



Appeal Decision

Site visit made on 24 April 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal Ref: APP/X1545/W/24/3341593

Willowbrook Farm, The Street, Little Totham, Essex CM9 8JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr N. Shakespeare against the decision of Maldon District Council.
 - The application ref is FUL/MAL/23/00366.
 - The development proposed is change of use of land to domestic, the stationing of a mobile home to be used as an annexe for family members, the creation of a new access incorporating new gates and fencing to the front and rear of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development used in the banner heading above is taken from the decision notice and the appeal form, since this more accurately describes the development. It is also the description of development on which the Council carried out public consultation and which is acknowledged by the appellant in their statement of case. I have, however, removed reference to the development being retrospective since that is not a description of development. I have also removed reference to Section 73A of the Town and Country Planning Act, since the application form sought planning permission, rather than an amendment to an existing planning permission. I observed during my site visit that the development had been carried out.
3. During the course of the appeal a new National Planning Policy Framework has been published (the Framework). Since the policies of the Framework which are the most relevant to the appeal have not been subject to any substantive changes I am satisfied that no party would be prejudiced by my taking it into account.

Main Issues

4. The main issues are: i) the effects of the proposal on the character and appearance of the area, and; ii) effects on highway safety, with particular regard to visibility from the access onto The Street.

Reasons

Character and Appearance

5. Policy H4 of the Maldon District Local Plan (the DLP) relates to the effective use of land and contains a section which relates specifically to proposals for extensions to residential curtilages into the countryside. It states that they would not normally

be permitted, but gives criteria where small, unobtrusive extensions of residential curtilages which will not adversely affect the character and rural amenities of the site and wider countryside, may be permitted. Its considerations include where there would be a loss of any important landscape, heritage or ecological interests, and where provision is made for suitable landscaping to ensure boundary treatments are of an appropriate rural character and appearance. The supporting text to the policy includes that any new garden boundaries will have to be defined by hedgerows comprising native species, and that panel or close boarded fencing will not be permitted.

6. The Street runs through the central part of Little Totham where there is a relatively dense pattern of development including housing and community buildings of varying size and design set among verdant gardens. Willowbrook Farm lies at the northern extremity of Little Totham and beyond it to the north there is a more disperse pattern of development set among open fields and interspersed by hedgerows and areas of woodland. The transition from Little Totham to the countryside beyond contributes positively to the appreciation of the village's rural landscape setting.
7. The area surrounding the appeal site is distinctly rural in character. The road is typical of a countryside lane, lacking lighting or any pedestrian environment, being located outside the 30mph speed limit of the village and being enclosed primarily by trees and hedgerows. Glimpses through the hedgerow provide views from the road into the open fields beyond and this similarly contributes strongly to the appreciation of the area's rural character.
8. The proposal includes a substantial length of close board timber fencing to the eastern edge of the appeal site, including an area of recessed gates of similar design. By reason of its design, height and length, the boundary has a domestic character and appears in stark contrast with the rural character of the area. It also accentuates the extension of the residential land behind it, which is otherwise difficult to perceive in views from the road. I am not aware of comparable examples nearby, as alleged by the appellant.
9. The fencing is set back from the road and parts of the verge continue to accommodate hedgerows which provide a degree of screening. Nonetheless other parts of the boundary are more exposed or visible in glimpses through the hedgerow, particularly at times of year when there is less foliage. While the verge could accommodate some replacement planting, there is not substantive evidence to demonstrate that any planting would be successful in reducing the visual harm arising from the boundary fencing.
10. For these reasons, the development causes harm to the character and appearance of the area. It adversely affects the character of the site and the wider countryside and, by reason of the fence, the development as a whole does not appear as a small or unobtrusive extension of the residential curtilage, contrary to Policy H4 of the LDP. There would also be conflict with the Framework which states that decisions should ensure developments are sympathetic to local character, including the surrounding built environment and landscape setting.
11. While not referred to in the reasons for refusal, the Council's officer report also refers to conflict with policies S1 and S8 which include consideration of the intrinsic

character and beauty of the countryside and maintaining the rural character of the District. For the reasons given, the proposal would also conflict with those policies.

Highway Safety

12. The access was previously used in association with the agricultural use of the land and would now be used in connection with the annexe. I observed that the annexe does not have vehicular access to the rest of the residential land to the south, and therefore occupants of this part of the site, including their visitors and services, would be entirely reliant on this point of access. Its use would therefore very likely increase as a result of the proposal.
13. This part of The Street is a rural road with a speed limit of 50mph outside the site and there is not substantive evidence relating to visibility from the access. I observed that there is relatively good visibility to the north when emerging from the access, however to the south the visibility is much more limited due to the gentle curve of the road and foliage on the verge. I note the roadside foliage is shown to be within the red line boundary of the appeal site and within the appellant's ownership, having regard to the application form. However, there is not substantive evidence to demonstrate that an appropriate degree of visibility could reasonably be achieved even if the boundary planting were changed. The removal of planting on the verge would also further expose the boundary fencing, and exacerbate the visual effects discussed above. For these reasons, I do not consider the imposition of a condition in this respect would be reasonable.
14. The retention of a residential access with substandard visibility would cause harm to highway safety, for both users of the site and traffic on The Street. While the appellant would be willing to remove the access from the proposal, there is not evidence to demonstrate what an alternative arrangement would look like and it would likely entail additional tracks and hard surfacing across the site. I cannot be satisfied that this would similarly not present adverse effects or amount to a fundamental change to the proposal.
15. For the reasons given the proposal causes harm to highway safety. It conflicts with Policy T2 of the LDP insofar as it relates to sufficient and safe access to service and emergency vehicles, and the Framework insofar as it relates to safe and suitable site access, and where it supports the refusal of development if there would be an unacceptable impact on highway safety.

Other Matters

16. The Council's first reason for refusal relates to whether the annexe would be ancillary to the main house. Notwithstanding the facilities within the annexe, I have determined the appeal on the basis of the description of development, which describes it as an annexe for family members. If the appeal were to be allowed, it would be that development described for which planning permission were granted. As the appeal is being dismissed for other reasons, I have not considered this matter further.
17. The development provides accommodation for the appellant's elderly parent, who benefits from the care and support provided by the proximity to the family, including benefits for healthcare and wellbeing, while also offering some independence. This is an important benefit of the development which weighs in its favour. However, it is not apparent that this is the only available option, or

necessitates the harms identified above. As such I cannot be satisfied that the type of occupier would make the development acceptable in planning terms.

18. Planning Practice Guidance (PPG) is clear that it would rarely be reasonable to impose a condition requiring demolition of a building intended to be permanent, and I consider this would similarly apply to the gates and expanse of fencing here. Neither is it apparent that the circumstances advised by the PPG where a temporary condition may be appropriate would be met here, particularly given the uncertainty as to how long the development may be required for its intended purpose. In addition, I am not satisfied that a temporary permission would be appropriate here, given the harm to highway safety which would exist during that period.
19. The appellant asserts that the tilted balance is engaged given the absence of an up to date local plan, referring to the age of the current development plan. Nonetheless, the Framework is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, and the weight given to policies should accord to their degree of consistency with the Framework. I do not find that the development plan policies referred to above which are most relevant to the appeal are inconsistent with the Framework insofar as they relate to consideration of local character and highway safety. The proposal does not involve the provision of housing, but accommodation in connection with an existing dwelling and for a specific purpose, as described by the appellant. Therefore, I do not find the Council's position on housing land supply would amount to reason for the relevant policies to be considered out of date. On this basis, and in the absence of further evidence on the matter, the provisions of paragraph 11d) of the Framework do not apply to the appeal.
20. The appellant refers to the Council's reliance on windfall sites and the application of restrictive policies for development in the countryside, and refers to other appeal decisions on these matters¹. Nonetheless, as above, this proposal would not provide new housing, and those appeals relate to delivery of large housing schemes and different policies, given they fall under different Councils. As such their circumstances are not comparable to this appeal. Where the proposal may be compliant with other policies in the development plan this is a neutral matter and does not weigh in favour of the development.
21. A grade II listed barn is positioned further south on the site². Given its distance from the development and presence of intervening structures, the proposal would preserve the setting in which it is experienced.

Conclusion

22. For the reasons given, the proposal would conflict with the development plan as a whole and there are not material considerations of sufficient weight, including approaches of the Framework, which indicate that a decision should be made other than in accordance with it. The appeal is therefore dismissed.

C Shearing

¹ APP/N1730/W/17/316135 (Hart District Council) and APP/Z1510/W/20/3265895 (Braintree District Council)

² List Entry Number 1111027

INSPECTOR