
Appeal Decision

Site visit made on 21 March 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 28 April 2017

Appeal Ref: APP/X1545/W/16/3163932

Land at Goat Lodge Road, Great Totham, Essex

- 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 Alan Collier against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00460, dated 25 April 2016, was refused by notice dated 7 October 2016.
 - The development proposed is erection of nine dwellings, creation of new accesses to Goat Lodge Road and Staplers Heath, estate roads, garages and car spaces, foul and surface water drainage and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) the effect of development on the character and appearance of the area and (b) whether the development would make adequate provision for affordable housing.

Reasons

3. The appellant and Council dispute the amount of weight that should be given to the policies in the emerging Local Development Plan (LDP). I note that a number of policies have been subject to examination, including hearing sessions in January 2017, and the Council await the Inspector's findings. Nonetheless, I have not been provided with any detailed evidence on the extent to which the LDP policies used in this appeal are subject to unresolved objections or proposed modifications. Mindful of paragraph 216 of the National Planning Policy Framework (NPPF) and the appeal decisions given to me by both main parties¹, I can therefore only afford the LDP policies in this appeal limited weight.

Character and appearance

4. The appeal site lies just outside the defined settlement boundary for Great Totham South as shown on the Proposals Map extract from the Maldon District Replacement Local Plan 2005 (RLP) and is therefore considered to be within the countryside. It also lies within a Special Landscape Area as defined by Policy CC7 of the RLP.

¹ APP/X1545/W/3133309, APP/X1545/W/15/3134878, APP/X1545/W/15/3139154, APP/X1545/W/16/3153141 and APP/X1545/W/16/3152640

5. The appeal site consists of an area of woodland on the northern edge of Great Totham South bounded on three sides by existing residential development with paddocks and fields to the north. The woodland contains a mix of young and more mature trees, some of which are protected by the area classification within the wider Tree Preservation Order No. 7/76. It has a pleasant and tranquil character and appearance, particularly when viewed along its western boundary with Goat Lodge Lane where glimpses of fields and paddocks can be seen to the north. The electricity cables through the woodland have a limited visual impact on its overall quality.
6. To the north of the woodland, the countryside is gently undulating with fields and small areas of further woodland. When viewed from the road and public footpath to the north and north-east, the woodland is nestled between the housing of Goat Lodge Lane and Staplers Heath and partly obscured by planting along field boundaries. While it does not appear as a key part of the surrounding rural landscape, it nevertheless provides a large area of undeveloped green space on the edge of the village. It thus makes a positive contribution to the character and appearance of the area.
7. The proposed development would seek to retain areas of trees within the site and along the boundaries. The housing density, design and layout would be appropriate for this edge of village location, mindful of the LDP's promotion of garden suburbs. However, there would be an erosion of the woodland as a single entity, with many areas lost to allow the provision of the dwellings and their gardens along with access drives and hard landscaping. It is debatable as to whether any individual tree to be lost has more than a moderate value in terms of age, condition and visual amenity, including the oak tree along Goat Lodge Lane, but cumulatively they contribute to the overall quality of the woodland.
8. The development, both in terms of its physical form and the domestic activities associated with it, would significantly alter the character and appearance of the woodland as an area of green space on the edge of the village. Views along the site's western boundary with Goat Lodge Lane would be diminished by the presence of housing and the tranquillity provided by the woodland would be much reduced. Views towards the site from the north, while limited, would also be affected by the development with an encroachment of the village into the countryside. The rounding off of the village on its northern boundary as advocated by the appellant would not outweigh the harm to the character and appearance of the area.
9. I note that the area classification of the TPO is only intended as a temporary protection and that it is not clear which trees are protected by the TPO. However, any review of the area classification is a separate process to my appeal decision. I have assessed the woodland and the impact of development on its own merits based on the evidence before me.
10. I recognise that the woodland is not publicly accessible, but this does not lessen the harm I have identified particularly as the woodland can be appreciated from the surrounding area. I also note that the woodland is in need of some maintenance improvements, but this does not justify the proposed development as such works could be carried out separately.
11. Concluding on this main issue, the proposed development would harm the character and appearance of the area. Thus, it would not accord with Policies

H1, S2, CC6, CC7 and BE1 of the RLP. These policies restrain development beyond the settlement boundary and seek to protect the district's countryside and landscape character with development that is compatible with its surroundings. Policies D1, H4, S1 and S8 of the LDP seek similar aims and so would be conflicted too, although I can only give these policies limited weight as stated above. There is no apparent conflict with Policy N2 of the LDP which relates to biodiversity and geodiversity, but this does not diminish the lack of compliance with other policies. The development would also conflict with the NPPF which requires proposals to respond to local character and reflect the identity of local surroundings.

Affordable housing

12. The proposed development exceeds a thousand square metres in terms of gross floor space and so is not affected by government policy regarding affordable housing for smaller sites². As part of the appeal process, the appellant has provided a completed planning obligation in the form of a unilateral undertaking to address the second reason for refusal relating to affordable housing. The Council has been afforded the opportunity to comment on this obligation.
13. The Council has not referred to any policy from the RLP regarding affordable housing. Policy PU1 mentioned in the second reason for refusal relates to the provision of education facilities. Policy H1 of the LDP seeks a requirement of 40% affordable housing provision for this size of development in this part of the district, with Policy I1 seeking developer contributions for such provision. These policies carry limited weight due to the current status of the LDP discussed above. Nevertheless, I note from the Council's advisory note on Five Year Housing Land Supply (August 2016 statement) that 40% is needed to meet Maldon's objectively assessed need for affordable housing.
14. The unilateral undertaking would provide over 40% affordable housing. In light of the evidence before me regarding local need and emerging policy, this provision would be necessary to make the development acceptable, and would be directly related to the development and fair and reasonably related in scale and kind. I can therefore reasonably take the unilateral undertaking into account and conclude that the development would make adequate provision for affordable housing in line with Policies H1 and I1 of the LDP.

Planning balance

15. The appellant disputes the Council's claim that it can demonstrate a five year housing land supply as set out in the August 2016 statement. A number of appeal decisions have been provided by both main parties, which vary in their findings on housing land supply. The most recent decisions³, which are based on the August 2016 statement, conclude that a five year housing land supply can be demonstrated even though there is some uncertainty with the objectively assessed need given the ongoing examination of the LDP. Based on the evidence before me, I see no reason to come to a different conclusion on the existence of a five year housing land supply.
16. Nevertheless, paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of

² As set out in the Written Ministerial Statement dated 28 November 2014

³ APP/X1545/W/15/3139154, APP/X1545/W/16/3153141 and APP/X1545/W/16/3152640

consistency with the NPPF. I consider that Policies H1 and S2 of the RLP should be afforded limited weight in so far as they seek to protect the countryside for its own sake, as this is not wholly consistent with the NPPF which is more receptive to development in the countryside. The focus of Policy CC7 on Special Landscape Areas does not reflect the more holistic and criteria based approach to landscape character as set out in paragraph 113 of the NPPF and so this policy is also afforded limited weight. In contrast, Policies BE1 and CC6 of the RLP are criteria based policies that seek to safeguard local character and are largely consistent with the NPPF. Accordingly, I can give these policies substantial weight.

17. The lack of consistency between Policies H1, S2 and CC7 and the NPPF means that they should be regarded as being out of date for the purposes of this appeal and that paragraph 14 of the NPPF is engaged. Paragraph 14 of the NPPF states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.
18. There are adverse impacts arising from this development in terms of harm to the character and appearance of the area. With Policies H1, S2 and CC7 out of date, the fact that the development is outside of the settlement boundary and within a Special Landscape Area carries limited weight. However, there would be a significant change to the appeal site as an area of woodland, which would be much diminished as green space on the edge of the village. Moreover, the conflict with Policies BE1 and CC6 is important. Therefore, significant weight is given to the adverse impacts of development.
19. Turning to the benefits, the provision of nine dwellings, including four affordable dwellings, would boost the supply and choice of housing. The development would be within walking distance of local village services and would help to support such services. However, the scale of development means that these benefits can only carry moderate weight. The apparent lack of approved housing proposals in Great Totham, as indicated by the appellant, does not increase the weight in favour of this development.
20. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the proposal would not represent sustainable development.

Conclusion

21. The proposed development would make adequate provision for affordable housing but would harm the character and appearance of the area and would not represent sustainable development. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR