



Appeal Decision

Site visit made on 22 February 2023

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2023

Appeal Ref: APP/X1545/W/22/3306604

Manifold Wick Farm, Rectory Road, Tolleshunt Knights, CM9 8EZ.

- 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 Stuart Poulson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00007 dated 4 January 2022, was refused by notice dated 18 July 2022.
 - The development proposed is change of use from occupied residential annexe to dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from occupied residential annexe to dwelling house at Manifold Wick Farm, Rectory Road, Tolleshunt Knights, CM98EZ in accordance with the terms of the application, Ref FUL/MAL/22/00007 dated 4 January 2022, and subject to the conditions at Schedule A below.

Procedural Matter

2. As the appeal was made without an environmental statement under Regulation 14 of the *Town and Country Planning (Environmental Impact Assessment) Regulations 2017(SI 571/2017)* a screening was carried out as part of the appeal process by the Planning Inspectorate. This concluded that the development would not be of a nature and scale likely to result in significant environmental effects subject to mitigating the effects of recreational disturbance and as such the development was not EIA development.

Main Issues

3. The main issues in this case are whether:
 - the location in the countryside would be an appropriate one for a dwelling in the context of the development plan;
 - there would be a detrimental impact on the character and appearance of the countryside setting;
 - the proposal makes adequate provision for coastal mitigation.

Reasons

4. Manifold Wick farm, the subject of this appeal, lies on the east side of Rectory Road approximately 1.3 kilometres (0.8 miles) from Tolleshunt Knights and about 3.5 kilometres (2.2 miles) from Tiptree the nearest major service centre. The original two storey farmhouse sits close to Rectory Road and is the main dwelling. A courtyard of single storey buildings lies behind it, comprising the residential annexe, the subject of the appeal, and garaging. Behind the courtyard there is

stabling and a manege. The former farmhouse and buildings sit in a large plot incorporating ponds and paddocks surrounded by open countryside. Development along Rectory Road is sporadic in nature and the nature of the road is a quiet, rural lane with no footpaths or lighting.

The appropriateness of the location for a dwelling

5. The site is well outside the settlement boundary defined for Tolleshunt Knights which is identified as a smaller village in Policy S8 of the *Maldon Local Plan* (MLP). Being outside a defined settlement boundary the site lies within the countryside and under the MLP is subject to more restrictive policies. The proposal to create a separate dwelling unit through the change of use of the annexe would not conform to any of the development types listed in MLP Policy S8 as being appropriate in the countryside.
6. However, in the period since the adoption of the MLP the *National Planning Policy Framework* (the Framework) has been reviewed twice. Protecting the countryside for its own sake and restricting development only to that needed or appropriate to the countryside are no longer stated policies although paragraph 174, does require decisions to recognise the intrinsic character and beauty of the countryside. The basis on which Policy S8 was originally prepared has therefore changed although I acknowledge that the objective of concentrating housing in the settlements, as the more sustainable locations, continues to carry significant weight.
7. Paragraph 79 of the Framework, whilst promoting the principle of rural housing supporting services and facilities in villages goes on to state in paragraph 80 that isolated homes in the countryside should not be permitted other than in a limited number of circumstances and none of these apply in this case. It has been put to me that the proposal would involve the subdivision of an existing residential building and therefore permissible under paragraph 80. However, it would not be the farmhouse that would be subdivided but the plot, to create a second residential unit and in that context the subdivision allowed in paragraph 80 would not apply. The Framework does not define the meaning of isolated and court decisions have determined that it is a matter of fact and degree for the decision maker to decide.
8. Although the site is reasonably close to Tolleshunt Knights, Manifold Wick Farm is one of a small number of dwellings in a loose-knit group and without the benefit of a bus service, the nearest bus stops being in Top Road Tolleshunt Knights. The village has little in the way of services and, whilst Tiptree with a full range of services is only just over 2 miles from the site, the reality is that anyone resident on the site would have little option but to be dependent on the private car as a means of transport. It has been put to me that sustainable alternatives in the form of walking or cycling would be available and, whilst I accept cycling in particular would be possible for some trips, it is unlikely to be a major mode for residents at the property given the nature of Rectory Road.
9. In the circumstances I do consider the site to be relatively isolated and not one where the house would clearly contribute to supporting services and facilities in nearby settlements. Moreover, the site itself is not well related to those settlements. In that respect the principle of creating an additional residential unit at Manifold Wick would be contrary to MLP policies requiring housing to be in accessible locations.

Character and Appearance

10. As the annexe already exists and no part of the proposal involves the further development of the building, the change of use, of itself, would be neutral in terms of the impact on the open countryside. Looking from the surrounding countryside and from the lane there would be no difference to the current appearance of the building.
11. I have been invited to conclude that the subdivision of the Manifold Wick Farm plot into two would represent a material change, substantially reducing the amenity space available to the main dwelling. However, it is quite clear from the proposed subdivision that both plots would retain very extensive grounds and as such there would be no change to the loose knit character of development in this part of Rectory Road.
12. I acknowledge that residential conversions in the countryside can, through the introduction of domestic paraphernalia, lead to incremental change in the character of the area. However, if this is the concern it could be managed by the imposition of conditions to remove permitted development rights for the extension or alteration of the dwelling and for the creation of outbuildings incidental to the enjoyment of the dwelling house.
13. Although it has been put to me that such conditions are not necessary it cannot be argued by the appellant on the one hand that the proposal is acceptable because there would be no difference as a result of the change of use and also argue that full permitted development rights should remain for the new dwelling. Regardless of what may be the current owners' intentions, control is necessary in respect of possible future proposals. In any event the removal of permitted development rights would not, of itself, prevent proposals to alter or extend the property or construct outbuildings. It simply means that such change would be controlled by the Council to ensure there was no detriment to the countryside setting and development pattern of the area in the future.
14. Given the fact that there would be no physical change to the building to change its use from an annexe to a dwelling the requirements of MLP Policy D1 to respect and enhance the character and local context would be met.

Provision for Coastal Mitigation

15. One of the reasons for refusal related to the fact that no mechanism was proposed to secure a contribution to costs relating to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (ECRAMS).
16. In respect of the contribution to coastal mitigation the requirement arises from MLP policy N2. This states that if any protected species and / or priority habitats / species or significant local wildlife are found on site, or their habitat may be affected by the proposed development, the proposal must make provision to mitigate any negative biodiversity impacts it may create. The habitats of protected species along the Essex Coast which are designated European Sites are susceptible to harm from recreational disturbance and any residential development in close proximity to these sites can increase that disturbance.
17. ECRAMS calculates the cost of appropriate mitigation to offset the impact of recreational pressures on the Essex Coast from new development to be £137.71

per dwelling, which is the contribution sought by the Council in this case.

18. As the present proposal would provide a new unit of residential accommodation capable of accommodating a family it is clear that a contribution towards coastal mitigation would be necessary, directly related to the development and the financial contribution which would be put towards it would appear to be reasonably related in scale and kind. In view of the need to monitor the obligation, I am also satisfied that a modest monitoring charge would be necessary and reasonable in this case. I am therefore satisfied that a financial contribution would meet the three tests set out in paragraph 56 of the Framework and CIL Regulations.
19. The appellant in the process of submitting the appeal has provided a signed, completed, unilateral undertaking to make the contribution and accordingly MLP Policy N2 and the requirements of the ECRAMS would be met.

The Planning Balance

20. I acknowledge above that the creation of a separate dwelling at Manifold Wick Farm would not normally be in accordance with MLP Policy S8 or those elements of Policies S1, T2 and H4 that seek residential development to be in locations accessible to services by sustainable transport modes.
21. Notwithstanding my finding in this regard, there are material considerations which need to be weighed in the balance in this case. Legislation requires that decisions should be made in accordance with the development plan except where material considerations would justify an exception being made to policy.
22. The building the subject of the proposal is already in residential use as a self-contained annexe to Manifold Wick Farm. It is already fully and permanently occupied by an independent household albeit related to the occupant of the main dwelling.
23. Moreover, there is no proposal to extend the building and therefore I am not persuaded that there is intensification of development or use in the countryside. Arguably any intensification has already taken place when the annexe conversion was first permitted. The potential level of use, activity and traffic on site would not be significantly different if it were to be occupied by the household as an annexe or by the household (or indeed a different household) as a separate dwelling. There would be no material impact on the open countryside setting and its intrinsic character and beauty as a result of the change of use subject to the imposition of conditions.
24. As such the proposed dwelling would have no additional environmental impact over the use of the building as a residential annexe. It would create an additional small dwelling unit (a specific area of need noted in the *Housing Needs Assessment 2021*) and in that respect there would be a minor social benefit in terms of future housing supply. In terms of its economic impacts the proposal would be neutral. I am therefore not persuaded that the proposal would fail to meet the three sustainability objectives set out in the Framework in the specific context of Manifold Wick Farm and I am satisfied that the material considerations would outweigh the harm arising from a more isolated location and warrant an exception to MLP Policy S8 in this case.
25. I note the recent appeal decision dismissing development in Tolleshunt Knights referred to by the Council (ref APP/X1545/W/22/3304049). Whilst I agree with the

Inspector's comments that the Tolleshunt Knights location is not a sustainable one for housing, the cases are significantly different in that the development proposed was a major development of new housing and not the reuse of an existing residential annexe as an independent dwelling. The appeal decision in that case does not bring me to any different conclusion.

Conclusion and Conditions

26. The above assessment shows that, in the particular circumstances of this case, the appeal should be allowed and planning permission granted for the change of use to a dwelling subject to conditions and to the unilateral undertaking already completed.
27. I have considered the conditions proposed by the council in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
28. The submitted drawings do not clearly set out the proposed provision for access and parking for the independent dwelling and there is therefore a need to impose a condition requiring the submission of these details before the change of use is brought into effect.
29. As set out above I have agreed that in this case and exceptionally the creation of a separate dwelling would be acceptable. However, this is not a location where this would normally be the case. To avoid any intensification of residential development in this countryside location it is appropriate that the dwelling should have restricted permitted development rights to restrict the enlargement of the building, the development of outbuildings and other structures and the construction of boundary structures such as fences and walls without planning permission being granted by the local planning authority. I will impose 3 conditions to achieve this.
30. Finally, the proposed extent of ownership for the dwelling created through the change of use is extensive, including as it does paddocks, stabling and ponds in the open countryside. Whilst this may be the extent of the intended ownership, it would be excessive in terms of what would reasonably be considered residential curtilage to the dwelling. Accordingly, and to prevent intensification of development in the future, it is necessary to attach a condition requiring the submission of a boundary for the residential curtilage to be approved in writing by the Council.
31. The Council proposed that the conditions requiring the submission of parking and access and curtilage details should be pre-commencement conditions. However, this would be difficult to enforce given that there would be no formal commencement of development as the residential annexe already exists and is in use and is not being altered. I have therefore adjusted the wording of these conditions to require submission of these details for approval within 2 months of the date of this decision.

P. D. Biggers

INSPECTOR

Schedule A Conditions

1. The development hereby permitted must be begun no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: MWF-005 P00, MWF-004 P00, MWF-003 P00, MWF-002 P01, MWF-001 P01, MWF-000 P01, MWF-007 P00, MWF-006 P00.
3. Within 2 months of the date of this decision, final details of the access and parking arrangements shall be submitted to and approved in writing by the Local Planning Authority. The change of use hereby approved shall be completed wholly in accordance with these details once approved and the access and parking shall be permanently retained thereafter.
4. Notwithstanding the provisions of Article 3 Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking, or re-enacting that Order), no enlargement or extension to the dwelling house shall be constructed without the prior grant of planning permission by the Local Planning Authority.
5. Notwithstanding the provisions of Article 3 Schedule 2 Part 1 Classes E and F of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking, or re-enacting that Order), no buildings or structures incidental to the enjoyment of the dwelling house nor any hardstanding shall be constructed or laid out without the prior grant of planning permission by the Local Planning Authority.
6. Notwithstanding the provisions of Article 3 Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking, or re-enacting that Order), no wall, fence, gate or other means of enclosure shall be erected within or around the site without the prior grant of planning permission by the Local Planning Authority.
7. Within 2 months of the date of this decision, details of the extent of the residential curtilage to the dwelling hereby permitted (including private amenity space and parking area) shall be submitted to and approved in writing by the Local Planning Authority. The change of use hereby approved shall be completed wholly in accordance with these details once approved.