



Appeal Decision

Site visit made on 26 July 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th August 2023

Appeal Ref: APP/X1545/W/22/3308846

Land at Crabbs Farm, Back Lane, Wickham Bishops CM8 3LU

- 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 Partick Foley-Brickley against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/01098, dated 5 April 2022, was refused by notice dated 31 May 2022.
 - The development proposed is the erection of a detached dwelling, garaging, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of the appeal application the Council has published an updated assessment of the 5-year housing land supply and claim that it is currently 6.35-years. The appellant has been given the opportunity to comment on the Council's assessment and has raised some concerns, including the calculation of the contribution from windfall sites, not carrying forward any under-supply, the availability of the 2021 Census data, the approach of neighbouring Councils and needing to review the housing requirement/supply via a Local Plan review. Although these concerns have been noted, they do not amount to sufficient reasons to clearly demonstrate that there is a shortfall in the housing land supply which would cause the engagement of the presumption in favour of sustainable development identified at paragraph 11(d) of the National Planning Policy Framework (the Framework).

Main Issue

3. It is considered that the main issue is the effect of proposed development on the character and appearance of the surrounding area.

Reasons

4. The proposed development includes the erection of a detached dwelling sited in substantial landscaped grounds which would be erected on a grass paddock located to the north of Crabbs Farm. It is common ground between the parties that the site is located outside the settlement boundary of Wickham Bishops. However, there is housing to the north, including a new dwelling which has been erected to the north east (The Summer House). Planning permission has

also been granted for the alterations to Crabbs Farm House located to the south of the site.

5. An appeal¹ for the erection of 5 dwellings on the site was dismissed by a previous Inspector primarily on the grounds that there would be a significantly harmful effect on the character and appearance of the area. This appeal scheme can be differentiated from the previous scheme because it only involves the erection of a single dwelling which would not have the same extent of a building footprint.
6. Policy D8 of the Maldon Local Development Plan (MLDP) refers to the countryside being protected for its landscape, natural resources and ecological value, as well as its intrinsic character and beauty. Outside of defined settlement boundaries planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon. This policy is consistent with paragraph 174 of the Framework.
7. Although a different proposal, the characteristics of the site have not materially changed since the previous appeal. There remain mature trees and hedges on the northern, eastern and western boundaries of the site with the southern boundary not currently being defined by any physical features. The site shares the same character and appearance of the open and verdant countryside to the south of Wickham Bishops.
8. The erection of the proposed dwelling, together with the outbuilding and areas of hard landscaping, would introduce a built form of development onto the site. In part, the proposed dwelling would be set into the slope within the site which would reduce its visual presence but it would still project above the ground level. Although a naturalistic approach to soft landscaping is proposed to promote biodiversity, including through the construction of a pond, there would still be a change to the character and appearance of the site from open and verdant countryside to domestic use.
9. Accordingly, the proposed development would cause an unacceptable change in the open and verdant character and appearance of the surrounding area which would be contrary to MLDP Policy D8 and Policy WBen04 of the Wickham Bishops Neighbourhood Plan (NP). This policy requires development on the settlement edge to maintain the open character and appearance of its setting.
10. The appellant refers to the appeal scheme being designed to comply with paragraph 80 of the Framework whereby the design quality of the proposed dwelling would be exceptional and of the type to justify an isolated dwelling in the open countryside. The appellant claims that the Council did not properly assess the quality of proposed development because a Planning Officer, rather than an Urban Designer, reviewed the scheme. However, the design concerns raised by the Planning Officer are easily understood. Reference is also made to a planning permission² given for a dwelling in the countryside which was designed by the same Architect but this appeal has been assessed on its own circumstances.
11. Although the approach to the design of the appeal scheme has sought to work with the site's topography, the proposed dwelling would still have the

¹ APP/X1545/W/15/3135815

² FUL/MAL/20/00841

appearance of a typical house where it projects above ground level rather than being truly of an outstanding design reflecting the highest standards in architecture as required by the Framework. There would also be a conflict with MLDP Policy D1 and NP Policy WBH01 which require development to respect and enhance the character and local context and make a positive contribution in terms of architectural style. Accordingly, the design of the proposed development does not outweigh the unacceptable harm which has been identified. Considerations about construction standards are addressed below because these are different to the exceptional design quality referred to in the Framework.

12. For the reasons given, it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with MLDP Policies D1 and D8, NP Policies WBH01 and WBen04 and the Framework.

Other Matters

13. The appellant has identified a number of other matters which are claimed to be material considerations which could outweigh any identified harm and conflict with the development plan.
14. The position of Wickham Bishops in the spatial strategy and hierarchy of settlements included in the MDLP is not a matter for assessment as part of this appeal. However, Wickham Bishops does possess a range of facilities which would meet the day-to-day needs of the future occupiers. These facilities would be accessible on foot albeit there is a lack of footways between the site and, for example, the convenience store. It is still likely that the future occupiers would need a private car to access higher order facilities at other larger settlements but the number of trips would be low.
15. Acknowledging the Framework recognises that there are variations between urban and rural areas concerning the opportunities to maximise sustainable travel solutions, moderate weight is given to the location and accessibility of the proposed dwelling to facilities and services. This assessment includes the potential for the future occupiers' expenditure to be retained within the village.
16. There would be some short-term benefits associated with the creation of construction jobs and expenditure on materials. These benefits attract only limited weight because they relate to a single dwelling and would be temporary and modest in nature.
17. Limited weight is given to the sustainable construction techniques proposed by the appellant to be adopted to reduce carbon use and promote renewable energy sources. Such matters are becoming increasingly used in housing schemes because of changes to Building Regulations. The same weight is given to the potential biodiversity interest which would be associated with the soft landscaping scheme because there is no balancing against the biodiversity interest of the current site.
18. Claims that a dwelling of the size proposed would meet the needs of a specific type of occupier and could only be erected outside an urban area have been noted. However, there is no specific evidence of such sites being unavailable elsewhere and, for this reason, this matter is given only limited weight.

19. Very limited weight is given to the absence of harm to the living conditions of the occupiers of the neighbouring properties.

Conclusion

20. In the absence of a presumption in favour of development a flat balancing exercise applies. In this case, the material considerations identified by the appellant do not outweigh the unacceptable harm and conflict with the relevant development plan policies as set out as the Main Issue. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR