



Appeal Decision

Site visit made on 25 October 2022

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/X1545/W/21/3288444

Hillview, Howe Green Road, Purleigh CM3 6PZ

- 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 and Mrs Daniel Luck against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/00823, dated 6 August 2021, was refused by notice dated 29 October 2021.
 - The development proposed is erection of Dwelling House.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has indicated that a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) has been received and therefore the third reason for refusal has fallen. On the basis that the Council is longer contesting the third reason for refusal, I have identified the main issue accordingly.

Main Issues

3. The main issue is whether the proposed development would provide a suitable site for housing, having regard to the proximity of services and facilities together with its effect on the character and appearance of the area.

Reasons

4. For the purpose of Policy S8 of the Maldon District Local Development Plan 2014-2029 (LP), the appeal site is located within the countryside. Separated from the designated development boundary for Cold Norton by a parcel of agricultural land, the appeal site occupies an elevated position within the landscape and comprises sloping grassed land, currently utilised as a garden area for the adjacent property – Hillview.
5. Leading out of the village towards the appeal site, the pattern of development changes from higher density, linear development fronting the highway to more sporadic development and open fields. Despite the physical proximity of the appeal site to the settlement boundary, by virtue of the intervening field and set back from Howe Green Road, the site is visually disconnected from the village. These factors provide the appeal site and its setting with a rural character and appearance.
6. The proposed development would sub-divide the existing plot and provide a split-level, 3 storey dwelling, immediately adjacent to Hillview. Part of the building

would be below ground which would reduce its visible height whilst the design, materials and scale would be largely in keeping with Hillview. Nevertheless, the design would not be outstanding or innovative for the purposes of Paragraph 134b) of the National Planning Policy Framework (the Framework).

7. The introduction of a second dwelling together with associated residential paraphernalia would be at odds with the sporadic development pattern of the countryside and would erode the spacious and open qualities of the site. Accordingly, the proposal would read as an incongruous and discordant form of development, undermining the intrinsic beauty of the countryside. Whilst details of hard and soft landscaping could be secured by condition, this would not adequately mitigate the harm identified.
8. Designated as a small village within the LP, Cold Norton has a Primary School, Community Hall, Church, shop and recreation ground. The village is served by a number of bus routes providing access to larger settlements. However, some of the routes operate on school days only and there are few services in the evenings or on Sundays. These amenities would be accessed via Howe Green Road which links Cold Norton and Purleigh. At the time of my site visit, I observed a steady flow of traffic travelling along the road in both directions and also noted that there was no pedestrian footway or lighting. The width of the road and verge also narrowed in places.
9. Amongst other aspects, LP Policy T2 indicates that development proposals should provide safe and direct walking and cycling routes to nearby services and facilities. Although facilities and services would be sufficiently close to access on a daily basis by reasons of distance, given the constraints outlined above, the future occupiers would be unlikely to walk or cycle to the facilities in Cold Norton. Furthermore, future occupiers would also be likely to use a car to access the railway stations at North Fambridge and South Woodham Ferrers. Whilst noting that the highway authority did not object to the planning application, this does not persuade me that the development would provide a suitable site for housing in this respect.
10. My attention has been drawn by the appellants to Braintree DC v SSCLG [2018] EWCA Civ.610. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless exceptional circumstances apply, capturing the intent of the former Paragraph 55. It is acknowledged that the proposed dwelling would not be entirely isolated or remote from the settlement. Be that as it may, given the disconnection and consequential harm, I am not convinced that the site would enhance or maintain the vitality of Cold Norton as promoted by the Framework, in particular Paragraphs 8, 79 and 84d).
11. Accordingly, I find that the proposed development would not provide a suitable site for housing, with particular regard to the proximity of services and facilities and would harm the character and appearance of the area. The proposal is therefore contrary to LP Policies S1, S2, S8, D1, H4 and T2. Collectively, and amongst other aspects, these policies promote sustainable development which respects and enhances the character and local context whilst maximising connectivity with the surrounding area. I also find the proposal to be inconsistent with the Framework, which, amongst other objectives seeks to promote sustainable housing development which enhances and supports rural communities.
12. The Council does not dispute the appellants' assertion that it is unable to demonstrate a five-year housing supply. Within their evidence, the Council confirms that there is currently a 2.92 year supply of housing. Paragraph 11d) of the Framework, directs that where relevant policies are out of date, 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 whole. Notwithstanding the lack of housing supply, I find the aforementioned LP policies to be consistent with the Framework and therefore afford these policies substantial weight.

Other Matters

13. The Council's Delegated Report indicates that the appeal site falls within the 'Zone of Influence' for one or more Designated Sites scoped into the emerging Essex Coast RAMS. For the reasons outlined above, I find that the scheme is unacceptable and therefore in dismissing the appeal, it has not been necessary for me to consider the effect of the proposal on the aforementioned sites.
14. It has been put to me by the appellants that the Council did not object to the proposal at Pre-application stage. Informal advice given prior to the submission of an application is given without prejudice and cannot pre-determine the outcome of any subsequent application. In any case, this has no bearing on my considerations of the planning merits of the appeal proposal.

Planning Balance

15. The Council's Local Housing Needs Assessment 2021 identifies a shortage of smaller dwellings, specifically 2 and 3 bed units. It has been put to me that the proposed 3 bed dwelling would contribute to the evidenced shortfall and be located within proximity of existing services and amenities. In addition, it is acknowledged that the proposal would offer benefit to the local economy, supporting local services and businesses. Be that as it may, given the scale and nature of the scheme, the benefits would be limited.
16. Paragraph 130 of the Framework, amongst other aspects, seeks to ensure that development is sympathetic to local character, including its landscape setting. Paragraph 174 also recognises the intrinsic character and beauty of the countryside. Applying the Paragraph 11d) test therefore, when assessed against the policies in the Framework taken as a whole, the harm I have identified would significantly and demonstrably outweigh the limited benefits, particularly as the provision of one dwelling would make little meaningful difference to the housing supply in the district. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

17. I have found that the proposal conflicts with the development plan as a whole as well as with Framework policies. Notwithstanding the 'tilted balance' triggered by Framework Paragraph 11d), the proposal should be determined in accordance with the development plan. The appeal therefore is dismissed.

H Wilkinson

INSPECTOR