



Appeal Decision

Site Visit made on 18 May 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/X1545/W/21/3267889

Novoli Farm, Pump Lane, Purleigh CM3 6PJ

- 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 Allen against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00486, dated 14 May 2020, was refused by notice dated 28 August 2020.
 - The development proposed is Demolition of existing outbuildings and construction of 6no. dwellings (comprising two terraces of three 2-bedroom dwellings) with associated landscaping and access works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Despite the description of development set out above, I consider the description found on the Decision Notice and Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Demolition of existing buildings and construction of six 2-bedroom dwellings plus two detached double garages for existing residential dwellings on site with associated landscaping and access works', and I have dealt with the appeal on this basis.

Applications for costs

3. An application for costs was made by Mr Allen against Maldon District Council, which is the subject of a separate Decision.

Main Issues

4. The main issues are: -
 - whether the site would be a suitable location for housing, having regard to the development plan, with particular regard to its effect on the character and appearance of the site and its surroundings; and
 - the effect of the proposed development on the nature conservation value of the Blackwater Estuary Special Protection Area and Ramsar Site and the Essex Estuaries Special Area of Conservation.

Reasons

Location of housing and its effect on character and appearance

5. The appeal site concerns an area of land to the eastern side of Pump Lane, Purleigh, which is designated as a Smaller Village. The southwest corner of the site lies within the defined settlement, but the majority is situated within countryside. The site is currently occupied by two houses and a number of residential outbuildings. For the most part, the western boundary is enclosed by a mature hedgerow and there are existing houses opposite. The north and east boundaries are, in part, post and rail fencing, and beyond the appellant's ménage, the neighbouring land is generally open and undeveloped.
6. The existing outbuildings are low profile structures of a utilitarian appearance, arranged informally to the north of the appellant's house. They are generally only apparent through the accesses to the site but are clearly distinguishable from the land to the north and west. Together with the other buildings within the site, they form part of the transition from the rural edge of the village.
7. Along with their plot size and shape, the architectural form and appearance of houses in the village varies greatly, but their layout is coherent, as they are generally arranged with a frontage. Some of the houses have been designed to look like agricultural buildings or are conversions of the same, including those within the site.
8. Taken together these stated features, particularly the frontage form of development and transition of development into the countryside, gives rise to a clear and distinct pattern of development, which makes a significantly positive contribution to the character and appearance of the site and its surroundings.
9. The Council's settlement hierarchy contained within Policy S8 of the Maldon District Approved Local Development Plan 2014-2029 (the LDP) directs suitable development to within the defined settlement boundaries based on the status and function of the settlements. Beyond these the policy suggests that the countryside will be protected for its landscape, natural resources, and ecological value as well as its intrinsic character and beauty. The policy goes on to state that outside of the defined settlement boundaries, planning permission will only be granted for where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it is for one of the options contained on a closed list of thirteen set out in the policy. Proposals therefore need to meet both aspects of the policy.
10. Firstly, the proposal is for open-market housing which is not included within the list of acceptable forms of development within the countryside. The second aspect, which links to the other relevant design policies is addressed below.
11. The proposed houses have been designed to mimic farm buildings, using a palette of carefully considered materials, but would have a distinctly residential appearance due to the arrangement and proliferation of window, door and cart-style openings in the façades and pitched roofs, and the over proliferation of rainwater pipes. Despite the first-floor accommodation of the proposed houses being in their roof space, they would still be significantly taller than the existing outbuildings and incorporate a continuous roofline, only broken by gabled dormer windows. The proposal would therefore be inherently more

prominent in this edge of village location, particularly within the immediate context of Pump Lane.

12. I accept that small dwellings would normally only require smaller areas of usable external space to ensure acceptable living conditions, but the extent of such space is also important in the context of the spaciousness of the plots within their context. In this case, the houses in Plots 1-3 would be in close proximity of Pump Lane, their rear gardens would be smaller than those generally found in the locality, particularly as they incorporate flat-roofed additions to the rear. The proposed house would therefore appear cramped within their plots. Furthermore, the houses would be arranged in two terraced rows, with their front façades opposite one another across a hardstanding area.
13. The resultant design and configuration of the houses would therefore not reflect the predominantly frontage grain of development found in the locality and would appear as a strident built incursion into the countryside that would be more synonymous with an urban situation than the rural edge of the village.
14. Existing mature planting around the site would be supplemented by further planting which could, in time, enhance the overall appearance of the site and its surroundings, particularly to the closed southern vehicle access. Similarly, the proposed access visibility plan provided with the appeal also appears to suggest that the hedge adjacent to Pump Lane would not be significantly impacted upon by the visibility splay required from the retained access. While the existing and proposed planting would help to reduce the visual prominence of the proposed development, it would still be evident over the hedge and through the retained access. I also do not subscribe to the notion that development that would cause harm to the character and appearance of the area would be acceptable if it can be hidden, particularly as planting is subject to seasonal changes and is ephemeral.
15. While the appeal decision¹ for a site to the north, at the corner of Pump and Barons Lane, also relates to a site beyond the defined settlement, it was not for comparable development to the appeal scheme before me. Moreover, it was for a more spaciouly arranged form of two houses, that would not be situated on previously developed land and included a car park for the school.
16. In light of the above, the site would not be a suitable location for housing, having regard to development plan, and would have a significantly detrimental effect on the character and appearance of the site and its surroundings. Hence, the proposal would not accord with the spatial vision, development strategy, and design aims of Policies D1, H4, S1 and S8 of the LDP and paragraphs 124 and 130 of the National Planning Policy Framework (the Framework).

Nature Conservation

17. The appeal site is situated within the Zone of Influence for the Blackwater Estuary Special Protection Area and Ramsar Site and the Essex Estuaries Special Area of Conservation. There is evidence to suggest that recreational activity is causing disturbance to the nature conservation of these sites. Consequently, any intensification of these activities could lead to further disturbance and the appellant has submitted a Unilateral Undertaking and

¹ Appeal Ref: APP/X1545/W/15/3005771.

provided a financial contribution to the Council to ensure that appropriate mitigation is implemented.

18. I am conscious of the requirement to undertake an 'Appropriate Assessment' of the effects of the development on the designated sites. However, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development.
19. Given that I have found harm in relation to the first main issue, unless there is another material planning consideration which suggests that permission should be granted, it is not necessary for me to consider this matter in any further detail.

Other Matters

20. The Grade II listed 'Valley Stores and Associated House' is situated southeast of the appeal site. I have therefore had regard to the statutory duty referred to in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. However, due to the proximity and physical relationship of the proposal with the listed building, particularly the presence of intervening buildings, its setting would be preserved and the proposal would not detract from it.

Planning Balance

21. The Council accepts that, as of November 2020² it has 4.9 years supply of deliverable housing land. The current development plan policies most important for determining the application are therefore out-of-date, including for the supply of housing. In such circumstances, paragraph 11(d)(ii) of the Framework and Policy S1 of the LDP would apply. These require that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The shortfall in the Council's five-year housing land supply is not significant, but I nevertheless acknowledge the important contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. The appeal scheme would deliver six 2-bedroom homes, which would also contribute to the shortfall of smaller homes, as identified in the Council's Strategic Housing Market Assessment and supported by Policy H2 of the LDP. However, given the scale of the proposal, these contributions would be modest, so it would only be afforded moderate weight.
23. Some short-term economic benefits would arise from, for example, employment and procurement of materials during the construction period and the application of the New Homes Bonus. The proposal would also be situated in an accessible location in close proximity of local shops, services, facilities that would be supported by future occupiers, thereby positively contributing to the vitality and viability of the local economy, including that of Purleigh. There would also be a choice of transport modes for future occupiers, other than private motorised vehicles. These benefits would therefore meet relevant requirements of Policies S1 and H4 of the LDP and, given the scale of proposed

² Taken from its Five Year Housing Land Supply Statement

development in relation to the size of the village, they would carry moderate weight.

24. I appreciate that the proposed development could provide net gains for biodiversity, as set out in the Framework, through the planting of native species hedgerows to the west of the site and at either end of the proposed buildings, the planting of trees to the east of the site, habitat boxes for birds and roosting bats, and stacked log and brush arisings. However, there is no substantive evidence before me of how the net gains have been measured or would be secured. This benefit therefore carries limited weight.
25. The appellant has suggested that the proposal would tidy the site, whilst this could be perceived to be an environmental benefit, it could equally be argued that enhancement of the site could be carried out without the proposed development, which would introduce built development of significantly greater scale than the existing buildings in situ and to which I have attributed harm.
26. I acknowledge that the land within the site is previously developed and the proposal could be said to make more efficient use of it. Policy S1 of the LDP prioritises such land and promotes the effective use of land and does not distinguish between land within or beyond settlements. This aligns with the aims of paragraphs 118 and 121 of the Framework. While I do not dispute the importance of these approaches, I am also mindful that paragraphs 117 and 122 of the Framework are clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
27. The appellant has suggested that he has planning permission for a 4-bedroom house on the site, by virtue of other works being carried out in connection with a 2012 application. This appears on the application drawings and would be sizeable but would involve the conversion of existing outbuildings and would be set back within the site. As the proposal would result in the harmful presence of built development in closer proximity of Pump Lane, it would not represent betterment, so I afford limited weight to this fall-back.
28. In terms of harm, the proposal would not comply with the LDP in respect of its location and the character and appearance of the site and its surroundings. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission.
29. The adverse impacts of granting permission identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This does not indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

30. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding, including the Framework. Accordingly, for the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR