
Appeal Decision

Site visit made on 12 November 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 2 December 2019

Appeal Ref: APP/X1545/W/19/3231396

**The Donkey Paddock, West of the Old Dairy, Broad Street Green Road,
Great Totham CM9 8NX**

- 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 & Mrs Lawson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/18/01191, dated 25 September 2018, was refused by notice dated 10 January 2019.
 - The development proposed is one exemplar custom-built dwelling.
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Decision

1. I dismiss the appeal.

Preliminary Findings

2. The Council have considered the application in relation to paragraph 79e) of the National Planning Policy Framework on isolated homes in the countryside and the appellant had referred to this provision, whilst acknowledging the judgments in the 'Braintree' cases¹ which determined that the word 'isolated' should be given its ordinary objective meaning of '*far away from other places, buildings or people; remote*'.
3. To ensure clarity on the main parties' cases in this regard, further written submissions were invited following the site inspection. The Council stated the view that the site was not isolated, and the appellant referred to the true intent of paragraph 79 and its use in determining applications for such as agricultural workers dwellings or the re-use of heritage assets, among its other provisions. It is acknowledged that these buildings may not be isolated.
4. Whilst the site may not be termed 'isolated' in the 'Braintree' sense, it is outside settlement boundaries where policies of restraint apply, and it is reasonable to consider in the planning balance the credentials of the exemplar bespoke house as promoted. In any event, Paragraph 131 of the Framework contains elements of the 79e) criteria, and whether judged under the requirement to '*fit in with the overall form and layout of their surroundings*', from the former paragraph or to '*significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area*' from the latter, a judgment will be required as to the visual and spatial effects.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018

Main Issues

5. Having regard to the Preliminary Findings above, the main issues are;
- The effect of the proposal on the character and appearance of area.
 - The weight to be attached to other considerations in favour of the proposals.

Reasons

Character and Appearance

6. Policy S1 of the Maldon District Local Development Plan sets out requirements for sustainable development, and Policy S2 concerns strategic growth where the majority will be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch. Policy S8 states that the Council will support sustainable development within the defined settlement boundaries, and sets out the settlement hierarchy. Design quality and the built environment are the subject of Policy D1 and Policy H4 seeks the effective use of land.
7. In addition to the paragraphs referred to in the Preliminary Findings above, the Framework states at paragraph 124 that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 170b) states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
8. The findings of the previous Inspector in 2017² are a material consideration, particularly as significant weight was given to the emerging policies of what is now the Local Development Plan. That proposal was described as a substantial dwelling of 7 bedrooms, a basement, an annexe and an integral triple-bay car port. The appeal was dismissed in part through the introduction of a substantial building to the undeveloped countryside being considered harmful to the character and appearance of that countryside, and partly through the loss of an employment use. The latter does not fall to be considered in the current appeal since the entry onto the main road does not require the demolition of any of the commercial buildings to the east.
9. From the information supplied about that previous proposal, the dwelling now proposed would be markedly different in its design, layout and disposition on the site, whilst occupying at its centre, a similar location. Whereas the previous proposal was a formal composition of 2 high storeys with rooms in the roof over that height, but on a limited footprint, the present proposal is more contemporary in its proportions and utilises a varied massing of 3 pitched roofed elements linked by glazed and vegetated flat roofs over single storey parts, but which would cover a greater area of the site.
10. The previous scheme had a maximum height of just over 13m occupying a substantial part of the crown-flat roof form, while that now proposed scales to have a maximum ridge height of under 10m and that only in an isolated section. The previous Inspector's findings of the height, bulk and significant

² Appeal Reference APP/X1545/W/16/3162966

size being intrusive in the surrounding landscape would not be so true of the lower design now proposed, although the greater footprint is material.

11. The previous findings of being unrelated to the existing ribbon development of dwellings along Poplar Grove Chase, and to a lesser degree due to the separation by commercial buildings, to those along Broad Street Green Road, hold true with the present proposal, and whilst not the tall formal composition of the previous appeal scheme, the form of the proposed dwelling would not follow that of the other semi-detached and detached dwellings which generally comprise limited footprints within smaller plots.
12. There does not appear to have been much change from the description given of the immediate countryside in 2017, although the building in the north corner is not referred to, and the commercial building that was to be demolished is now to be retained. The site is therefore partly surrounded by built form of one type or another, but there are sufficient gaps connecting the site with truly open countryside to give this open field the character and appearance of pastoral or grazing land separate from the ribbon development and sporadic buildings nearby.
13. There is change occurring and the Design and Access Statement shows the planned proximity of the North Heybridge Garden Suburb, with works progressing from the south. Whilst this would bring substantial built form closer to the group of existing dwellings and commercial buildings, this enlargement of the settlement into what appears at present as open countryside would add value to the appeal site as an element of the countryside beyond the built-up area, and the presence of the rural-style building in the north corner does not undermine that finding.
14. The conclusion that the 2017 proposal would represent a material incursion of built form into the open and undeveloped countryside still applies to the present appeal proposal, notwithstanding its lower height, as the greater footprint would largely negate the gains through the reduction in height.
15. The limited visibility was acknowledged in 2017, and this may be truer now due to the reduction in height, but there remain many other dwellings from where the new building would be highly prominent and the change to the character and appearance of the surrounding, albeit tightly drawn, curtilage would be apparent. The near central location on the site would erode the countryside character over a greater area than just the footprint and its curtilage.
16. Turning to the specific features of the dwelling, the plan form would be that of a 'pin-wheel' of pitched-roofed elements radiating from the low flat-roofed entrance hall, and to the north-west continuing as a flat-roofed garage, semi-open cart lodge and flat-roofed plant room. This layout would provide daylight and air to the rooms but results in a building that extends over a larger area of land than the more conventional housing nearby and it would present a somewhat jumbled arrangement of roof planes when seen from the nearby dwellings and their gardens, the lower elements not being so obvious at that level. The effect would be of a sprawling, disjointed building since the clarity and elegance of the plan form would not translate into an attractive composition from those viewpoints.
17. To conclude, the proposal would cause harm to the character and appearance of the area through being an incursion of built form into the semi-rural

landscape where the field retains positive links with the wider open countryside and through not fitting-in with the overall form and layout of the nearby built development or being sensitive to the defining characteristics of the local area. The proposal would be contrary to the aims of Policy D1 in not respecting the character and local context of the site or surrounding area and would not recognise the intrinsic character and beauty of the countryside as sought in the Framework.

Other Considerations

18. The previous Inspector's finding of being contrary to the Council's spatial strategy of focussing new development within settlement boundaries remains as a policy objection to the scheme under the adopted Local Development Plan, while paragraph 78 of the Framework says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Whether strictly 'isolated' or not, the dwelling has been promoted for its exemplar custom-built credentials, and Policy D1 of the Local Development Plan seeks a positive contribution in terms of architectural style, use of materials, detailed design features and construction methods; innovative design and construction solutions will be considered where appropriate.
19. The 'pin-wheel' layout is a recognised, rather than innovative, approach to the plan form of many types of buildings having a central entrance and the various uses disposed about that node point. It has advantages in allowing passive solar gain, with rooms arranged along the south elevations with service spaces to the north. The layout is said to reflect the incremental development of a farmstead and the roof forms in particular reflect barn proportions and detailing, but their proximity to each other and the lack of space for a 'farm yard' between undermine this argument and the appearance is more likely to be that of a new dwelling in an open field. The design itself is nevertheless, to a high standard, although it is less clear what elements may be considered innovative, and the relationship with the surrounding area is harmful.
20. The proposal would be for a single dwelling and the extent to which the occupiers would assist in maintaining the vitality of rural communities would be similarly limited. Although there would be the opportunity to gain access to services and the like without the use of a private vehicle, as there is a bus service on the main road, the view of the previous Inspector considering a single house is concurred with, that occupiers would be likely to rely on a vehicle as being more convenient in this location. That view should however be tempered by the list of facilities planned for the North Heybridge Garden Suburb, but there would remain the need to travel further.
21. Whether the site should be regarded as previously developed land has been addressed by the Council, as Policy S1 on sustainable development seeks to prioritise development on such land. However, the red-line site of the building in the north corner was tightly drawn and excludes the rest of what is now the appeal site, and the Glossary in Annex 2 of the Framework makes clear that it should not be assumed that all such land should be developed. These considerations do not overcome the harm found to the character and appearance of the area.
22. The appellant refers to the Self Build and Custom Housing Act 2015 and claims that the Council have not complied with those duties. The Council claims that

at least 20 sites have outline permission for between 1 and 3 dwellings, against an identified need for 8 self and custom build plots. However, it is unclear whether these are just plots capable of being self-built, or whether they are being promoted and granted permission specifically as self-build plots. The appellant casts doubt on whether some of the promoters may be seeking permission for them to be built-out by developers on a speculative basis rather than self-build.

23. The appellant refers to an appeal decision in North West Leicestershire³ concerning an outline proposal for 30 plots of self and custom-build units outside the defined Limits to Development in the Local Plan, the main issue being the effect on the character and appearance of the area. Whilst a considerable part of the Decision under that main issue concerns doubts over the performance of the Council in identifying self and custom build plots, and the various requirements in policy, statute and guidance, the conclusion in paragraph 32 is that the proposal would not adversely impact upon the character and appearance of the surrounding area.
24. The planning balance which followed that conclusion concerned the finding that the location outside the defined Limits to Development rendered the proposal contrary to the Development Plan as a whole, while the final conclusion was that the economic, social and environmental benefits of the proposal significantly and demonstrably outweighed that conflict with the Plan.
25. In the current appeal case, not only is the proposal outside the settlement boundary but it has been found not to be sustainable in terms of vehicle use, and to be unlikely to assist greatly in maintaining the vitality of rural communities. Most importantly, the proposal has been found to cause harm to the character and appearance of the area contrary to local and national policy. In the balance, the social and economic benefits of a single house, together with the other considerations over the design quality and the provision of a self and custom-built plot, do not outweigh that environmental harm and the policies of restraint should not therefore be set aside.

Conclusions

26. The site is outside settlement boundaries and the proposal would cause harm to the character and appearance of the area. Other considerations of the quality of the design and the provision of a self and custom build dwelling do not overcome the policy harm and actual harm identified and the Development Plan policies which seek to direct development to sustainable locations and to protect the environment should prevail. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR

³ Appeal Reference APP/G2435/W/18/3214451