

Appeal Decision

Site visit made on 20 December 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: 19 January 2017

Appeal Ref: APP/X1545/W/16/3155011

Land between Heath House and Little Braxted House, Braxted Road, Little Braxted, Essex CM8 3JY

- 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 M Harvey against the decision of Maldon District Council.
 - The application Ref OUT/MAL/16/00048, dated 19 January 2016, was refused by notice dated 18 May 2016.
 - The development proposed is an outline application for a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. All matters except access and layout were reserved for further approval.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would be sustainably located having regard to national policies;
 - the effect of the proposal on bio-diversity.

Reasons

4. The reasons for refusal refer to Policies D1, T2 and N2 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.
 5. Moreover, notwithstanding that some of the LDP policies 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 to 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
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policies cited. Having regard to the advice at Framework paragraph 216 therefore, little weight can be accorded to these policies.

Character and Appearance

6. The site falls outside of the settlement boundaries defined in the Maldon District Replacement Local Plan 2005 (RLP) where Policy S2 seeks to protect the countryside for its own sake. RLP Policy BE1 requires development to be compatible with its surroundings in terms of visual impact and its relationship to important landscape, amongst other things. Policy CC6 of the RLP seeks to protect the natural beauty, tranquillity, amenity and traditional quality of the landscape and presumes against development which would harm the landscape character of the locality. The site is also within a Special Landscape Area where Policy CC7 presumes against development unless its location, siting, design, materials and landscaping conserve or restore the character of the area.
7. The appeal site comprises undeveloped land on the north side of Braxted Road. The open and grassed main body of the site is bounded by fairly broad blocks of tree planting. It is, therefore, typical of the patchwork of fields enclosed by woodland which make up the Totham Wooded Farmland character area as defined in the Maldon District Landscape Character Assessment. Notwithstanding the belt of planting along Braxted Road, the site can be seen in public views from the road.
8. There are properties to the east (Little Braxted House) and west (Heath House) of the site. However, they are very widely spaced to the point where Little Braxted House appears isolated and both properties sit within generous, well planted plots. As such, they appear as exceptions to the predominantly undeveloped, wooded character of the land on this side of the road. The land to the north of the site is characterised by a mix of grass and woodland.
9. The rear gardens and boundary planting of the loosely spaced dwellings accessed from Maclarens are visible opposite the site on the south side of Braxted Road. Nevertheless, the dwellings are set well back from the road and, whilst they give the south side of Braxted Road a more suburban character, they do not intrude into the rural setting of the appeal site.
10. The appeal site can be distinguished from the dwelling on land associated with Heath House which was allowed on appeal¹. Development on the south side of Braxted Road is more consolidated and, as the Inspector in that appeal found, that site is surrounded by other dwellings. The same cannot be said of the current appeal site. Moreover, the previous appeal site had formerly been used as part of the garden for Heath House, whereas there is no indication of previous use or development at the current appeal site to differentiate it from the adjoining countryside. Consequently, I consider that it occupies a countryside location and contributes positively to the landscape character of the area.
11. The proposed detached dwelling would be located at the western end of the site. Although the scale of the development is reserved for further approval, the appellant has indicated that the dwelling would be two storeys with a ridge height of 8-10m. A private drive at the location of an existing field gate would

¹ Appeal reference APP/X1545/A/11/2156660

provide access from Braxted Road with 2m x 33m visibility splays in both directions.

12. I recognise that the dwelling would be fairly well screened in most views from Braxted Road. However, the proposed drive and the, at least partial, removal of the existing hedge to create the visibility splays would formalise and make more prominent the existing unobtrusive site access. This would be at odds with the rural street scene. Notwithstanding the efforts made to retain as many trees as possible along the access, the creation of the private drive would, inevitably, increase the visibility from the road of that part of the site where the dwelling would be positioned. The erection of a substantial building, together with the creation of the private drive, parking and the introduction of other domestic paraphernalia would have an urbanising effect on the tranquil and undeveloped character of the landscape. The locally distinctive very wide spacing of the dwellings along this section of Braxted Road would be reduced and its woodland character undermined.
13. Consequently, I find that the proposal would have a harmful effect on the character and appearance of the area. As such, it would conflict with RLP Policies S2, BE1, CC6 and CC7. The appellant has drawn my attention to the conflict between Policy CC7 and the National Planning Policy Framework (the Framework) which has been recognised in appeal decisions by the Secretary of State². Whilst that policy can be accorded minimal weight, the broad thrust of Policy CC6, and the relevant part of Policy BE1, are supported by Framework paragraph 17 insofar as it recognises the intrinsic character and natural beauty of the countryside.
14. The third reason for refusal refers to RLP Policy T2. Whilst this policy requires road layouts to provide a pleasant environment, it is primarily concerned with the provision of transport infrastructure and adds little to my consideration of this issue.

Whether Sustainably Located?

15. I recognise that the Inspector in the appeal for the land associated with Heath House found that site to be accessible to community facilities and employment.
16. However, the current appeal site is located further away from those facilities, which do not include a school. The nearest facility is a public house, some 0.5km away. The route to the public house and the other facilities, services and bus stops, which are mainly located more than 1km away in Wickham Bishops, is along roads which, for the most part, are unlit and have no footpaths. Consequently, the route would not be attractive for trips on foot, particularly during the times of darkness or inclement weather. Although it would be more convenient for cycling, I consider it likely that most day to day trips from the site would be by private car. Framework paragraphs 34 and 35 seek to locate development to give priority to pedestrian, cycle and public transport movements. As such, they place somewhat more focus on the use of sustainable travel modes than the requirements of the now superseded Planning Policy Statement 3: Housing considered in earlier appeal decision. Therefore, I find that the appeal site does not perform well when considered against up to date national planning policy for sustainably located development.

² Appeal references APP/X1545/A/12/2174982 and 2179484

Bio-diversity

17. Policy CC5 of the RLP presumes against development which would be likely to harm features of nature conservation interest unless adequate mitigation measures are put in place or the importance of the development outweighs the value of the features. The Council's Tree Officer and Countryside and Coast Officer consider that the cleared area of the site supports a wide selection of wild flowers, including ancient woodland species, and have expressed concern regarding the potential for the proposal to impact harmfully on relationship between that habitat and the nearby woodland. The woodland is considered to share many species characteristics with the Shut Heath Wood Nature Reserve. It has also been suggested that residential occupation of the site would lead to the risk of the woodland becoming domesticated and 'cleansed'.
18. The application was supported by an Extended Phase 1 Habitat Survey³. However, the scope of that report did not include a full botanical survey and it characterises the cleared area of the site as 'semi-improved grassland meadow'. Whilst the report considers the effects of the proposal on protected fauna, it does not make an assessment of the plant species present or their potential to interact with the nearby woodland. I recognise that the Council had the power to request additional information prior to the determination of the application and that the Framework encourages such a pro-active approach. However, I am required to determine the appeal on the basis of the submitted evidence.
19. I am not persuaded that the available information adequately demonstrates that the proposal would not have a harmful effect on the bio-diversity of the site and the surrounding area. In the absence of this information I am not in a position to consider whether any effects could be overcome by the use of conditions or to balance the extent of any harm against any benefits of the proposal. In this regard the proposal can be distinguished from the earlier appeal where the Inspector found that the lack of information claimed by the Council was a matter of procedure, rather than substance. Consequently, I find that the proposal would not accord with RLP Policy CC5 or with Framework paragraph 109 to the extent that it seeks to minimise impacts on bio-diversity.
20. The appellant has drawn my attention to the approval of residential development at Snow's Corner⁴ which is closer to Chantry Wood than the appeal site is to Shut Heath Wood. However, my concern is with the potential interaction of the habitat present at the appeal site with the nearby woodland. The information submitted regarding the Snows Corner scheme does not establish whether the habitat at that site had comparable potential for co-dependence with Chantry Wood.

Other Matters

21. The appellant and the Council disagree over the existence of a five year supply of housing land in the District. The appellant considers that, although the appeal does not hinge on this matter, RLP Policy S2 should be regarded as out of date in accordance with Framework paragraph 49.
22. Nevertheless, RLP Policies CC6, CC5 and the part of Policy BE1, which I have relied on in reaching my conclusions on the character and appearance and bio-

³ T4 Ecology report reference MH480 V2, dated 8 January 2016

⁴ Application reference 13/01151/FUL

diversity issues, are not those for the supply of housing, but rather deal with qualitative aesthetic and environmental considerations related to development throughout the District. Nor is there substantive evidence to suggest that these policies are otherwise in conflict with the Framework. As such, they should not be considered to be out of date for the purposes of Framework paragraph 49 but, in accordance with Framework paragraph 215, can be afforded full weight.

23. Whilst RLP Policy S2 refers to development outside of settlement boundaries and may, therefore, be considered to be a policy for the supply of housing for the purposes of Framework paragraph 49, in view of the proposal's conflict with other development plan policies, it has not been determinative in my decision, regardless of the housing land supply position in the District.

Planning Balance and Conclusion

24. 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. The provision of the new dwelling would make a positive contribution to the social dimension of sustainability. In accordance with Framework paragraph 47, therefore, it merits a measure of supports for the proposal. However, even if there is not a five year supply of housing the benefit of a single dwelling would be modest. Having regard to the scale of the proposal, future occupiers could be expected to make a very modest contribution to the vitality of the rural community. As such, the proposal derives limited support from Framework paragraph 55.
25. With regard to the environmental role, I have found that the proposal would be detrimental to the character and appearance of the area, is not sustainably located and has the potential for harm to bio-diversity.
26. Overall therefore, I find that the proposal's harmful effects on the environment significantly and demonstrably outweigh its benefits when assessed against the policies of the development plan and the Framework as whole. Consequently, I conclude that the proposal would not amount to sustainable development and so is not supported by the presumption in favour of sustainable development set out in Framework paragraph 14.
27. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR