
Appeal Decision

Site visit made on 13 May 2014

by Nick Moys BA (Hons) MRTPI

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

Decision date: 29 July 2014

Appeal Ref: APP/X1545/A/14/2214527

**Land to the south of 53 Burnham Road, Latchingdon, Maldon, Essex
CM3 6EY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr G Ferguson (Ian Ferguson & Sons Ltd) against the decision of Maldon District Council.
 - The application Ref OUT/MAL/13/00679, dated 16 July 2013, was refused by notice dated 13 February 2014.
 - The development proposed is described as 'Outline planning permission with all matters reserved for construction of 10 dwellings with associated off-street parking'.
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 10 dwellings and associated off-street parking on land to the south of 53 Burnham Road, Latchingdon, Maldon, Essex CM3 6EY in accordance with the terms of application, Ref OUT/MAL/13/00679, dated 16 July 2013, subject to the conditions listed in schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr G Ferguson against Maldon District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with all matters reserved for determination at a later date. I have therefore treated the submitted development layout (Drawing No 273.01) as being indicative only.
4. The description of the proposed development given on the appeal form and the Council's decision notice refers unnecessarily to the fact that the application is in outline. I have omitted this from the description used in my formal decision above.
5. Since the determination of the planning application to which this appeal relates, the Council has adopted the Maldon District Pre Submission Local Development 2014-2029 for development management purposes. However, the Plan has not yet been subject to examination or formally adopted, and so I can give its provisions little weight at this stage.

6. I have taken into account the Government's Planning Practice Guidance (the Guidance) issued on 6 March 2014 in reaching my decision, but in the light of the facts of the case this does not alter my conclusions.

Main Issues

7. The main issues are: i) whether the proposal would be consistent with the principles of sustainable development, having regard to planning policies relating to the location of new housing in the countryside and to the effects of the development on the character and appearance of the area; and ii) the effect of the proposal on highway safety.

Reasons

8. The appeal site is located on the southern edge of the village of Latchingdon, and currently forms part of a large field under arable cultivation. The site is bounded to the north and south by housing, and to the east by the agricultural land. To the west, on the opposite side of Burnham Road, there are various commercial uses, including a motel, restaurant and indoor bowling centre. Permission has been granted for 4 dwellings on land adjacent to the motel and opposite the appeal site.

Sustainable development

9. The appeal site falls outside the development boundary for Latchingdon, as defined in the Maldon District Replacement Local Plan (2005) (the Local Plan). Its development for housing would be contrary to Policies S2 and H1 of the Local Plan, which seek to prevent new housing outside of development boundaries and to protect the countryside for its own sake.
10. However, as acknowledged by the Council, Policies S2 and H1 cannot be considered to be up-to-date insofar as they relate to the supply of housing, given that the Council cannot currently demonstrate a 5 year supply of housing land. In this situation the Framework indicates that permission for development should be granted unless any adverse impacts of so doing would demonstrably outweigh the benefits, or specific policies in the Framework indicate that development should be restricted.
11. Although outside the defined development boundary, the proposed development would adjoin the existing built up area of the village and would be close to other housing. It would not result therefore in an isolated development in the countryside. The proposed dwellings would also be within easy reach of village services, which include local shops, a school, public house, restaurant, sports fields and indoor recreational facilities. Bus services link the village to larger settlements in the area. Accordingly, the proposal would be consistent with the Framework principle that rural housing should be located where it will maintain or enhance the vitality of rural communities.
12. However, to achieve sustainable development, as defined in paragraphs 6-9 of the Framework, proposals must also contribute towards the protection and enhancement of the natural and built environment. The Council contends that this would not be achieved because the development would erode the open setting of the village and have an unduly urbanising effect on the character of the surrounding area.

13. Although the proposal would inevitably change the appearance of the site and result in some loss of openness to the street scene, a relatively low density scheme is envisaged, which would continue the established line of housing on Burnham Road southwards with well-spaced dwellings set in ample plots. In addition, as shown on the appellant's indicative site layout, the proposed dwellings would be positioned well back from the road behind a large green sward, and generous landscaping would be provided to the site frontage and other boundaries. These features would give the development an open and verdant quality that would relate well to the semi-rural character of the area, and provide an appropriate transition between the more built up parts of the village to the north and the looser pattern of development to the south.
14. Moreover, being bounded on three sides by existing development, the proposal would have only a limited impact on the wider setting of the village and would not appear as a significant outward extension of development into the open countryside. Some of the proposed dwellings would be visible across open fields when approaching the village from the east on the B1018, but would be seen against the backdrop of the existing development and would not be visually intrusive. Proposed landscaping to the eastern boundary would further mitigate such effects.
15. Accordingly, I find that the proposed development would not cause unacceptable harm to the character and appearance of the area. The proposal would therefore not conflict with Local Plan Policies CC6 and BE1, which seek to ensure that the design of new development is compatible with the character of its surroundings and to avoid harm to the character and appearance of rural landscapes. The proposal would also be consistent with the objective of the Framework, as set out in paragraph 58, of ensuring that development responds to local character and reflects the identity of its surroundings.
16. In addition, the scheme would add provide additional housing in a location with good access to a range of local services and facilities. It would also make efficient use of land, and make a positive, albeit modest, contribution towards reducing the current deficit of housing in the area. The additional construction activity facilitated would also provide some economic benefits. Taking all of these matters into account, I conclude that the proposal would be consistent with the principles of sustainable development.

Highway safety

17. The Council alleges that the proposal would result in the loss of sight lines across the sharp bend in the Burnham Road adjacent to the southern boundary of the site where there is a recent history of accidents. However, due to the shape and configuration of the development site, the proposed dwellings would be set well back from the road at this point, and would not obstruct forward visibility for approaching traffic to any material extent. Moreover, the proposed visibility splay from the southern access point would extend up to the bend, and would require existing roadside hedging to be set further back. Given that this hedging does not fall within the highway and could currently be allowed to grow taller, and thus obstruct forward visibility, I consider that the proposal would represent an improvement to the current position in terms of forward visibility.
18. I conclude therefore that the proposal would not have a detrimental effect on highway safety as a result of loss of sight lines. Accordingly there would be no

conflict with Policy T2 of the Local Plan, which requires new developments to provide safe access to the highway network and appropriate off-site improvements.

Other Matters

19. The Council assert the need for a planning obligation to secure affordable housing on the site in accordance with Policy H9 of the Local Plan, notwithstanding the absence of a reason for refusal on the decision notice identifying this conflict with the development plan. The appellant rejects this position, citing the absence of a reason for refusal as the basis for their decision not to submit such a document.
20. The absence of a reason for refusal is not, of itself, a substantive basis for concluding that there is no justification for such an affordable housing contribution. Indeed, the assertion of the Council, the drafting of the local plan policy and the near universal national demand for affordable housing, all point to its likely requirement in the District. However, aside from a reference to the 2013 SHMA (only cited in respect of dwelling size and not specifically social need) the Council provide no evidence of detailed, up-to-date need for such housing in the district. Moreover, reliance on Policy H9 alone in this instance, given the age of the Local Plan, must be qualified, so limiting the weight to be afforded to it in this particular case. In these circumstances, although there may be a latent un-quantified need for affordable housing in the District, given the paucity of evidence presented to substantiate a requirement for such a contribution in accordance with the criteria set out in paragraph 204 the Framework, I conclude the absence of an undertaking securing such contributions does not materially alter my view that the appeal should be allowed.
21. Subsequent to the determination of the planning application, Essex County Council has confirmed that a financial contribution towards local education provision is no longer being sought.
22. In addition to the matters considered above, I note that concerns have been raised locally in respect of flooding. However, in the absence of any substantive evidence to indicate that the development could not be properly drained or would be likely to cause flooding problems elsewhere, I am satisfied that this matter can be addressed satisfactorily by a planning condition requiring drainage details to be agreed.

Conditions

23. I have considered the conditions suggested by the Council in the light of the advice set out in the Guidance, and amended them where necessary. In addition to the standard outline conditions, I agree that conditions requiring details of boundary treatments, landscaping and site levels to be agreed are reasonable and necessary in the interests of the satisfactory appearance of the development. A condition requiring drainage details to be agreed is required in order to minimise the possibility of flooding. Visibility splays from the proposed accesses should be secured in the interests of highway safety.
24. Whilst noting the comments of the appellant and recognising the small scale of the proposal, I consider that the suggested travel planning condition is necessary and reasonable. The relatively modest measures required would be

proportionate to the development proposed and would support the objective of national planning policy to actively manage patterns of growth in order to make fullest use of public transport, walking and cycling.

25. No local planning policies relating to housing size mix have been drawn to my attention, and on this basis I do not consider that a condition is necessary in this respect in order make the development acceptable. Conditions relating external materials and the construction of the proposed accesses relate to elements of the proposal that are reserved for later consideration and are not therefore necessary at this stage.

Conclusion

26. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Nick Moys

INSPECTOR

Richborough Estates

Schedule of conditions

- 1) Details of the appearance, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of the development details of the siting, height, design and materials of the treatment of all boundaries, including gates, fences, walls, railing and piers shall be submitted to and approved in writing by the local planning authority. The boundary treatments approved shall be constructed prior to the first occupation of the dwellings to which they relate and retained thereafter.
- 5) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include the layout of hard landscaped areas, with the materials and finishes to be used; and details of the soft landscape works, including a schedule of plants, noting species, stock size, proposed numbers/densities and details of the scheme's implantation and maintenance programme.

The hard landscape works shall be carried out as approved prior to the first occupation of the development. All soft landscape works shall be carried out as approved in the first available planting season (October to March) following the commencement of the development.

If within a period of five years from the date of the planting of any tree or plant that tree or plant, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.

- 6) No development shall take place until detailed drawings showing the finished ground and finished floor levels of the development in relation to the levels of the surrounding area have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of the proposed means of surface water drainage have been submitted to and approved in writing by the local planning authority. All drainage works shall be constructed in accordance with the approved details and completed prior to the first occupation of the dwellings hereby permitted.
- 8) Prior to the first occupation of the dwellings hereby permitted, each access shall be provided with clear ground visibility splays measuring 2.4 metres by 70 metres as measured from and along the nearside

carriageway and such splays shall be retained free from any obstruction thereafter.

- 9) No development shall take place until details of a Residential Travel Information Pack for future residents has been submitted to and approved in writing by the local planning authority. The Pack shall include the six one-day travel vouchers for use with a local travel operator, and shall be provided, as approved, on the first occupation of the dwellings hereby permitted.

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