The Planning Inspectorate

Appeal Decision

Site visit made on 6 July 2016

by Claire Victory BA (Hons) BPl MRTPI

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

Decision date: 2 December 2016

Appeal Ref: APP/X1545/W/16/3147983
Land north of Beckingham Road, Tolleshunt D'Arcy, Essex CM9 8TU

- 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 Robinson and Hall LLP against the decision of Maldon District Council.
- The application Ref OUT/MAL/15/01061, dated 11 September 2015, was refused by notice dated 4 January 2016.
- The development proposed is outline planning permission with all matters reserved, for the construction of 10 dwellings with associated off-street parking.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Robinson and Hall LLP against Maldon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was made in outline with all matters reserved for future consideration, as indicated in the application description. A proposed layout has been provided[1] and provides a useful guide as to how the scheme might be implemented. I have determined the appeal on that basis.

Main Issues

4. The main issues in the appeal are:

    - The effect of the proposal on the character and appearance of the area; and
    - Whether the proposal should make provision for affordable housing.

Reasons

Background

5. At the time of the application the Council asserted that it was able to demonstrate a deliverable five year housing land supply, in accordance with the National Planning Policy Framework (the Framework). In September 2016 it

[1] Drawing 1302 01

provided a Housing Land Supply update which maintains that it is able to provide 6 years housing land supply, based on an OAN target of 310 dwellings per annum set out in its draft Local Development Plan (LDP).

6. In a number of appeals dating from June 2015 to January 2016 it was concluded that the Council could not demonstrate a five year housing supply, including cases where evidence has been tested by Hearing and Inquiry. However, these decisions would have been based on the evidence available at the time which would not have included the update of September 2016. It is also not apparent that this information was taken into account in the decision at Maldon Road, Goldhanger[2].

7. Public hearings for the LDP on housing and infrastructure took place in early 2015. After a recommendation by the Inspector for the plan to be withdrawn, and a review by the Secretary of State, the examination is set to resume in the near future. Therefore the OAN has not been tested and agreed through the statutory plan process and no definitive five year housing land supply figure is available. Furthermore, the strategic site allocations within the LDP have also yet to be tested. Nevertheless, the Inspector appointed to recommence the examination into the LDP has not requested any further information to be provided on housing need or the objectively assessed need for housing set out in the LDP[3].

8. The appellant continues to question whether there is a five year housing land supply in the District. Although doubt is cast on some of the assumptions made, no alternative calculation is presented and the Council's figures indicate that the threshold is exceeded by a reasonable margin. This matter will no doubt be examined in detail as the LDP progresses in a way that cannot be replicated in the course of determining individual appeals such as this. However, the update provides the most comprehensive assessment available at present and so, for the purposes of this decision, and at this time, I consider that a five year housing land supply has been demonstrated. Policies for the supply of housing land are therefore not out of date.

Character and appearance

9. The appeal site lies outside, but directly abutting the settlement of Tolleshunt D'Arcy. LP Policy S1 of the Maldon District Replacement Local Plan (LP) (2005) states that new development will be directed to those sites within defined development boundaries. The proposal would be contrary to that policy and, in broad terms, would be at odds with the strategy for the location of new development and would fail to recognise the intrinsic character and beauty of the countryside, by replacing undeveloped land with extensive built development.

10. The site forms part of a larger arable field on the edge of Tolleshunt D'Arcy, with open land to the north and west. A public footpath denotes the northern boundary. To the east the site is separated from the rear gardens of residential properties at Harvesters and the side boundary of No 32 Beckingham Road by a line of mature trees and shrubs. The position of these dwellings is such that only three properties are close to the boundary with the appeal site and thus the landscaping provides a soft edge to the village.

[2] APP/X1545/W/16/3147228
[3] Inspector letter to Maldon District Council, 7 April 2016

11. The scale and layout of the proposed dwellings are reserved for future consideration. Notwithstanding this, and based on the indicative layout, a development of 10 dwellings would be likely to be visible on the approach to the village along Beckingham Road. This is due to the expanse of open field. It is also likely to be apparent in wider views from the adjacent public footpath.

12. The extent of a landscaped buffer along the northern, western and southern boundaries of the site could be agreed by condition as part of the reserved matters. Hard landscaping treatments such as wooden fences to enclose the proposed residential gardens would create an inappropriate hard edge to the built up area. Whilst there may be scope to use other forms of enclosure I am not satisfied that in practice, there would necessarily be a suitable transition between the village and the surrounding open countryside.

13. Taking all of the above into account, I conclude that the proposal would harm the character and appearance of the surrounding area. Thus it would conflict with saved LP Policies S1, BE1, CC6, and CC7. These policies require development, amongst other things, to be focussed within existing settlements, to conserve and enhance the natural environment, and to respect the local character and context.

Affordable Housing

14. The Council's second reason for refusal referred to Policy H1 of the pre-submission LDP, which requires affordable housing to be provided on sites of five units or more, or greater than 0.5 hectares in area. However, this is not a formally adopted policy of the development plan, and as the examination process has not yet concluded, I can attach only limited weight to it. The Council's Statement also referred to LP Policy H9, but this does not have a requirement for affordable housing to be provided on sites of 10 units or less, and thus the proposal would comply with it.

15. Further to the above, and since the appeal was submitted, a Court of Appeal judgement[4] has confirmed that the Written Ministerial Statement of 28 November 2014 and subsequent alterations to the Planning Practice Guidance (PPG) on planning obligations for affordable housing should once again be considered as national planning policy. These define the specific circumstances where contributions for affordable housing should not be sought from small scale and self-build development. Accordingly, the absence of affordable housing provision in the appeal scheme would not be contrary to national policy[5].

16. The Council considers that the appeal proposal has the potential at the detailed stage to have a maximum combined gross floorspace greater than 1,000 sq m, which would trigger a requirement for affordable housing under paragraph 31 of the PPG. This view is based on the amount of parking shown on the site plan and the Government's nationally described space standard. However the Council would have control over the scale and appearance of the dwellings as these matters are reserved for future consideration, and as such it would be possible to design properties so that the 1,000 sq m threshold would not be exceeded, and to control this through the use of a condition.

[4] Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441
[5] Paragraph 031 Reference ID:23b-031-20160519 – Planning Practice Guidance

17. Having regard to all of the above, I conclude that there is no requirement for the proposal to provide affordable housing.

Conclusion

18. The proposal would extend beyond the settlement boundary and would cause material harm to the character and appearance of the area. Taken together, none of the other considerations put forward by the appellant, including the provision of housing, the relatively sustainable location of the site in the context of the rural nature of the District, and the temporary and longer term economic benefits from construction activity and support for village services, outweigh the harm that would occur or the conflict with the development plan.

19. For the above reasons I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR