support to the position of the Council. That site and proposal have a character and impacts which appear sufficiently distinct from those under consideration here that they do not affect my conclusions on this appeal.
27. Turning to the supporting text to the policies in the development plan which restrict development to within settlement boundaries and sets out what they seek to achieve, I do not consider that the proposal harms those aims. I have set out above my conclusions on the proposal with regard to the character and appearance of the area, and the same conclusions apply with regard to the effect of the proposal on the intrinsic character and beauty of the countryside.
28. I therefore conclude that the proposal is not in accordance with the development plan with regard to the location of the site outside the defined settlement boundary. However the lack of harm to the character and appearance of the area with regard to any harmful domestication and urbanisation, the lack of change in context since the previous decision and the broad consistency of the proposal with the aims of the Local Development Plan are all material considerations of sufficient weight to lead me to take a decision in this case other than in accordance with the development plan.

Conditions

29. Both the appellant and the Council have submitted conditions which they consider should be imposed if planning permission were to be granted, which in effect, repeat those imposed on the previous permission.
30. I have assessed the conditions against the requirements of the Planning Practice Guidance to ensure that conditions are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. I have included the standard conditions relating to time for submission of reserved matters and implementation.
31. Condition 4 is necessary to ensure that the development makes provision for suitable and safe access, including the visibility splays in accordance with the details shown on the submitted drawing and following the recommendation of the relevant consultees.

32. I have also imposed necessary pre-commencement conditions concerning drainage details and a programme of archaeological works, in order to ensure appropriate drainage of the site and the protection of any potential heritage assets. As the wording of these conditions is no different to the terms suggested by the appellant, the requirements of Section 100ZA(5) of the Act have been met.
33. I have amended Condition 7 from that used in the previous permission to that suggested by the Council as I consider that the suggested wording duplicated the requirements of Condition 4 and went beyond the consideration of access which was applied for. I do however consider that it is necessary to require the submission of parking details to ensure suitable and safe arrangements for access, turning and parking.

Conclusion

34. For the reasons given above I conclude that the appeal should be allowed and planning permission in outline be granted.

S Dean

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plan: 19.5669/P201 Rev A.
5. Development shall not begin until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
6. No development including any site clearance or groundworks of any kind shall take place within the application site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority.
7. The scheme to be submitted pursuant to the reserved matters shall make provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.