



Appeal Decision

Site visit made on 4 January 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2022

Appeal Ref: APP/X1545/W/21/3269901

Land East of Ruxley Cottage, Rectory Road, North Fambridge CM3 6NG

- 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 Friedlein (R+R Architects Ltd) against the decision of Maldon District Council.
 - The application Ref FUL/MAL/20/00553, dated 4 June 2020, was refused by notice dated 2 September 2020.
 - The development proposed is described as the “re-use of existing buildings; 1 and 5 for residential dwellings and removal of existing buildings/structures; 2, 3, 4 and 6 to enhance vistas of countryside.”
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the submission of the appellant’s appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In this instance, the issue most relevant to the appeal remains unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

3. The main issues in this appeal are:
 - whether the appeal site is an appropriate location for the proposal having regard to the development plan and its effect on the character and appearance of the area, and,
 - the effect of the development on European designated conservation sites.

Reasons

Location

4. The appeal site forms a parcel of land that contains six buildings, four of which are proposed to be demolished, with the remaining two converted into dwellings. Rectory Road itself is mainly residential, containing dwellings of a similar design and arranged in a linear manner on either side of the road. North Fambridge is identified as a Smaller Village under Policy S8 of the Maldon District Local Development Plan 2017 (LDP). The appeal site lies beyond its settlement boundary and is thus, located within the countryside, where development is restricted to certain types and for certain purposes.

5. There is a clear distinction between the suburban area that exists to the east of the appeal site and the countryside that lies to the west. The appeal site itself is surrounded by open land, with the buildings themselves of a utilitarian style. The ground surface also changes from a metalled road to an unmade track and the character of the area changes markedly from suburban to rural. The appeal site clearly sits within the latter and although located close to existing dwellings, including Ruxley House, development beyond the main built up-area to the east has a more open and sparser character. Thus, notwithstanding the current state of the existing buildings at the appeal site, I find that it nonetheless makes a positive contribution towards the rural character of the area.
6. Moreover, whilst very close to the settlement boundary for North Farnbridge, the area to the west of the existing dwellings on Rectory Road, including the appeal site, is verdant and has a distinct open and rural quality that is reinforced by the presence of mature landscaping. Although the proposed dwellings would retain an agricultural appearance, they would erode the contribution of the appeal site to the rural character of the area through the introduction of a suburban development within this countryside setting.
7. Furthermore, notwithstanding that the development may increase vistas of the countryside, it would create a pocket of suburban development that would appear remote and detached from the core of residential properties to the east, having little relationship with the distinctiveness of the rural landscape. Moreover, in addition to the impact of the dwellings, it is also necessary to consider the visual impacts of the residential use such as the vehicle movements and parking associated with the development. Although the development would remove several buildings from the site, the overall site area would be given over to form the curtilage of the proposed dwellings and items such as fencing, domestic cultivation, garden furniture, external lighting and washing lines for each new dwelling would add to the suburbanising effect. Moreover, there is nothing before me to adequately demonstrate that items of a domestic nature would only ever be contained to the rear of each property.
8. I have also carefully considered the enhancements proposed as part of the development, along with the containment provided by existing features that would be supplemented by additional landscaping. However, as with all landscaping, it cannot be relied upon to become permanent and would take a very long time to mature. I also acknowledge that the current buildings on the site are unattractive and may not be fit for modern day uses. Furthermore, although the clearance of the site may increase the openness of the area and allow views across the site, the suburbanising effect of the development on the character and appearance of the area would be appreciably greater than the existing buildings and uses at the site.
9. Additionally, although the Framework seeks to protect and enhance valued landscapes, it also seeks to ensure that developments contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. For the reasons set out above, I do not find the development of the site with two dwellings would lead to an enhancement of the local environment or its immediate setting.
10. Thus, the appeal site would not be an appropriate location for the development, which 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 LDP and paragraphs 130 and 174 of the Framework which seek, amongst other things, to protect the countryside, promote high quality design having regard to the existing character and density of the surrounding area.

European Designated Conservation Sites

11. The development falls within the Zone of Influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). To ensure the requirements of the Conservation of Habitats and Species Regulations 2017 are met, the Council requires the collection of payments from relevant developments towards the mitigation measures set out in the RAMS.
12. However, as the appeal is being dismissed on other substantive issues, it is not necessary to look at this matter in detail. Moreover, had I been minded to allow the appeal, I would have explored the necessity for undertaking an Appropriate Assessment, whether the agreement of the appellant to provide a payment would off-set the impact of the development on the protected sites, and whether this matter could be dealt with via a suitably worded planning condition.

Other Matters

13. The appellant refers to other developments within North Fambridge that have been allowed outside of the settlement boundary. It is clear that the development at Buller Road¹ and at Thiseldome² were granted permission some time before the adoption of the current LDP. The site at Springwood³ also had outline permission granted for two dwellings at the site, again before the adoption of the current LDP, to which the Inspector gave significant weight.
14. Turning to the decision at Buller Lodge⁴, it is evident that the Inspector found that the resultant urbanisation and additional domestic paraphernalia would not harm the character of the area given the level of development in the vicinity of the site. That is not the case before me. In any event, notwithstanding the sites highlighted above, such cases largely depend on their individual circumstances and so whilst noting those other decisions, they are not determinative in this appeal. I have also considered this appeal on its own merits which is a fundamental principle that underpins the planning system.
15. Moreover, having regard to the Braintree judgement⁵, there is nothing before me to suggest that the development is remote from the settlement of North Fambridge so that the circumstances listed at paragraph 80 of the Framework would apply. The appellant also argues that the Council has mis-used Policy S8 of the LDP by seeking to require a process of elimination of the criterion as set out within. However, I am not persuaded that this is indeed the case, with Policy S8 taking a wide view of the options that may be available for sites that lie within the countryside, while seeking to protect its character and attractiveness.

¹ APP/X1545/A/14/2219905

² OUT/MAL/12/00887

³ APP/X1545/W/18/3198063

⁴ APP/X1545/W/18/3206806

⁵ Braintree DC v SSCLG and others [2018] EWCA Civ 610

16. I note that representations were made by a local resident, raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

17. The Council accepts 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.
18. I acknowledge that the existing buildings may not be fit for modern use, that there were no technical objections to the development and that there was support for the proposal, from those local residents that responded to a poll. I also accept that the site has reasonable access to public transport and the limited services within North Fambridge. There would be social benefits from the provision of two dwellings, helping to boost housing supply in a rural part of the district and provide smaller units of accommodation, of which there is an identified need.
19. There would be economic benefits resulting from the construction of the new dwellings and through local taxation such as council tax. The occupants of the dwellings are also likely to assist the local economy through additional spending in the area. I also acknowledge that as previously developed land and as a small windfall site, it could be developed out relatively quickly. Again, this would assist the Council in boosting its supply of housing. Combined, given that the development is for two dwellings, I would attach moderate weight to these benefits.
20. However, the Framework identifies good design as a key aspects of sustainable development, along with recognising the intrinsic character and beauty of the countryside. Furthermore, paragraph 120 of the Framework recognises the value of making effective use of such land where it is suitable and within a settlement. For the reasons already rehearsed, I do not find the site to be either. Accordingly, given my findings outlined above concerning the resultant harm to the character and appearance of the area, the proposal would fail to meet the environmental dimension of the Framework.
21. 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. As such the presumption in favour of sustainable development as envisaged by the Framework does not apply in this case. There are no other material considerations that indicate a decision other than in accordance with the development plan.
22. For the reasons given above, the appeal is dismissed.

Graham Wyatt

INSPECTOR