



Appeal Decision

Site visit made on 15 November 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal Ref: APP/X1545/W/22/3302615

Hill House, Lower Burnham Road, Latchingdon, Essex CM3 6HG

- 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 Barber against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/01157, dated 2 November 2021, was refused by notice dated 11 February 2022.
 - The development proposed is described as 'the erection of one 1-bedroom dwelling (in lieu of prior approval for one x 1-bedroom dwelling, subject of application COUPA/MAP/21/00094)'.
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Decision

1. The appeal is dismissed.

Application for Costs

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

Main Issues

3. The main issues are:
 - Whether the site is in a suitable location for housing, with particular regard to the settlement pattern and accessibility to services and facilities, and;
 - The effect of the development proposed on the character and appearance of the area.

Reasons

Accessibility

4. Policies S1 and S8 of the Maldon District Local Development Plan 2017 (the LDP) together seek to focus the delivery of homes in sustainable locations, including within the defined settlement boundaries. Policy S8 provides criteria where development will be permitted outside the settlement boundaries, provided that the intrinsic character and beauty of the countryside is not adversely impacted upon.
5. The appeal site is in a distinctly rural location outside any defined settlement boundary. It is set among a cluster of other buildings associated with a large dwelling on the site known as Hill House, and is accessed via a long track which extends from the southern side of Lower Burnham Road. At the time of my site visit I found Lower Burnham Road to be fairly heavily trafficked with vehicles

moving at high speeds, including heavy goods vehicles. In combination with the absence of pavements and lighting in the vicinity of the appeal site, I found the road to be particularly unwelcoming to pedestrians and not conducive to a safe and attractive route for pedestrians or cyclists.

6. The nearest settlements are a short drive from the appeal site, including Latchington and Althorne, each just over a mile away. These are considered 'smaller villages' by the LDP, with few services and facilities. Based on the information available and the findings of my site visit, the most reasonable and likely means of accessing those settlements, and larger settlements beyond, would be by private car. There is, therefore, a strong likelihood that the development would be disconnected from the local rural communities.
7. The proposal would cause conflict with the settlement pattern in the district and would be poorly located in terms of its accessibility to services and facilities. In addition the proposal would not conform to any of the exceptions to development in the countryside, as listed in Policy S8 of the LDP. Consequently, the proposals would conflict with policies S1 and S8 of the LDP insofar as they support development in sustainable locations. There is also conflict with Policy T2 of the LDP which relates to accessibility and, among other things, requires developments to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate.
8. The proposal would also conflict with policy 79 of the National Planning Policy Framework (the Framework) which requires rural housing to be located where it will enhance or maintain the vitality of rural communities.

Character and Appearance

9. The appeal site lies close to Hill House, a two storey property set within a generous and spacious plot and agricultural land. The surrounding area is distinctly rural with long views extending from the site to the north and west. More specifically the site lies among a cluster of single storey buildings located to the east of Hill House. These include brick car ports, storage buildings and a building which appears to have been converted for a residential use. Together these buildings are low level, have simple designs and appear as subordinate structures to the main house. The existing barn on the appeal site is similarly simple in its design, and has a character typical of an agricultural building. Together this cluster of buildings, and its relationship to Hill House, contribute positively to the rural character of the area.
10. The proposed replacement building would be larger in its footprint than the existing and would incorporate domestic features including a porch with gable roof feature above, chimney, and window openings. The ridge height would be taller than the existing and high-level glazing would be incorporated into the south facing gable end. Together these features would emphasise the residential use of the building and give it a distinctly residential character. This would be at odds with the character of the buildings in its immediate surroundings and the proposed building would appear in stark contrast to them. This would result in the dilution of the rural character of the area and the landscape setting.
11. The extent of the proposed curtilage would wrap fairly tightly around the proposed building, and would be unlikely to give rise to significant residential

paraphernalia which would cause visual harm. This is particularly the case as boundary treatments and landscaping could reasonably be controlled by condition if the proposal were otherwise acceptable.

12. For the reasons given the proposal would conflict with Policies S8, H4 and D1 of the LDP, which require among other things that development respects the intrinsic character and beauty of the countryside, and that development respects and enhances character and local context, and makes a positive contribution in terms of detailed design features and landscape setting. The proposal would also present conflict with paragraph 130 of the National Planning Policy Framework (the Framework) insofar as it requires developments to be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Planning Balance

13. Prior approval was granted for the conversion of the existing building to a residential dwelling on 9 April 2021¹. Based on the evidence, I see no reason that this prior approval scheme would not be a legitimate fallback position for the appellants, and that there is a real prospect of that scheme being implemented if this appeal were unsuccessful.
14. The prior approval scheme would result in the same level of occupancy as the appeal scheme through having one bedroom providing two bedspaces. The nature of its location and accessibility to services and facilities would be the same, and the level of harm resulting from the location of the new house, would therefore be the same.
15. However, the prior approval scheme entails the creation of a dwelling which would retain much of the simple form and character of the existing building, which is more akin to the character of the outbuildings surrounding it. Consequently, the appeal scheme would have a more harmful effect on the character and appearance of the area than the prior approval scheme. For this reason, as the prior approval scheme would be less harmful, I give the fall back position limited weight.
16. The appellant has evidenced two appeal decisions which included consideration of fallback positions created by the earlier grant of a prior approvals². Based on the information before me, the Inspectors found that the developments proposed in both cases would have either a similar appearance or a less visually intrusive impact than the prior approval schemes. As such, the circumstances of those appeals were materially different to the appeal scheme before me.
17. The Council accept that it does not have a 5 year land supply for housing. As such, the provisions of paragraph 11 of the Framework are relevant to the appeal. The most important policies are deemed to be out of date and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
18. In terms of the main issues above, the appeal scheme would cause harm to the character and appearance of the area. The result of this harm would be

¹ COUPA/MAL/21/00094

² APP/A1530/W/16/3144635, APP/A1530/W/16/3144643 and APP/X1545/W/18/3194812

significant and long lasting, and would conflict with the objectives of the Framework. I attach substantial weight to that harm.

19. The appeal scheme would contribute to the Council's housing stock, but as a single dwelling, its contribution would be limited. The appeal scheme would allow the appellant to remain on the site through downsizing from the main house, and the proposal is reported to have improved sustainability credentials and provide a better standard of accommodation than the fallback position. There may also be a reduction in vehicle movements arising from the change of use from an agricultural building to a dwelling, however there is not strong evidence to support this. Taken together, these benefits attract moderate weight, given the scale of the proposal.
20. Overall, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.

Other Matters

21. The appeal site lies within the zone of influence of one or more of the European designated sites at the Essex Coast. These are subject to statutory protection under the Conservation of Habitat and Species Regulations 2017. Since the proposed development would result in a net increase in residential accommodation, impacts to those sites may result from increased recreational disturbance. However, as I am dismissing the appeal on other grounds, in line with paragraph 63(1) of the Regulations, it is not necessary for me to consider the development within the framework of an Appropriate Assessment. As such, this is not a matter which I need to consider further.

Conclusion

22. For the reasons given, there are no material considerations, including the approach in the Framework, that would indicate a decision other than in accordance with the development plan. The appeal is therefore dismissed.

C Shearing

INSPECTOR