



Appeal Decision

Site visit made on 6 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/X1545/W/22/3309957

Land adjacent to 15 Fish Street, Goldhanger CM9 8AT

- 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 Millen Homes Limited against the decision of Maldon District Council.
 - The application Ref FUL/MAL/21/01222, dated 10 December 2021, was refused by notice dated 10 June 2022.
 - The development proposed is 3 detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the planning application as the subject of this appeal, a further application was submitted that the Council has declined to determine (Reference 22/00757/FUL). This has not affected my consideration.

Main Issues

3. The main issues are:
 - whether the proposed development is in a suitable location for housing, having regard to the accessibility of services and facilities;
 - the effect of the proposed development on the character and appearance of the street scene, with particular regard to the preservation or enhancement of the Goldhanger Conservation Area (CA); and
 - whether the proposed development would allow for sufficient parking provision so as to provide acceptable highways safety.

Reasons

Location of Development

4. The appeal site is a vacant former allotment plot, with dwellings either side and opposite, and open countryside to its rear. The proposal is for 3 detached dwellings off a central access point.
5. The Maldon District Approved Local Development Plan 2014-2029 (LDP) (2017) Policy S1 identifies principles of sustainable development, and Policy S2 identifies the strategic locations for growth. In rural villages, this is related to the settlement hierarchy set by Policy S8, to reflect their size, function, and physical capacity, and to not result in unsustainable spatial patterns to the detriment of the wider area. This hierarchy does not in itself dictate the levels

of growth, but is a reflection of individual settlements' current status and function to inform applications.

6. Goldhanger is classified under 'Smaller Villages' by Policy S8, and under 'Medium Villages' in the on-going LDP review. Notwithstanding its categorisation, the available Goldhanger facilities and public transport do not appear to be significantly improved compared to those identified by the previous Inspector for this site in 2015¹. Goldhanger has several pubs, a pre-school nursery, and a village hall, but the nearest primary schools are approximately 4km and 5km away. There are no daily shopping facilities, the nearest being a farm shop outside of the village over a mile away on a road without footways or street lighting. Public bus services are infrequent and with restricted timings, and pedestrian access to the nearest bus stop also has no footways or lighting for part.
7. The site's future residents would therefore be likely to use cars for shopping for daily essentials or primary school journeys. I do not see that providing travel packs would sufficiently overcome this. Although Goldhanger is better connected and closer to Heybridge and Maldon than other villages, I do not find the appellant's referenced appeal examples in other villages support a different conclusion. Therefore, the proposal would conflict with the LDP Policy T2 which requires development to provide safe and direct walking and cycling routes to nearby services, facilities, and public transport where appropriate.
8. The LDP Policies Map designates settlement boundaries, used to determine policy support for sustainable development within them. The boundary follows the existing built form to exclude the appeal site, and as such appears clearly intended. I acknowledge the judgement² that I should have regard to the situation 'on the ground' as well as the relevant policies. My assessment is that the site is such a large plot, that it also relates to the open countryside beyond rather than solely the Fish Street built form. Whether or not the site may be described as 'in the village' as a broad locational description, it would still only have access to the same minimal level of services as described above.
9. Moreover, the LDP policy H4 requires development to optimise the use of land having regard to various criteria. The proposal would conflict with some of these as it would be poorly located, with poor accessibility to local services, facilities, and public transport.
10. In conclusion therefore, the proposed development would not be in a suitable location for housing, having regard to the accessibility of services and facilities. It would thus be contrary to the LDP Policies S1, S2, S8, H4, and T2, and would conflict with the National Planning Policy Framework ('the Framework') (2023) with regard to its section on rural housing.

Character and Appearance

11. The site lies within the Goldhanger CA, and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Section 16 of the Framework also requires that great weight should be given to the conservation of designated heritage assets, and Policy D3 of the LDP closely aligns with its approach.

¹ APP/X1545/A/14/2214218

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

12. The significance of the CA is its historic core, character, and road pattern, centred on the Church of St Peter and the Chequers public house. It preserves a rich and varied historic built environment, which retains cohesion and a sense of identity. The use of low brick walls and attractive hedge boundaries and trees, particularly along Fish Street and including the site's frontage, provide for a strong green and rural character.
13. The Goldhanger Conservation Area Review and Character Appraisal (CARCA) identifies the appeal site as one of the significant open spaces in the townscape character of the CA, which provide contrast with the more built-up stretches of the streets. The CARCA mapping identifies that it was never developed. Although overgrown, its verdant appearance and openness thus has a positive contribution to the character and appearance of Fish Street, and to the CA.
14. I also have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of the proposal on the special architectural and historic interest of listed buildings and their settings. Diagonally opposite the site, the row of traditional cottages and former shops at Nos. 10, 12, and 14 Fish Street are an attractive feature as Grade II listed buildings. The Council advises that their settings would not be harmed, due to their separation distance, and the nature of the proposed development. I find no reason to disagree.
15. The spacing of the proposed dwellings would broadly match that of the plots opposite. Individually, they reference the character of the nearby historic buildings through their one and a half storey height, materials, and symmetrical front elevations and fenestration. As such, they would be generally in keeping with the character of the CA.
16. However, the CARCA identifies that the existing late 20th/21st century houses are at odds with the historic grain of the settlement due to their increased set-backs and less direct relations with their neighbours. Furthermore, in combination, the form and appearance of the proposed dwellings would be uniform within the site. While the Fish Street plots and dwellings form a cohesive character as a whole, they display a clear individuality. Those small property groupings which can be ascertained to have been built at similar time periods due to their patterns and reoccurring forms, still display a sufficient range of originality to also be read individually. This would not be the case for the appeal site, which would be too distinct within this context.
17. Although a condition to require a range of materials could create a limited extent of variation, this would not sufficiently reduce the uniformity of their massing, form, and layout, exacerbated by their effectively linear positioning and the central access and courtyard. I accept this layout would preserve more of the historic front wall than with individual driveways, and enable more frontage landscaping as a positive contribution to the streetscene, as well as softening and screening the appearance of the dwellings to some extent. However, overall the proposal would not sit well with the surrounding urban grain, and prevailing character and appearance of the street.
18. I do find that it would comprise infilling, as despite the relatively large site size, it has a street frontage within a streetscene of dwellings either side. As such, the 4 criteria under the LDP Policy H4 sub-heading of 'backland and infill development' apply. Criterion 1) requires making best use of the site, however, I do not find it is significantly under-used despite being vacant and

undeveloped. This is because a more effective use of land should also safeguard and improve the environment in line with paragraph 119 of the Framework, which would not be achieved with relation to its impact on the CA. I also find some conflict regarding H4 3) and 4), as the site is one of the significant green open spaces contributing to the historic CA townscape character.

19. Overall, the proposal would lead to less than substantial harm to the significance of the CA as a designated heritage asset. I give great weight to this harm, as advised by the Framework paragraph 199. Paragraph 202 advises that less than substantial harm should be weighed against the proposal's public benefits.
20. The benefits arising from 3 additional dwellings would be a modest contribution to the housing land supply. However, the Council identifies that its Housing Needs Assessment (2021) concludes a need across the District for smaller dwellings, with the largest requirement being for 3-bedroom dwellings. The appellant has not provided detailed evidence to the contrary. The provision of 4-bedroom dwellings would therefore not align with this identified need.
21. There would also be social and economic benefits from local construction, and the new occupiers increasing local expenditure and demand for local services, and so improving the village's vitality as supported by the Framework paragraph 79.
22. The parties disagree whether the Council can currently demonstrate a 5 year housing land supply (5YHLS), including as the Council suggests an increase since the application was determined. I return to this point below. However, even if I were to accept a significant shortfall in the 5YHLS, I give only moderate weight to the benefits of the provision of these new dwellings in this location. Compared to the great weight I give to the less than substantial harm to the CA, I find that the demonstrated public benefits would not outweigh the harm.
23. The proposed development would therefore cause harm to the character and appearance of the street scene, with particular regard to the lack of preservation of the Goldhanger CA. The proposal would conflict with the LDP Policies S8, D1, D3 and H4. Amongst other matters, these seek for development to respect and enhance character and local context, and make a positive contribution in terms of the historic environment by preserving or enhancing its special character, appearance, setting and streetscape, landscape value, and any features of historic interest. It would also conflict with the need to achieve well-designed places as set by the Framework paragraph 130, and Section 16 on conserving and enhancing the historic environment.

Parking

24. The Maldon District Vehicle Parking Standards Supplementary Planning Document (SPD) (2018) seeks a minimum of 3 spaces per 4+ bedroom dwelling. The appellant suggests that the smallest upstairs room is unlikely to be occupied by an adult of driving age due to its awkward shape. However, they do identify that it meets the Nationally Described Space Standard for a single bedroom. This gives no indication that such a bedroom would not be suitable for an adult. As such, the 2 parking spaces provided per dwelling is a

shortfall, and would result in increased vehicles on the road, thereby having a harmful impact on the free flow of traffic and thus on highway safety.

25. The appellant's appeal evidence includes an amended layout showing options for additional parking spaces. They suggest that these could be agreed via condition, and that there would be no resulting visual impact on the streetscene. However, even were I to accept this amended plan as the basis for my determination, I would not find it to be acceptable. The Maldon District Design Guide SPD (2017) identifies that parking should be minimised in front of dwellings so as to not use up the front garden, and to avoid extensive areas of hardstanding and car dominated frontage. Even with some tandem parking between the dwellings, a revised layout would involve additional parking on part of the turning area, and generate multiple parked cars within the frontage streetscene.
26. I have therefore made my decision on the basis of the same plans as those as before the Council. I find that the proposed development would not allow for sufficient parking provision, with a resulting harmful effect on highway safety. It would thus conflict with the LDP Policies D1 and T2, and the Vehicle Parking Standards SPD, which amongst other matters, seek to provide sufficient safe and secure vehicle parking. It would also conflict with the Framework section 9 regarding the need to provide for appropriate parking.

Planning Balance

27. As noted above, the parties disagree as to whether the Council can demonstrate a current five year housing land supply (5YHLS). They also thus provide differing interpretations as to the implications for the Goldhanger settlement boundary. Where a 5YHLS cannot be demonstrated, relevant policies for the supply of housing are not deemed up-to-date and the Framework paragraph 11d falls to be considered. Paragraph 11d indicates that planning permission should therefore 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 or specific policies in the Framework, including policies relating to designated heritage assets, indicate that development should be restricted.
28. Even if I were to accept a lack of 5YHLS, I have already found above that Section 16 of the Framework relating to heritage assets indicates that development should be restricted. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development as a material consideration outlined at paragraph 11 of the Framework. The development would result in harm to the preservation of the CA.

Other Matters

29. Recreational 'Zones of Influence' cover the whole of the Maldon District for the Essex Estuaries Special Area of Conservation (SAC), the Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar site, and the Crouch and Roach Estuaries SPA and Ramsar site. These are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of these protected sites.

30. To this end, the appellant has made a direct financial payment to the Council towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, and as such the Council has withdrawn its original reason for refusal in this regard. However, as I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether the contribution would adequately mitigate the proposal's effect on the integrity of the protected sites.

Conclusion

31. I have found above that the proposal would not be in a suitable location for housing, and would cause harm to the character of the area and to highway safety. With relation to the CA this would lead to less than substantial harm to the significance of a designated heritage asset. Paragraph 202 of the Framework identifies that less than substantial harm should be weighed against the public benefits of the proposal. I have found above that the scheme's presented public benefits would not outweigh this harm.
32. In conclusion therefore, the scheme conflicts with the development plan as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR