

Appeal Decision

Site visit made on 23 November 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2022

Appeal Ref: APP/X1545/W/21/3269705

Land Adjacent on the East side of Hackmans Lane, Cock Clarks, CM3 6RE

- 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 Millen Homes Ltd against the decision of Maldon District Council.
 - The application Ref OUT/MAL/20/01005, dated 2 October 2020, was refused by notice dated 12 February 2021.
 - The development proposed is development of 5 detached dwellings on land east of Hackmans Lane, Cock Clarks.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Millen Homes Ltd against the decision of Maldon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.
4. The original application was made in outline with all matters except landscaping to be considered. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.

Main Issue

5. The main issue in this appeal is whether the site represents a suitable location for the proposed dwellings, having regard to access to services and facilities.

Reasons

6. Policy S1 of the Maldon District Approved Local Development Plan 2014-2029 (LDP) sets out a number of key principles, including that proposals will deliver a sustainable level of housing growth and a wide choice of homes in the most sustainable locations whilst minimising the need to travel.
7. The site is located outside of the settlement boundary for Cocks Clark, which according to the evidence before me is identified as a smaller village in the settlement hierarchy. The village has limited services and facilities, being predominately residential with only a public house. Access to public transport is also limited.

8. The site is located between a number of smaller settlements including Purleigh and Bicknacre and access to these would be predominately via unlit roads with no footpaths. The lack of footpaths or streetlighting would make it less attractive for people to walk. Even if the occupants of the proposed development were to walk or cycle to the village of Purleigh, the facilities within this village are equally limited. Therefore, I consider that occupiers would be more likely to travel to services and facilities within the nearby town of Maldon.
9. I have no substantive evidence before me to indicate that the site is well served by public transport. Whilst a bus service does operate in the locality the nearest bus stop is approximately a mile from the site and would require something in the region of a 19 min walk and therefore is unlikely to be a realistic alternative to the convenience of travel by private car.
10. It has been put to me that the site is well located in terms of cycle routes and whilst recreational cycling may be popular in the area due to the rural nature of the road network, I am not persuaded that this provides sufficient evidence that cycling would be a realistic mode of transport to regularly access the day-to-day services and facilities having regard to the distance to the nearest settlements.
11. I therefore consider that occupiers of the proposed development would likely be reliant on their private car to access a full range of community facilities such as shopping, healthcare, leisure and entertainment, given the distance to the nearest sizeable town. Therefore, taking into account the scale of the proposal, there would be moderate environmental and social harm arising from the appeal scheme in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford significant weight.
12. In conclusion, the proposed development would not provide a suitable location for housing, having regard to the accessibility of services and facilities. In this respect, it would not accord with policy S1 of the LDP, which seeks to promote sustainable and suitably located developments.

Other Matters

13. The site was subject to an earlier appeal, APP/X1545/W/20/3252706, whereby the Inspector identified that one of the main issues was whether the appeal site would be a suitable site for the proposed development of 5 detached dwellings. The Inspector did not make reference to policy S1 in his assessment of this main issue, but did conclude that the appeal site was an unsuitable location for the proposed development as it failed to comply with policy S8 of the LP which states that only certain types of development will be granted, and market housing was not included in this list.
14. The Council in their officer report state that they previously considered an objection to the proposal on the grounds of poor accessibility could not be sustained, due to the sites location next to the village's settlement boundary. Therefore the Inspector in the previous appeal did not come to a finding on this matter. The Council have now raised compliance with Policy S1 as an issue in their reason for refusal and therefore it is necessary for me to reach a finding on this.

15. I note that the Inspector considered other main issues, and when considering the impact of the development on highway safety, concluded that the proposed development failed to comply with the relevant parts of policy S1. Whilst he concluded in terms of the character and appearance, that the proposal did comply with relevant parts of Policy S1, in terms of high quality design. Therefore, from my reading of the decision, the Inspector, when considering conflict with the development plan, had regard to specific criteria under policy S1 which has 14 different elements. Therefore, there is no inconsistency with the previous Inspector's decision, because they reached no finding on the disputed part of Policy S1.
16. The appellant has addressed the conflicts identified by the previous Inspector, in respect of living conditions and highway safety. However, there was also a conflict identified with policy S8 and H4 of the LP and having regard to the overall conflict identified in that decision, the Inspector was clear that the site was not a suitable location for the proposal.
17. The Council's delegated report does make reference to policy S8 in reaching a view on the sustainability credentials of the settlement, but have deemed the policy out of date and therefore it is not a policy before me. However, such policies should not be simply left out of account because of the deeming provision and regard should be had to the weight that should be given to those policies within the Local Plan, having regard to the lack of five year housing land supply.
18. The proposal before me does not adequately overcome the point that the site was not a suitable location and I share the views expressed that the proposal is for an inappropriate use outside of a settlement boundary, but in regard to access to services and facilities. Therefore, I agree with the previous Inspector that the site is an unsuitable location for the proposal, albeit for similar, but different reasons.
19. The appellant has also provided two other appeal decisions¹ where residential development was allowed in neighbouring settlements. However, in the first example at Purleigh the Inspector concluded that there were alternatives to the private car and that residents could walk to a nearby convenience store.
20. In the second example at Latchingdon there were three appeals considered under a linked decision. Appeal A was dismissed and the Inspector concluded that the site would not be a suitable location in terms of access to services. This matter was not a main issue for Appeal C, and from the limited information available it would appear that this was because there was a pedestrian link available to the services and facilities within the village of Latchingdon, and the appeal was subsequently allowed. Therefore I have given these examples limited weight, such that it has not altered my overall decision.
21. I have considered the effect on the Grade II Listed Buildings Bramble Cottage and Forge Cottage which are within the vicinity of the site. Their significance is derived from their architectural quality and age. Having regard to the degree of separation and the intervening vegetation, even developed, the site would not have a significant impact on how the listed buildings would be appreciated or the elements that form their setting. Therefore, I conclude that the development would not result in harm to the setting of these listed buildings.

¹ APP/X1545/W/18/3203376 & APP/X1545/W/17/3188293

22. It would appear that the appeal site falls within a 'Zone of influence' for a designated site. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Planning Balance

23. It is not disputed that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites. Therefore, paragraph 11 of the Framework is engaged, whereby planning 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.
24. The development would give rise to limited economic benefits during the construction phase and a modest level of support to local services, albeit from a remote base. There would be modest social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area.
25. There would be some environmental benefits arising from the proposal, noting that the dwellings would be energy efficient, with evidence submitted to demonstrate that the proposed dwellings would go above the required standards for energy performance. There would also be some environmental benefits arising from the biodiversity enhancements set out within the Cherryfield Ecology Report 2019.
26. Paragraph 79 of the Framework requires the promotion of sustainable development in rural areas, where housing should be located to enhance or maintain the vitality of rural communities. However, the cumulative benefits would be outweighed from the unacceptable environmental harm arising from the location in terms of the use of natural resources and the accessibility of local services.
27. Therefore, the identified adverse impacts of the development, the moderate negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

28. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework and its presumption in favour of sustainable development, that outweigh this conflict. For the reasons given above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR