
Appeal Decision

Site visit made on 24 November 2020

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/X1545/W/20/3256266

Bunting Lodge, Mayland Close, Mayland CM3 6SS

- 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 Ms Smith against the decision of Maldon District Council.
 - The application Ref OUT/MAL/20/00266, dated 2 March 2020, was refused by notice dated 18 May 2020.
 - The development proposed is 1 No. one and a half storey detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline with all matters reserved for further approval.

Main Issues

3. The main issues are the effects of the proposal on:
 - highway and pedestrian safety;
 - the integrity of relevant European nature conservation sites;
 - the character and appearance of the area.

Reasons

Highway and pedestrian safety

4. The appeal site is located at the junction of Mayland Close and Steeple Road. The proposal anticipates that access for the proposed dwelling would be shared with Bunting Lodge. That property takes access from Mayland Close and has a fairly generous parking and turning area. The red line boundary for the appeal proposal includes two parking spaces for the proposed dwelling and a small part of the parking and turning area in front of Bunting Lodge. The remainder of Bunting Lodge is outlined with a blue line indicating that it is within the control of the appellant.
 5. I recognise that access is reserved for further approval and that there is a fairly generous amount of space in front of Bunting Lodge. However, only a small part of that space is within the appeal site boundary. The implications for the existing parking and turning arrangements at Bunting Lodge of providing
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access and turning facilities for the proposed dwelling, including whether any physical works beyond the appeal site red line boundary would be necessary, have not been adequately demonstrated. In the absence of this information and having regard to the proximity of the access to the Mayland Close/Steeple Road junction, I am not satisfied that safe and suitable pedestrian and vehicular access and turning arrangements for the existing and proposed dwellings could be achieved within the appeal site boundary.

6. Therefore, the proposal as submitted would have a harmful effect on highway and pedestrian safety and would conflict with Policies D1 and T2 of the Maldon District Local Development Plan 2017 (LDP) and paragraphs 109 and 110 of the National Planning Policy Framework (the Framework). Amongst other things, these policies require proposals to avoid unacceptable impacts on highway safety and to provide high quality and safe pedestrian routes and parking provision.

European Nature Conservation Sites

7. Natural England has produced interim advice which indicates that the whole of Maldon District falls within the Zone of Influence of four European Designated Sites. As required under the Habitat Regulations, the Council, as a competent authority, has undertaken an Appropriate Assessment. It concludes that mitigation in the form of a financial contribution is required in order to prevent the proposal from having a likely significant effect on the integrity of the European Sites due to recreational disturbance. These matters are not contested by the appellant. However, no unilateral undertaking (UU) or other means for securing a financial contribution in accordance with the Essex Coast Recreational Avoidance and Mitigation Strategy has been submitted.
8. In the absence of the mitigation provided by a financial contribution therefore, the proposal would be likely to have a significant effect on the integrity of the European Sites. As such, it would conflict with LDP Policies S1 and I1 which require development to conserve the natural environment and protect and provide for green infrastructure.
9. The appellant argues that a financial contribution was not sought by the Council prior to the determination of the application. However, the matter was raised in the third reason for refusal of the application and the appeal process provided an opportunity to submit a UU or otherwise address the issue.

Character and appearance

10. The appeal site is prominently located at a road junction within the built up area and has frontages onto both Mayland Close and Steeple Road. It forms part of the external area of Bunting Lodge' although its openness to two road frontages limits the privacy of users. The Council argues that the land forms an important landscape buffer and delineation between the dwellings on Mayland Close and Steeple Road. However, any disparity between the dwellings on those roads is not sufficiently jarring to require them to be separated by a landscape buffer. Whilst any proposed dwelling would have only one principal elevation, I see no reason why its form and fenestration should not positively address both frontages.
11. A Proposed Site Layout Plan has been submitted for illustrative purposes. It indicates that sufficient space would be available within the site to set the

proposed building further back from the Steeple Road frontage than the neighbouring property at No 35. As a result of the bend in Steeple Road No 35 sits back from its neighbour to the west and, in turn, that property is set further back than the canopy of the adjoining petrol filling station. Therefore, I consider that the proposal would be consistent with the general building line along Steeple Road. Moreover, the layout plan indicates that a meaningful area of planting could be provided along this frontage.

12. The Proposed Site Layout Plan indicates that the proposed dwelling would sit slightly forward of Bunting Lodge on the Mayland Close frontage. However, that property is located closer to the road than others in Mayland Close. Given the location of the appeal site at the end of the Close and on the junction, it would not be out of keeping if a part of the proposed dwelling was slightly closer to the road than Bunting Lodge. This would still leave space in front of the proposed dwelling to provide worthwhile planting on the Mayland Close frontage.
13. Therefore, whilst scale and layout are reserved matters, I consider that the submitted illustrative plan demonstrates that a single dwelling could be erected on the site without having a harmful effect on the character and appearance of the area. The proposal would also make more effective use of the land. Consequently, I find that the proposal would not conflict with Policies D1 or H4 of the LDP insofar as they require proposals to respect and enhance character and local context in their layout, orientation and density and make effective use of land.

Planning Balance and Conclusion

14. The proposal would make a very modest contribution to the supply of housing in the District. It, therefore, derives some support from Framework paragraph 59, although that is tempered by the Council's ability to demonstrate a five year supply of housing land.
15. The proposal would have harmful effects on highway and pedestrian safety and the integrity of European nature conservation sites and, therefore, conflicts with relevant development plan policies and the Framework. Whilst I have found that the proposal would not have a harmful effect on the character and appearance of the area, the absence of further harm does not amount to a positive benefit in its favour.
16. The very modest benefits of the proposal do not amount to material considerations that indicate that the appeal should be determined other than in accordance with the development plan. As such, the identified conflict with the development plan means that the proposal does not benefit from the presumption in favour of sustainable development. The appeal should be dismissed.

Simon Warder

INSPECTOR