
Appeal Decision

Site Visit made on 18 October 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2021

Appeal Ref: APP/X1545/W/20/3260927

Land at Harmony Kennels, Spar Lane, Purleigh CM3 6QW

- 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 J Lawrence against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00444, dated 5 May 2020, was refused by notice dated 1 July 2020.
 - The development proposed is Redevelopment of Kennels and Stables for One Detached Dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr J Lawrence against the decision of Maldon District Council. This is the subject of a separate decision.

Preliminary Matters

3. Following the submission of the appeal, a revised National Planning Policy Framework (the Framework) was published. The parties were consulted in relation to this matter and any responses received have been factored into my assessment of the proposal.

Main Issues

4. The main issues are:
 - i) whether the appeal site is suitable for the development proposed, having regard to the locational requirements of local policy;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) the effect of the proposal on ecology.

Reasons

Location

5. The appeal site is currently occupied by three large, albeit low-rise buildings. These buildings are somewhat utilitarian in appearance and together, they provide a generous footprint. The site is accessed by an unmade access road which is located off Spar Lane. It is bounded by open countryside although to the east and south east of the site, existing residential development clusters

around Spar Lane. The site is also located beyond the Settlement Boundary for Purleigh, defined as a smaller village within the Maldon District Approved Local Development Plan (2017) (LDP).

6. Policy S8 of the LDP relates to Settlement Boundaries and the Countryside. It confirms that 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 provided it is for the types of development identified within the policy. As a proposal for a new dwelling, it would not comply with the policy requirements.
7. Despite this, the appellant refers to two recent appeal decisions¹ on land which shares a boundary with the appeal site. These decisions granted planning permission for two new dwellings also outside of the defined settlement boundary. In allowing the appeals, the Inspector recognised the conflict with Policy S8 of the LDP. However, due to the relationship of the site with dwellings that also front Spar Lane, the Inspector was satisfied that the lack of harm to the character and appearance of the area, including the site's rural landscape, ensured that material considerations were such that they justified decisions not in accordance with the development plan.
8. Although the appeal site shares a boundary with the site referred to above, it is a different parcel of land and consequently, it brings with it different material considerations. Due to its location beyond the approved dwellings, the site has a materially different visual and physical relationship with the small cluster of housing which fronts onto Spar Lane. Accordingly, as a consequence of this relationship, in my judgement, the proposal would be experienced as being removed from this small collection of houses.
9. The proposal would not be isolated in the truest sense, and I note its proximity to facilities and bus services, however, for the reasons identified above, it would have a substantially different relationship with the existing built form to the developments previously allowed. The proposal would represent a further spur of development located beyond an outer lying cluster of houses. As a consequence, it would not be as well-related to existing development as the recently allowed appeals. In this regard, I agree with the Council that the appeal site is materially different to the adjacent site and that the proposal would have a physically and visually different relationship with neighbouring development. Accordingly, on this matter, I am satisfied that I am not bound by the findings of the previous Inspector, and that the proposal would result in a direct conflict with the locational requirements of local policy.
10. On this basis therefore, I conclude that the appeal site would not be suitable for the development proposed. It would therefore fail to comply with Policies S1, S2, S8, D2 and H4 of the LDP, which taken together, establish the strategic growth requirements and settlement hierarchy for the district, and promote sustainable development.

Character and Appearance

11. As identified above, the appeal site is currently occupied by three large, albeit low-rise buildings which have a utilitarian appearance. They are also accessed via a narrow, unmade track. Accordingly, the existing buildings are not

¹ APP/X1545/W/18/3201224 and APP/X1545/W/18/3214188

prominent within the public realm and their scale and appearance generally ensure that the buildings have a discreet presence. As a consequence, in my judgement, the existing buildings are unassuming and subservient to existing established development, as well as the open countryside beyond.

12. The proposal would seek to replace the buildings with a large dwelling. The replacement dwelling would be two storeys in height with a pitched roof above. Although the footprint of the proposal would be more contained than the buildings it would replace, it would be a generous footprint for a detached dwelling. When combined with the height of the proposal, the resultant bulk and mass of the building would create a large and imposing structure that would be distinctly at odds with the unassuming presence of the existing buildings.
13. As previously identified, the location of the appeal site is such that the proposal would be somewhat visually removed from other existing dwellings when viewed from Spar Lane, including the dwellings recently allowed at appeal. However, the substantial bulk and mass of the building would ensure that it would have a distinct presence. Due to the discreet location of the site, this would create a jarring visual and physical relationship with the cluster of houses which front onto Spar Lane. As a consequence, the proposal would have the effect of appearing to extend the presence of built form into the open countryside. This would be to the detriment of the pattern of development in the immediate surroundings and would cause demonstrable visual harm to the rural landscape beyond.
14. Accordingly, due to the scale and overall bulk of the proposed dwelling, I conclude that the proposal would harm the character and appearance of the surrounding environment. On this basis, it would fail to accord with Policies S1, S8, D1 and H4 of the LDP, which taken together, seek amongst other things, sustainable development which respects and enhances character and local context.

Ecology

15. The appeal has been supplemented by a Preliminary Ecological Assessment, a report that was completed shortly after planning permission was refused. Although the Council have not fully assessed the report, on the basis of the evidence before me, I have no reason to dispute its methodology or findings. Accordingly, due to the likely absence of bat roosting within the buildings, and the likely absence of Badgers and Great Crested Newts on the site and surroundings, I am satisfied that the development could likely proceed without harm to any ecological value of the site. On this basis, I conclude that the proposal would not have a harmful effect on local ecology, and in this regard, it would comply with Policy D1 of the LDP which requires, amongst other things, development to make a positive contribution to the natural environment.

Other Matters

16. Along with the issues identified above, planning permission was also refused regarding the effect of the proposal on a number of European Designated Sites within the district. This was principally because the application was not supplemented with a Section 106 agreement to mitigate any likely impact. In response, the appeal has been accompanied by a Unilateral Undertaking (UU) which seeks to address this matter. Based on the evidence before me, the

Council have agreed the UU would adequately overcome this refusal reason and as a consequence, they no longer contest this issue.

17. Had the appeal proved successful, I would have fully assessed the contents of the UU to ensure that it would protect against a likely adverse impact on the integrity of the European Sites. However, even if the UU had proved acceptable, this would not be a direct benefit of the proposal and would only weigh neutrally in my assessment of the appeal. Accordingly, it would not alter nor outweigh my findings identified above, and as a consequence, I have not assessed the content or acceptability of the UU.
18. The proposal would make a very small contribution to local housing supply. However, the evidence does not imply that there is a housing supply shortage and therefore, I am satisfied that the presumption in favour of sustainable development, as set out within Paragraph 11 of the Framework, is not engaged. Consequently, the proposal should be determined in accordance with the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, and on this basis, there are no material considerations before me to indicate a decision that would be contrary to the development plan when taken as a whole.

Conclusion

19. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR