



The Planning Inspectorate

APPENDIX A

Zone 3P
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0303 444 5290
Customer Services:
0303 444 5000
Email: CT1@pins.gsi.gov.uk

www.gov.uk/planning-inspectorate

Your Ref: FUL/MAL/15/00755
Our Ref: APP/X1545/W/16/3148231

Admin Account
Maldon District Council
Planning Services
Council Offices
Princes Road
Maldon
Essex
CM9 5DL

06 July 2016

Dear Sir / Madam,

Town and Country Planning Act 1990
Appeal by Mr and Mrs Peter Bebbington
Site Address: 1 Pitt Cottages, Hall Road, Asheldham, SOUTHMINSTER, CM0 7EA

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Neil Devereux

Neil Devereux

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 14 June 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 6 July 2016

Appeal Ref: APP/X1545/W/16/3148231

Land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA

- 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 and Mrs Peter Bebbington against the decision of Maldon District Council.
 - The application Ref FUL/MAL/15/00755, dated 2 July 2015, was refused by notice dated 23 October 2015.
 - The development is proposed is the construction of two, 3 bedroom bungalows.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of two, 3 bedroom bungalows at land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA in accordance with the terms of the application, Ref FUL/MAL/15/00755, dated 2 July 2015, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the site and the surrounding area;
 - whether the proposal would result in sustainable travel patterns having regard to the National Planning Policy Framework (the Framework).

Reasons

3. The reasons for refusal refer to Policies S1, S8, D1 and H4 of the emerging Maldon District Local Development Plan (LDP). The Council maintains that significant weight should be attached to the LDP. However, in reviewing the interim findings of the Inspector initially appointed to examine the LDP, the Secretary of State for Communities and Local Government did not examine these policies and, therefore, has not reached a judgement on the soundness of the Plan as a whole. Moreover, notwithstanding that the Policies S1 and S8 were considered in the hearing sessions when the Plan was examined initially, in a letter dated 7 April 2016, the Inspector now appointed to examine the LDP confirmed his intention explore further some of the questions debated in the previous hearings. Nor have I been made aware of the extent of any unresolved objections to the policies cited. Having regard to the advice at Framework paragraph 216 therefore, little weight can be accorded to these policies.
-

Character and Appearance

4. The appeal site is located within a small group of dwellings at the junction of Hall Road and Southminster Road. It adjoins the two storey semi-detached dwelling at 1 Pitt Cottages and appears to be used for storage and recreational purposes associated with the occupation of that property. The land is enclosed on all sides by fencing and planting and has a domestic character. Therefore, whilst it falls outside of the settlement boundary defined in the Maldon District Replacement Local Plan (RLP), it has a greater affinity with the adjacent residential development than with the countryside beyond.
5. The Council considers that the site contains 'some high value landscape features' whose value would be diminished as a result of the proposal. However these features have not been identified in the Council's submissions. Whilst there are a small number of trees within the body of the site, there is nothing to suggest that they are of particular value. They are largely screened from external views by the existing boundary planting and, therefore, contribute little to the wider setting of the site. The boundary planting does contribute to the street scene in views along Southminster Road and Hall Road. However, it would be retained in the appeal proposal.
6. The boundary planting would also help to filter external views of the proposed dwellings. The buildings would be single storey in height and reasonably well spaced with opportunities for additional planting along the boundary between the two plots. As such, whilst the proposal would consolidate the existing pattern of built development, it would not be intrusive in the wider rural setting. There is no substantive evidence to suggest that the layout or appearance of the proposed dwellings would be objectionable. Consequently, I consider that the proposal would not have a harmful effect on the character and appearance of the site or the surrounding area.
7. The proposal would not, therefore, conflict with RLP Policy BE1 to the extent that it requires proposals to be compatible with their surroundings. Nor would it be out of accord with Policy CC6 which seeks to protect and enhance the natural beauty, tranquillity, amenity and traditional quality of the landscape or Policy S2 which seeks to protect the countryside for its own sake and for its landscape value.

Sustainable Travel

8. There is a limited range of facilities and services in the immediate vicinity of the appeal site. However, the appellant has drawn my attention to a farm shop within 0.25 miles and community facilities including the Asheldham Centre (0.3 miles) and Dengie Village Hall (1.3 miles) and relatively sizeable local businesses. A wider range of facilities is available in Southminster around 1.6 miles away. Whilst the routes to these facilities are unlit and footpaths are intermittent, the roads are lightly trafficked. They would, therefore, be accessible by bicycle, even if walking is unlikely to be a preferred option. There is also a bus route a short distance from the site with services to Southminster and Burnham on Crouch. The service runs fairly frequently at peak times on weekdays, although it is less frequent at other times. The Dengie DART demand responsive bus service is also available in the area. Nevertheless, future occupiers of the proposed dwellings would be likely to rely on trips by private car to meet the many of their day to day needs.

9. Whilst paragraph 35 of the Framework seeks to give priority to pedestrian, cycle and public transport movements, paragraph 29 recognises that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas. The Council has not cited any development plan policies in support of its position on this issue.
10. I also note the appellant's evidence that eight planning permissions have been granted recently on application and at one at appeal¹ for new dwellings in Asheldham. Having regard to the rural nature of the area, and the approach to the sustainability of the location taken by other decision makers, I consider that the appeal proposal would result in reasonably sustainable travel patterns and accord with Framework paragraphs 29 and 35.

Other Matters

11. Whilst supporting the proposal, the Parish Council has expressed concern regarding the proposed access. However, I note that the local highway authority advised that it would not object to the proposal provided that it includes a 6m wide vehicular access. A revised plan (ref 1043/03 Rev B), which was considered by the local planning authority when it determined the application, shows such an access. I see no reason disagree with the local highway authority's approach.

Planning Balance

12. Framework paragraphs 7 and 8 require the three roles of sustainability to be considered together. The construction of the development would bring minor, short term, economic benefits. I note that the housing land supply position in the District is a matter of dispute between the appellant and the Council. Nevertheless, the provision of two dwellings would make a modest positive contribution to the social dimension of sustainability, irrespective of the housing land supply situation. Therefore, it merits a measure of weight in support of the proposal in accordance with Framework paragraph 47. Future occupiers could also be expected to make a very limited contribution to the viability of local facilities and services.
13. With regard to the environmental role, I have found that the proposal would not be harmful to the character and appearance of the area and would result in reasonably sustainable travel patterns. Consequently, even if a five year supply of housing land currently exists, I find that the proposal would amount to sustainable development and so is supported by the presumption in favour of sustainable development set out in Framework paragraph 14.

Conditions

14. The Council has suggested a list of 10 conditions. With amendments, I find that they meet the tests set out in the Planning Practice Guidance. A condition specifying the approved plans is necessary in the interests of certainty. I have omitted drawing number 1043/10 as it is a contextual plan. A condition requiring samples of the external materials to be used in the proposed building to be approved and implemented is necessary to safeguard the character and appearance of the area. However, having regard to the advice at paragraph Reference ID: 21a-007-20140306 of the PPG, I consider that such approval does not need to be obtained prior to commencement of the development.

¹ Appeal ref: APP/X1545/A/14/2224528

Conditions to secure the approval and implementation of schemes of landscaping and boundary enclosure are also necessary in the interests of the character and appearance of the area. Again, there is nothing to demonstrate that approval of the boundary enclosure needs to be obtained prior to commencement.

15. Conditions for the approval and implementation of schemes of surface and foul drainage are required in the interests of public health. A condition requiring the approved access to be provided prior to occupation of the dwellings is required to ensure highway safety. The site is located within an area of known archaeological interest. Therefore, conditions to secure the provision and implementation of an archaeological investigation and a written scheme of investigation are necessary in order to safeguard and record the archaeological resource.

Conclusion

16. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
Appeal Ref: APP/X1545/W/16/3148231
Land adjacent to 1 Pitt Cottages, Hall Road, Asheldham, Essex CM0 7EA**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1043/01; 1043/02; 1043/04; 1043/03 Rev B; 1043/05; 1043/06; 1043/07; 1043/08 and 1043/09.
- 3) Prior to their use within the development hereby permitted samples of all materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out using the materials and details as approved.
- 4) No works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the local planning authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the local planning authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its

-
- replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.
- 5) Prior to their use within the development hereby permitted details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the occupation of the development to which it relates and be retained as such thereafter.
 - 6) Prior to the commencement of the development details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
 - 7) Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
 - 8) Prior to the occupation of any dwelling hereby permitted the principal access to serve the development shall be constructed in accordance with the details as shown on the approved plan 1043/03B.
 - 9) No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents, the owner of the site or successors in title has submitted an archaeological assessment by an accredited archaeological consultant to establish the archaeological significance of the site. Such archaeological assessment shall be approved by the local planning authority and will inform the implementation of a programme of archaeological work. The development shall be carried out in a manner that accommodates such approved programme of archaeological work.
 - 10) No development including any site clearance or groundworks of any kind shall take place within the site until the applicant or their agents, the owner of the site or successors in title has secured the implementation of a programme of archaeological work from an accredited archaeological contractor in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be carried out in a manner that accommodates the approved programme of archaeological work.
-