
Appeal Decision

Site visit made on 29 September 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2020

Appeal Ref: APP/X1545/W/20/3255118

Fourways, Howe Green Road, Purleigh CM3 6PZ

- 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 Mrs Pauline Hinchcliffe against the decision of Maldon District Council.
 - The application Ref 19/01287/OUT, dated 21 November 2019, was refused by notice dated 14 February 2020.
 - The development proposed is single storey detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was made in outline with all matters to be reserved and I have therefore had regard to drawing Site Plan. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.

Main Issue

3. The main issues are the effect of the proposed development on
 - whether the site represents a suitable location for the proposed dwellings, having regard to access to services and facilities; and
 - the effect of the development the character and appearance of the area.

Reasons

Suitability of the location

4. The site is outside of any defined settlement boundary and is therefore in the countryside for planning policy purposes. I have taken account that there are a number of dwellings located along Howe Green Road and therefore given its grouping with other dwellings the site is not isolated in the context of paragraph 79 of the National Planning Policy Framework (the Framework).
5. Policy S8 of the Maldon District Approved Local Development Plan 2014-2029 (LDP) states that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty.

6. Outside of the defined settlement boundaries, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and where it meets an identified exception within the policy. I have been provided with no substantive evidence that the appeal scheme, open market housing, would fall under any of the exceptions set out in Policy S8 of the LDP. The appeal scheme would therefore conflict with Policy S8 in this regard.
7. The site is located between the small settlements of Cold Norton and Purleigh and access to these would be via unlit roads with no footpaths. The lack of footpaths or streetlighting would make it less attractive for people to walk. Even if the occupants of the proposed development were to walk to Cold Norton, the village has limited services and facilities. An alternative would be to walk to the village of Purleigh, but the facilities within this village are equally limited. Therefore, I consider that occupiers would be more likely to travel to services and facilities within the nearby town of South Woodham Ferrers.
8. I therefore consider that occupiers of the proposed development would be likely to be reliant on the private car to access a full range of community facilities such as shopping, healthcare, leisure and entertainment, given the distance to the nearest sizeable town.
9. The proposed development would not provide a suitable location for housing, having regard to the accessibility of services and facilities. In this respect, it would not accord with policies S1 and S8 of the LDP which seeks to promote sustainable and suitably located developments. It would also fail to accord with policy H4, in so far as it requires development to be accessible to local services and facilities.

Character and appearance

10. This part of Howe Green Road is characterised by detached dwellings in large plots. The site currently forms part of the garden of Fourways and is enclosed by hedging. Views of the site from the road are restricted by the existing hedge, nevertheless where views can be afforded, the site appears part of the domestic surroundings of Fourways rather than as part of the open countryside beyond the appeal site.
11. As a result, the site does not contribute to the open rural nature which is experienced beyond the appeal site, with open fields interspersed with native hedging and does not provide a visual separation between the existing built development.
12. The proposal whilst increasing the density of development within the locality, would have a similar plot size to Howe House, opposite the appeal site. There would be a degree of urbanisation and countryside encroachment through an additional house. However, the development of the site would result in the infilling of the existing gap between Howe Green Farm and Fourways and together with Howe House and Chesters, the proposed dwelling would appear part of a small cluster of development.

13. Thus, the adverse impacts on the character and appearance of the area would be limited. The introduction of a dwelling into the site would be appropriate within this rural setting, having regard to the enclosed nature of the existing site. The development would protect the character of this part of the countryside and result in a small infill between the existing built development in accordance with LDP policy H4 in so far as it relates to the character and appearance of the area and policy D1, which seeks to ensure development respects and enhances the local context.

Other Matters

European Designated Sites

14. The appeal site falls within a 'Zone of influence' for the European designated sites of the Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary SPA and Ramsar Site, Dengie SPA and Ramsar Site and the Crouch and Roach Estuaries SPA and Ramsar Site. Natural England has provided advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.
15. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England (NE), I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA and SAC sites.
16. A tariff to fund the mitigation, which is payable for all additional new dwellings is currently set at £122.30 per dwelling. Whilst the appellant has indicated that they are willing to pay this contribution I have not been provided with a signed and dated unilateral undertaking making provision for the required contribution.
17. The appellant has suggested that a negatively worded condition could be used to secure the appropriate mitigation. However, the Planning Practice Guidance sets out that the use of such a condition to secure a planning obligation or other agreement is unlikely to be appropriate in the majority of cases. It goes on to require that a condition be used only in exceptional circumstances and in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. In this case, I am not satisfied that due to the scale of development proposed, the circumstances can be considered as exceptional.
18. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Setting of Listed building

19. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be.
20. I have considered the effect on the Grade II Listed Building Barn Approximately 20 Metres South East Of Howe Green Farmhouse which is within the vicinity of the site. Its significance is derived from its architectural quality and its age, which is confirmed by documentary evidence and is therefore of exceptional historic interest. The Barn is contained within its own landscaping and is located within a group of buildings. As such, even developed, the site would not have a significant impact on how the listed building would be appreciated or the elements that form its setting. Therefore, I conclude that the development would not result in harm to the setting of the listed building.

Conclusion

21. In conclusion, whilst I have found that the development would not be detrimental to the character and appearance of the area, significant harm would be caused in respect of accessibility to services and facilities. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

G. Pannell

INSPECTOR