
Appeal Decision

Site visit made on 19 February 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2019

Appeal Ref: APP/J1535/W/18/3212213

Maltings Farm, Maltings Hill, Church Road, Moreton, Ongar, Essex CM5 0JY

- 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 Ray B Lewy against the decision of Epping Forest District Council.
 - The application Ref EPF/0181/18, dated 19 January 2018, was refused by notice dated 4 April 2018.
 - The development proposed is removal of outbuildings and existing dwelling. Erection of three detached dwellings, formation of new highway access and ancillary works.
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Decision

1. The appeal is allowed and outline planning permission is granted for removal of outbuildings and existing dwelling, erection of three detached dwellings, formation of new highway access and ancillary works at Maltings Farm, Maltings Hill, Church Road, Moreton, Ongar, Essex CM5 0JY. The permission is granted in accordance with the terms of the application Ref EPF/0181/18, dated 19 January 2018, subject to the conditions included in the Schedule at Annexe A.

Preliminary Matters

2. The application is for outline permission with all matters reserved for subsequent approval. However, a plan accompanying the application indicates the built form reflecting the description of development, although this is a possible rather than definitive layout and design. As the Council had regard to this indicative plan in determining the application, I have dealt with the appeal on the same basis.

Main Issue

3. The main issue is whether occupants of the proposed dwellings would have adequate access to facilities, employment and public transport without undue reliance on private vehicle use.

Reasons

4. The appeal site, Maltings Farm, comprises an area of land with a frontage on Maltings Hill and includes an unoccupied two storey dwelling and related
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- outbuildings in a rural setting located outside the village of Moreton, which lies to the north east. The site is within the Green Belt.
5. Policy CP1 of the Local Plan¹ concerns sustainable development, including the avoidance of commuting arising from development, especially where it is dependent on private car use. Policy CP3 requires new development to be accessible by sustainable means of transport, while Policy ST2 similarly requires the design of new development to support sustainable transport modes.
 6. In its appeal statement the Council also refers to policies from its Submission Version Local Plan, which is at examination stage. The National Planning Policy Framework (the Framework) indicates that weight may be given to relevant policies in emerging plans depending on a number of factors (paragraph 48). In this case, I accept that the plan is at a relatively advanced stage in its preparation. However, it is unclear whether there are unresolved objections to relevant policies and, if so, how significant these are. For this reason, I find that only limited weight can be given to these emerging policies for the purposes of this appeal.
 7. The policies referred to from the adopted plan are broadly consistent with the Framework, particularly with regard to objectives to promote sustainable travel. However, while the Framework stresses the importance of provision of sustainable transport modes and travel choice, it also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making (paragraph 103). With regard to housing in rural areas, the Framework states that policies and decisions should avoid the development of isolated homes in the countryside, unless particular circumstances apply (paragraph 79).
 8. The proposal involves replacement of the existing dwelling and outbuildings with three dwellings, providing a net additional two dwellings on the site. The main parties refer to the fact that the site is some 900 metres from the village centre of Moreton, while the nearest bus stop is a similar distance away. This stop accommodates two services that run twice daily on weekdays. No further evidence is provided with regard to facilities or services that may be available in Moreton, the area that that bus services cover or the travel times involved.
 9. Immediately adjacent to the appeal site on Maltings Hill there is a row of six cottages, while behind the site two new dwellings were under construction at the time of the inspection. Given these existing dwellings and the site's proximity to Moreton, it cannot reasonably be said to be an isolated location in the terms of the Framework. As already noted, the Framework recognises that maximising sustainable transport solutions will vary between urban and rural areas. It is to be expected, therefore, that some travel by private vehicle is likely in rural areas such as this. However, in this case there is also some opportunity to use public transport given the available bus services that are not so distant from the appeal site to be inaccessible. In addition, due to the existing dwellings adjacent to the appeal site, the net addition of two dwellings will not significantly add to the journeys that already occur from this location.

¹ Epping Forest District Local Plan 1998, Alterations 2006

In these circumstances, the fact that I have no substantive evidence about the nearest facilities, employment and other services should not count against the proposal.

10. Therefore, taking these findings as a whole, I conclude that the occupants of the proposed dwellings would have adequate access to facilities, employment and public transport without undue reliance on private vehicle use. As such, there is no conflict with Policies CP1, CP3 or ST2 of the Local Plan, or with relevant guidance in the Framework, all as described above.

Other Matters

11. I have had regard to a number of other matters raised by interested parties. While the existing dwelling and outbuildings will be removed, as a whole they are of limited architectural merit. The detailed design and appearance of the dwellings will be considered at the reserved matters stage. The current plans are indicative in terms of the built form, layout and scale of the three dwellings. However, given their siting within an existing residential curtilage and between existing dwellings and those under construction, there is no basis to suggest harm will occur to the Green Belt's openness in this location.
12. Access to the site is a reserved matter, although the indicative plans show this positioned away from the bend in the road in a not dissimilar position to the access to the nearest existing cottage. There is no evidence to suggest that a satisfactory electricity supply cannot be provided to the new dwellings or that the short-term nature of construction would affect neighbouring occupiers' health.
13. I acknowledge the concerns raised about the accurate representation of neighbouring properties on the submitted plans. However, any potential effects on neighbouring properties will be considered at reserved matters stage in relation the layout and scale of the dwellings. While I acknowledge neighbouring residents' concerns that this proposal might lead to further development, there is no basis to suggest this will occur and, in any case, any further proposals would need to be considered on their merits.
14. The officer's report, which has been provided to me, indicates that the Council cannot identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework (paragraph 73). This is also referred to by the appellant and is, therefore, common ground between the main parties, although the extent of the shortfall is not referred to. Consequently, footnote 7 to paragraph 11d) requires that permission should be granted, subject to two exceptions. However, given the above findings with regard to the main issue, there is no need to weigh this matter in the balance as the appeal succeeds irrespective of it. Nonetheless, I give significant weight to the fact that the two net additional dwellings will make a small but important contribution to housing supply in circumstances where there is an acknowledged shortfall.
15. Therefore, while I have had regard to these other matters, for the reasons given they do not lead me to reach a different overall conclusion. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

Conditions

16. Of the Council's suggested conditions, I have imposed the standard reserved matters and commencement conditions. The suggested landscaping conditions are unnecessary at this stage as this is a reserved matter.
17. I agree that wheel washing facilities should be provided to avoid deposits on the highway. However, the Framework indicates that conditions which are required to be discharged before development commences should be avoided, unless there is clear justification (paragraph 55). I see no such justification in this case for approval of the facilities before development begins given the standard nature of such facilities and the limited extent of development involved. I have, therefore, amended the condition accordingly.
18. A condition to ensure foul and surface water is disposed of appropriately is necessary in the interests of public health and to avoid flooding. For the same reasons already given, I have amended the proposed condition as there is no justification for approval before development begins. I disagree, however, that a separate condition is needed requiring a flood risk assessment as the reason given for this is to address risks associated with surface water run-off, which the imposed condition will address.
19. Working hours should be controlled, as suggested, to protect the living conditions of neighbouring residents. I agree that electric vehicle charging points should be required by condition in support of national objectives concerning air quality.
20. While I accept the importance of water efficiency measures where necessary, the suggested condition to require lower standards of water use relies on Policy DM19 of the Submission Version Plan, which provides the justification for the approach proposed. Given my earlier findings that policies from this plan can only be given limited weight because of uncertainty about unresolved objections, it would not be reasonable to impose the suggested condition in this case.
21. Given the previous uses of the site, I agree that a condition is necessary to require assessment of contamination risks and remediation, where necessary. As such, there is clear justification for this to be discharged before development commences. I have, however, combined the Council's suggested conditions into a single condition that reflects a more proportionate approach relative to the scale of development. As this is a pre-commencement condition, the appellant's agreement to it was sought and has been given². Accordingly, I have imposed the condition.
22. Finally, the Council indicates that the land adjacent to the site has been identified as being of wildlife significance and, as the site is now overgrown, a condition requiring a habitat survey is necessary. I agree for the reasons given that this is necessary and I have added to this the requirement for the survey and any other related reports to include mitigation measures if necessary and for these to be implemented as approved. As the timing means that this amounts to a pre-commencement condition, the appellant's agreement was sought and has been given. Accordingly, I have imposed the condition.

² In accordance with The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place 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 take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Wheel washing facilities for vehicles leaving the site during construction works shall be installed at the commencement of the development hereby permitted. The facilities shall be used to clean vehicles immediately before leaving the site.
- 5) None of the dwellings hereby permitted shall be occupied until foul and surface water disposal works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays, unless otherwise agreed in writing by the local planning authority.
- 7) An electric vehicle charging point shall be provided for each of the approved dwellings prior to first occupation.
- 8) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in

writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale, and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works together with any necessary monitoring and maintenance programme shall be submitted to and approved in writing by the local planning authority.

- 9) Concurrent with the submission of reserved matters and prior to any clearance of the site, a Phase 1 Habitat Survey, including any further surveys recommended and, where necessary, mitigation measures shall be submitted to and approved in writing by the local planning authority. Any necessary mitigation measures shall be implemented in accordance with the approved details.