



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: 2 July 2021

Appeal Ref: APP/X1545/W/21/3268712

Fairfield, Old Heath Road, Southminster 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 A Noakes against the decision of Maldon District Council.
- The application Ref FUL/MAL/20/00935, dated 31 August 2020, was refused by notice dated 25 November 2020.
- The development proposed is described as a “change of use to a residential dwelling”.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are whether the appeal site is an appropriate location for the proposed dwelling having regard to the development plan and the effect of the proposal on the character and appearance of the area.

Reasons

Location

3. Policy S8 of the Maldon District Council Local Development Plan 2017 (the Local Plan) supports developments within main settlements, larger villages, smaller villages and other villages. The site does not lie within any of the settlements as defined within Policy S8 and thus, is considered to be within the countryside. Policy S8 of the Local Plan states that, in order to protect the intrinsic beauty and character of the countryside, outside of such settlements, permission will only be granted provided it is for one of those exceptions as listed therein, none of which have been advanced by the appellant.
4. The appellant acknowledges that the site has limited access to local services and amenities. The nearest bus stop is some 0.9 miles from the appeal site and the Council confirm that although there are a number of bus services from Bullfinch Corner, a return journey from Chelmsford stops at Southminster, which is some 2 miles from the appeal site. During my visit I noted that Old Heath Road is quite narrow and has passing spaces for vehicles, although I recognise that it is possible for local residents to walk along the road. However, given its narrowness and the lack of a footpath and street lighting, the private car would be an attractive alternative to walking and cycling, especially during bad weather and the winter months. Moreover, those with low mobility, with small children or when carrying shopping or other goods would also be very likely to use the private car to access medical services, larger retail stores, commercial areas, employment and schools which are further afield.

5. I acknowledge that paragraph 78 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, I consider that the appeal site has poor accessibility even allowing for its rural location. Furthermore, given the level of facilities available close to the appeal site, there is no guarantee that future occupiers would support surrounding villages and would be likely to draw mainly on services and facilities at Southminster or Burnham-on-Crouch.
6. Moreover, I accept that paragraph 103 of the Framework states, amongst other things, that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Arguably, the lack of options available to the appeal site in terms of access to means of transport other than the private car is reflective of its rural location. However, although the Framework's statement recognises the challenges rural areas face, it should not be used as a justification for the siting of development in locations that are not well served by sustainable transport options.
7. The proposal would not, of itself, generate a large number of traffic movements and a greater dependency on car use is inevitable in more rural locations. There are also existing residential properties in the immediate vicinity of the site. However, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the number of unsustainable journeys made.
8. Thus, the appeal site is not within an appropriate location for the development as a result of the lack of sustainable transport options. It would be in conflict with Policies S1, S8, D1, H4 and T2 of the Local Plan and paragraph 102 of the Framework which seek, amongst other things, to direct development to within settlements to promote sustainable transport and minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all in the community.

Character and Appearance

9. The appeal site forms a single storey stable building that sits close to Old Heath Road and benefits from a large parcel of land that extends to the south. The proposal seeks to change the use of the building to create a one bedroom dwelling with a kitchen, living room and WC.
10. The area has a distinctly open and pleasant verdant quality that is reinforced by the presence of mature landscaping within this countryside setting. Although the site is close to existing dwellings, it nonetheless relates better to its rural surroundings, to which it makes a positive contribution.
11. The appeal site and building are visible from the public highway that fronts the site. The proposed change of use of the building to a dwelling, coupled with the large area of curtilage to be given over to the new property, would fundamentally alter the appearance of the site through its suburbanisation, eroding the rural qualities and openness of the area. This would be generally harmful to its character and appearance and would be evident from Old Heath Road.
12. In addition, it is also necessary to consider the visual impacts of the residential use such as the vehicle movements and parking associated with the development. Moreover, fencing, external lighting, domestic cultivation and

items such as garden furniture and washing lines for the new dwelling would add to the suburbanising effect. I am not persuaded that the proposal would lead to an enhancement of the area and nor would the presence of other dwellings in the vicinity of the appeal site lessen the harm that I have identified.

13. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policies S1, S8, D1 and H4 of the Local Plan and paragraph 127 of the Framework which seek, amongst other things, to ensure that developments respect and enhance the character and local context and contribute to local distinctiveness.

Other Matters

14. The appellant argues that the development would lead to an enhancement when one takes into account the context of the surrounding area. In this regard, the appellant refers to a development of dwellings and a care home at 2 Maldon Road. However, the appeal site is some distance from Maldon Road with a large expanse of open fields between both sites. Thus, I am not persuaded that the Council's acceptance of additional dwellings at Maldon Road represents an irresistible precedent in favour of the appeal development.
15. Furthermore, although the site is within the proximity of other dwellings, the term isolated, as stated at paragraph 79 of the Framework, relates to dwellings that are remote or isolated from a settlement. In this instance, I have not been presented with any compelling evidence to demonstrate that the small cluster of properties that are within the immediate vicinity of the appeal site represents a settlement.
16. The appellant also refers to the property to the east that has changed from a bungalow to a two storey dwelling. However, I have not been presented with sufficient information in order for me to ascertain whether the circumstances of this site are directly comparable to the current proposal. That said, the neighbouring property contained a dwelling in the first instance which is not the same for the appeal site.
17. I have had regard to the pre-application advice for the site at Orchard Way, Mope Lane whereby the Council has demonstrated support for a residential development. I also acknowledge the decisions to grant planning permission at Fernbrook Hall, Plains Road and Little Grange Farm which were the result of Member overturns at Planning Committee. However, such decisions are a normal part of the democratic process particularly where character and appearance matters relate to planning judgement. Although I have had regard to the committee minutes of the various meetings, and indeed the pre-application advice, they do not lead me to a different finding and I am not persuaded that this amounts to a lack of consistency in decision making, only a difference of opinion on weight and merit which is a matter for the decision maker in each case. In any event, I have considered this appeal on its own merits which is a fundamental principle that underpins the planning system.

Planning Balance and Conclusion

18. 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.

19. There would be economic benefits resulting from the conversion of the building to create a dwelling. The site is a small windfall development that is likely to be built out relatively quickly and there may also be social benefits from the provision of a dwelling, thereby assisting with the Council's need to boost the delivery of housing in the District. Combined, given that the proposal is for a single dwelling, I would attach moderate weight to these benefits.
20. 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.
21. For the reasons given above, the appeal is dismissed.

Graham Wyatt

INSPECTOR