
Appeal Decision

Site visit made on 25 August 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

Appeal Ref: APP/X1545/W/20/3252706

Land on the east side of Hackmans Lane, Cock Clarks, Essex CM3 6RE

- 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 Millen Homes Ltd against the decision of Maldon District Council.
 - The application Ref OUT/MAL/20/00170, dated 7 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the erection of 5 detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is for outline planning permission with access and layout applied for in full. Site Layout and Block Plans have been provided, detailing the proposed layout and access. The appellant has submitted an additional drawing with the appeal in relation to car parking. The drawing has provided further information but it has not changed the proposal. The Council have had the opportunity to comment on the drawing as part of the appeal process. I have therefore accepted the additional drawing in support of the appeal.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the living conditions of the occupiers of Caxton Pride, in regard to loss of light, overshadowing, and outlook;
 - highway safety and the efficient operation of the highway network in the vicinity of the appeal site, in regard to on-street car parking;
 - the character and appearance of the area, in particular the effect on the intrinsic character and beauty of the countryside; and
 - whether or not the appeal site would be a suitable site for the proposed development.

Reasons

Living conditions

4. Proposed Plot 1 would be close to an existing house called Caxton Pride. The appellant has not applied for a certain size of property at this stage, but they have confirmed that each house would be for 4 to 5-bedrooms, and that in

order to accommodate this Plot 1 would need to include accommodation at 1st floor level, even if in the form of a 'chalet' bungalow rather than a true 2-storey house. The appellant has stated they would be happy to control Plot 1 so that it would be no higher than 6.5m.

5. Plot 1 would be located very close to Caxton Pride. It would be staggered back rather than flank wall to flank wall, and therefore would affect several windows to the rear elevation of Caxton Pride. Due to the orientation to the south east, Plot 1 would also be partially in the sun path towards these windows. Even if the overall height were to be kept to 6.5m, due to the proximity to Caxton Pride and the overall likely scale of the proposed property, it would likely reduce the amount of daylight and sunlight to the Caxton Pride dwelling, increase overshadowing of its garden, and lead to a loss of outlook from the rear windows. In the absence of an assessment of the degree of harm in these regards, it has not been demonstrated that the proposal would not unacceptably harm the living conditions of the occupiers of Caxton Pride.
6. The proposal therefore fails to comply with the relevant parts of Policies D1 and H4 of the Maldon District Approved Local Development Plan 2014-2029 (the LP) which, amongst other criteria, seek to protect the amenity of neighbouring properties.

Highways

7. The submitted Vehicle Parking Plan indicates a total of 10 surface level car parking spaces and 8 spaces within garages, with at least 3 spaces proposed for each proposed dwelling. This meets the minimum number of spaces per dwelling as required by the Maldon District Vehicle Parking Standards SPD (the SPD). However, none of the spaces, either surface level or garage provision, meet the minimum size standards set out in the SPD. There is therefore the likelihood that they would be impractical and that the future occupiers of the development would not use them to the stated capacity. The actual provision of useable spaces would therefore be below the minimum standards, which might in turn lead to car parking on the street.
8. This part of Hackmans Lane is narrow and the only possibility for on-street parking is partially on the footway on the opposite side of the road, close to existing driveways to existing houses. If parking were to be displaced to the street, this would therefore likely lead to obstructions on the highway and the impairment of visibility to and from existing driveways accessing the road. This would therefore likely harm highway safety and the free flow of traffic.
9. I have given consideration as to whether a condition, or reserved matters submissions, could be used to rectify the identified deficiencies in parking provision. However, access and layout have been applied for in full. Any changes to the size of the proposed parking bays could negatively effect the proposed access, particularly the proposed spaces outside Plot 1 which are already very close to the access road and if they were increased in size could interfere with vehicular routes along the road. An increase in size of the spaces associated with Plot 4 could also negatively affect the relationship between the spaces and Plot 5, which would be located very close to one another.
10. Consequently, the proposal would not provide adequate parking which could lead to on-street parking which would be likely to have a detrimental effect on the free flow of traffic and to highway safety along this part of Hackmans Lane.

The proposed development therefore fails to comply with the relevant parts of Policies S1, D1, and T2 of the LP which seek, amongst other criteria, the provision of parking in accordance with the SPD standards.

Character and appearance

11. The appeal site is a field, of non-descript appearance. There is planting and some mature trees to the boundaries, particularly along the western boundary shared with Hackmans Lane, and a picket fence to the rear boundary. There is a footpath leading directly from the northernmost part of the site to the centre of the village, and the pub.
12. The site sits in-between detached dwellings set in spacious plots and set back from the road to the south, and a mixture of properties in a much more dense layout including some very close to the road to the north, in the centre of the village. The site is also partially opposite a row of semi-detached properties with open front gardens and driveways that are relatively prominent in the street scene. There is little consistency of building lines or of how the existing properties address the road along this part of Hackmans Lane. To the rear is a large, partially landscaped garden and field area associated with a farm, which has a partially domesticated character.
13. It is proposed to erect 5 detached houses on the site, with associated gardens and garages. The houses would be set back slightly from an internal access road and the front building line would bend away from Hackmans Lane, following the curve of the internal road. In the context of the inconsistent existing building lines surrounding the site, this would be acceptable. None of the buildings would be particularly prominent, as they would all be set back from the road and there would be a degree of screening from retained hedgerow to the boundary with Hackmans Lane. Even though the screening would likely afford glimpsed views of the proposed houses, particularly in winter, this would be acceptable in the context of the existing prominent properties to the north, and opposite the site.
14. The proposed houses would be in moderately sized plots. As perceived from the road, the width of the plots and the size of the properties would represent a suitable transitional layout and character to reflect the location of the site in-between the larger plots to the south and the denser layouts to the north.
15. The proposal would undeniably domesticate and urbanise the currently open field. However, the site feels functionally and physically part of Cocks Clark village and is perceived in the context of the surrounding development on all sides. It makes a very limited contribution to the character and beauty of the countryside. The existing tree planting and other vegetation make the largest contribution in this regard, and the majority of the existing tree planting and vegetation would be retained and additional planting is proposed. This could be controlled at future reserved matters or condition discharge stages.
16. Consequently, the proposal would preserve the character and appearance of the area and would protect the intrinsic character and beauty of the countryside. It would therefore comply with the relevant parts of Policies S1, S8, and D1 of the LP which, amongst other criteria, require high quality design and that proposals outside of Settlement Boundaries protect the intrinsic character and beauty of the countryside.

Location

17. The site lies outside of the defined Settlement Boundary for the village, as set out in the Development Plan. In such locations, even where development protects the intrinsic character and beauty of the countryside, Policy S8 of the LP provides a closed list of further criteria, at least one of which must be met for a proposal to be acceptable. Market housing is not included within this list. Criterion m) refers to other development proposals in compliance with the Development Plan, but I do not take this to be a reference to market housing. Instead, the policy is aimed at capturing land uses or activities more suitable in the countryside, as set out in Paragraph 2.103 of the LP.
18. Policy H4 of the LP includes guidance on infill development, which is not defined but the appeal site sits as one gap between a built-up frontage to both sides, all of which is within the functional and physical limits of the village. The proposal is therefore for infill development. Policy H4 sets out four relevant criteria for the consideration of infill development, all of which must be met in order for proposals to be acceptable in this regard. One of these is that the living conditions of neighbouring occupiers would not be harmed, which has not been demonstrated by the appeal proposal.
19. Consequently, although the intrinsic character and beauty of the countryside would be protected and the proposal would constitute infill development, the proposal is for an unsuitable use outside of a Settlement Boundary and fails to comply with the Development Plan in other respects. The appeal site is therefore an unsuitable location for the proposed development, and the proposal fails to comply with the relevant parts of Policies S8 and H4 of the LP.

Planning Balance

20. The provision of 5 new dwellings would provide temporary economic benefit during construction and long-term economic benefit through the increased population and use of local services. It would also make a contribution towards the Council's housing supply and would help to maintain and enhance the rural community of Cock Clarks. However, these benefits would be limited because only 5 dwellings are proposed.
21. The appellant has stated that the houses would be energy efficient, but no commitment has been made to the provision of energy efficiency standards above and beyond those required by planning policy. The proposal would not harm the intrinsic character and beauty of the countryside but it has not been shown that it would enhance the character and appearance of the area. These factors therefore weigh neutrally in the planning balance.
22. The potential harm to the living conditions of the occupiers of Caxton Pride, the likely harm to the free flow of traffic and to highway safety from on-street parking, and the unsuitability of the proposed market housing outside of a Settlement Boundary outweigh the relatively limited benefits of the proposals.

Other Matters

23. Representations were made to the effect that Mr Collier's rights under Article 1 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. However, as I have decided to dismiss the appeal, my decision would not lead to any violation.

24. The site is in the Zone of Influence for the Blackwater Estuary Special Protection Area (SPA) and Ramsar and the Dengie SPA and Ramsar, as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken an AA.

Conclusion

25. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR