



Appeal Decision

Site Visit made on 8 June 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2021

Appeal Ref: APP/X1545/W/20/3264499

Oakridge, Old Heath Road, Maryland CM3 6EW

- 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 C McLean against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/00402, dated 3 April 2019, was refused by notice dated 9 November 2020.
 - The development proposed is described as "retain use of stables and barn building as a single family dwellinghouse and retain associated internal and external alterations including insertion of doors and windows. retain use of land as domestic garden. remove boundary fences, metal gate and metal posts, alter and retain vehicular and pedestrian access onto old heath road and reduce and retain hardstandings".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although I note the spelling of the appellant's surname is Maclean on the appeal form, in the banner above I have used the spelling of McLean, as stated on the application form.

Main Issues

3. The main issues are whether the appeal site is an appropriate location for the proposal having regard to the Development Plan and the effect of the proposal on the character and appearance of the area and highway safety.

Reasons

Location and Character and Appearance

4. The appeal site contains a former stable and barn building that have since been converted into a dwelling. The proposal seeks to retain the building and the land within residential use. The site lies beyond the settlement boundary of Southminster and thus, lies within the countryside. Policy S8 of the Maldon District Council Local Development Plan 2017 (the Local Plan) states that development within defined settlement boundaries will be supported. Outside of defined settlements, planning permission will only be granted where the intrinsic beauty of the countryside is not adversely impacted and that it is for those developments as listed at Policy S8 a) – m) of the Local Plan.
5. The appellant advances that Policies S8 f) and E4 of the Local Plan, and paragraph 83 of the National Planning Policy Framework (the Framework) support rural diversification projects. Therefore, it is argued that there is a legitimate fallback

- position and the existing building could be put to a small scale holiday let, which would be similar to the full time occupation of the building for residential purposes.
6. Policy S8 f) of the Local Plan states that rural diversification, recreation and tourism (including equestrian and related activities) will be supported where it is in accordance with Policies E4 and E5 of the Local Plan. In addition, Policy S8 e) also supports the re-use of a redundant or disused building that would lead to an enhancement to the immediate setting, where it is also in accordance with Policy E4.
 7. Policy E4 of the Local Plan supports agricultural and rural diversification where there is a justifiable need and that it will contribute towards the viability of the agricultural business as a whole. As no such circumstances have been put forward by the appellant, I do not find that Policy E4 lends support to the proposal. Policy E5 of the Local Plan also supports new tourism related development, again where there is an identified need. In addition, where possible, there should be good connections to local services, preferably by walking, cycling or other sustainable modes of transport.
 8. There is a bus stop some 1.4km from the appeal site which has an hourly service and although Althorne is some 1.6km to the west, the train station is nonetheless over 3.5km away. Services within Southminster and Burnham-on-Crouch are also over 3km away. Not only would these distances deter most people from walking or cycling to reach services, it also requires navigating along narrow roads that do not have a footpath or street lighting. Consequently, it is highly probable that the occupiers of the dwelling would be heavily reliant on the private car to access even basic day to day services and facilities, especially during bad weather, the winter months, or those with children or low mobility.
 9. Thus, notwithstanding that it may have a similar visual effect compared to a single dwelling, I have not been provided with substantive evidence that there is an identified need for the use of the site as a holiday let, or that it would meet the expectations of Policy E5 of the Local Plan in terms of good connections to local services.
 10. With regard to character and appearance, the area is rural in character and contains a number of dwellings that are dispersed along Old Heath Road. The area has a distinctly open and verdant quality that is reinforced by the presence of mature landscaping within this countryside setting, to which the appeal site contributes. I acknowledge the Council state that, despite its spatial limitations, the external appearance of the converted buildings is acceptable. However, the introduction of a dwelling on the site, coupled with the large area of curtilage to be given over to the property, fundamentally alters the appearance of the site, through its suburbanisation. The residential use of the site erodes its rural qualities and indeed the openness of the area, and is generally harmful to its character and appearance.
 11. In addition to the building, it is also necessary to consider the visual impacts of the residential use, such as vehicle movements and parking associated with the development. Fencing, external lighting, domestic cultivation and items such as garden furniture and washing lines for the dwelling would add to the suburbanising effect. Although the appellant argues that the garden area is located behind the dwelling, it is evident that it is nonetheless visible through the access. Furthermore, although the garden area was mainly laid to grass, it contained domestic items such as a child's trampoline and a washing line, and there is no guarantee that additional domestic paraphernalia will not be introduced to the site

in the future. Moreover, structures such as stables, fencing and jumps used for the keeping of horses are characteristic of the countryside.

12. Thus, the development would result in harm to the character and appearance of the area and is within a location that is not particularly well served by alternative transport options to the private car. It is in conflict with Policies S1, S2, S8, D2 and H4 of the Local Plan and paragraphs 102 and 127 of the Framework which seek, amongst other things, to reduce the need to travel to promote accessibility for all and ensure that developments have regard to the existing character and density of the surrounding area.

Highway safety

13. There is an existing access into the site which contains a pair of gates that are set back from the road. The Council consider that the proximity of the gates would likely result in vehicles having to wait on the highway to enter the site, thereby affecting highway safety.
14. I note that Essex County Council as Local Highway Authority (LHA) did not raise an objection to the access arrangements, and from the evidence that has been provided, I am not persuaded that the Council has given adequate reasoning for me to disagree with that assessment. The access is quite wide and although there are gates, I found that there was sufficient off-road space to park a vehicle. Nevertheless, a suitably worded condition, such as the one suggested by the LHA, could ensure that the access gates are set back some 6m from the road, thus alleviating any concerns over the impact of the development on highway safety.
15. Thus, the development would not result in harm to highway safety. It would not be in conflict with Policies D1 and T2 of the Local Plan which seek, amongst other things, to ensure that developments provide sufficient and safe parking facilities.

Other Matters

16. The appellant refers to the Braintree judgement¹ (Braintree), and states that housing should not be considered isolated where it would be close to residential properties, even if it is remote from local services. However, for the purposes of paragraph 79 of the Framework, Braintree confirmed that isolated means a dwelling that is physically separate or remote from a settlement. Consequently, although there are other dwellings in the vicinity, these are properties that are spread along Old Heath Road, and I have not been presented with any compelling evidence that they form a settlement.
17. Moreover, although paragraph 83 of the Framework states that planning policies and decisions should enable sustainable rural tourism and leisure developments, it should respect the character of the countryside. For the reasons already set out, the development would not enhance its immediate setting or respect the character of the countryside.
18. Although the appellant states that electric charging points would potentially provide some choice of travel, the distance to Althorne, Southminster and Burnham-on-Crouch, coupled with the unattractive nature of the road network to walk and cycle, the site's location is not one that is or can be made sustainable. Furthermore, electric vehicles would not promote the healthy benefits that can be gained from walking and cycling.

¹ Braintree Council v SSCLG and others [2017] EWHC 2743 (Admin)

19. The appellant argues that the development has sustainably reused the existing building in accordance with Policy D2 4) of the Local Plan. However, whilst noting the benefits that result in this respect, I do not consider that this outweighs the harm identified above.

Planning Balance and Conclusion

20. The Council acknowledges that it cannot demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11 d) ii of the Framework requires planning permission to 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.
21. As the development has already been carried out, any economic benefits as a result of the conversion of the buildings to a dwelling would have already been realised. Nevertheless, the site is a small windfall development and there may also be social benefits from the provision of a three bed dwelling, thereby assisting with the Council's need to boost the delivery of housing in the District. Combined, given that the development is for a single dwelling, I would attach moderate weight to these benefits.
22. However, good design and its impact on the character and appearance of an area along with sustainable development are recognised by the Framework. Accordingly, given my findings outlined above concerning the resultant harm to the character and appearance of the area and the inappropriate location of the site to access services and facilities, the proposal would fail to meet the environmental and social dimensions of the Framework. Consequently, the harm I have found is serious and, in my view, that significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework taken as a whole. Thus, the application of the tilted balance in paragraph 11 of the Framework does not indicate that planning permission should be granted.
23. For the reasons given above, the appeal is dismissed.

Graham Wyatt

INSPECTOR