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# Appeal Decision

Site visit made on 23 May 2017

**by David Troy BSc (Hons) MA MRTPI**

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

**Decision date: 27 June 2017**

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**Appeal Ref: APP/X1545/W/17/3170054**

**Land east of Station Road and north of Mallards Close, Tollesbury**

- 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 Wilkin & Sons Ltd against the decision of Maldon District Council.
  - The application Ref FUL/MAL/16/01430, dated 7 December 2016, was refused by notice dated 9 February 2017.
  - The development proposed is erect 5 No. dwellings, internal access road, associated car parking and landscaping
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The Council's decision notice refers to Policy D1 of the emerging Maldon District Pre-Submission Local Development Plan (MDLDP). The MDLDP is at an advanced stage and has been subject to recent examination hearings. However, as I do not have evidence before me as to whether there have been any significant objections to the above policy and the Inspector's report has not yet been published, having regard to the advice provided in the National Planning Policy Framework (the Framework)<sup>1</sup>, I give this policy in the emerging Development Plan limited weight as a material consideration.

## Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

## Reasons

4. The Council's Development Strategy is set out in saved Policy S1 of the Maldon District Replacement Local Plan (2005) (RLP) and seeks to direct development to within the district's settlements with development boundaries. The appeal site is located outside the development boundary of Tollesbury, wherein saved RLP Policy S2 seeks to protect area from new development in the interests of protecting the countryside and coastal landscapes of the district.
5. The Framework postdates the RLP. However, as is pointed out in paragraph 2 of the Framework, although it is a material consideration in planning decisions, planning law nevertheless requires that applications be determined in

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<sup>1</sup> Paragraph 216 of the National Planning Policy Framework (2012)

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accordance with the development plan unless material considerations indicate otherwise. It follows that the proposal conflicts with saved RLP Policies S1 and S2, key policies which define the Council's approach, which count significantly against the proposal.

6. The appeal site comprises part of an open arable field on the northern edge of the village with access via Station Road at the south west corner of the site. Residential development is located to the south, allotments to the west, a farmhouse and farm buildings at Great Downs Farm to the east and open fields to the north. The topography of the site is elevated above and gradually slopes towards the Blackwater Estuary to the north and is enclosed by mature hedgerows and trees on the southern, eastern and western boundaries.
7. The proposal would entail the construction of five single storey L-shaped dwellings with detached garages and associated parking, gardens and landscaping. The dwellings would be accessed off Station Road and would be constructed with a stock brick plinth, dark stained weatherboard cladding and clay pantile pitched gabled style roofs.
8. A core principle of the Framework is to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework makes it clear that, among other things, valued landscapes should be protected and enhanced. The appeal site is located within the Tolleshunt Coastal Farmland Area<sup>2</sup> that forms part of the hinterland to the North Blackwater Estuary and is characterised by its open landscape of flat to slightly undulating arable fields. The appeal site also falls within a Special Protection Area and the defined Coastal Zone under saved RLP Policies CC7 and CC11, respectively. These policies seek to protect the open and rural character of the area and ensure that development has minimal impact on views into and out of the area.
9. The appellant considers that the appeal site would provide a natural infill development between Great Downs Farm and the allotments on the edge of the village. I saw from my site visit that the village is set in attractive countryside, defined by gently undulating fields punctuated by hedgerows and tree boundaries gently sloping towards Tollesbury Fleet and the Blackwater Estuary. The mature hedgerow and trees along the boundaries of the site are consistent with the boundary treatment of the adjoining parcels of land and possess a distinctively appealing rural appearance. I therefore do not concur with the appellant. Rather than the site having any close connection with the adjacent residential development, it reads strongly as an integral part of the surrounding countryside and performs an important role in providing a strong definition to the northern extent of the built up area of the village.
10. The appellant considers that given the design of the development, the enclosed nature and the topography of the site and immediate surroundings that the proposal would not be highly visible in the wider landscape. Whilst I recognise that the boundary trees and vegetation provide some visual containment, the degree of visibility will vary according to the seasons. The appeal site can be viewed from the public footpath running along the western edge of the site. I also observed on my site visit that due to the elevated and exposed nature of the northern edge of the site, the appeal site can be viewed at a distance from the sea wall along the estuary. The proposal would therefore impact on views

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<sup>2</sup> Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment (2006)

into and out of the area and as such would, in my view, harm the wider landscape of the area.

11. On a more local level, given the scale of the development, it would represent a shift of the built up development beyond the edge of the village. The appeal site, together with the adjoining fields and allotments provides a significant contribution to the visual quality of and an important contribution to the rural landscape setting of the village.
12. The proposed form and layout of the development around a crescent shaped access road off Station Road with a centrally located amenity space would introduce a degree of uniformity which is not typical of other development within the village. Paragraph 60 of the Framework states that it is proper to promote or reinforce local distinctiveness. I recognise that the single storey form, use of traditional materials and the fenestrations would assist in integrating the proposed development with the area and the impacts of the proposal could be mitigated in time by the retention and enhancement of the boundary hedgerows.
13. However, I consider that the uniformity of the layout gives the proposal a suburban style appearance that, in my view, would be out of keeping with the established rural character in the area and would fail to promote or reinforce the distinctive characteristics of the area. I consider that the development, by virtue of its scale, siting and layout, would adversely harm rather than positively contribute to the rural character and appearance of the area.
14. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The development conflicts with saved Policies BE1, CC6, CC7 and CC11 of the RLP which seek to ensure that development is compatible with its surroundings, harmonises with the character of the area, protects and conserves the Special Protection Area and the defined Coastal Zone and seeks to control development outside the settlement boundaries within the countryside. In addition, it would not accord with the aims of the Framework that development should seek to secure a high quality of design (paragraph 17); to respect the local character (paragraph 58); and promote or reinforce local distinctiveness of the area (paragraph 60).

### **Other Matters**

15. The appellant's statement questions the compliance of saved RLP Policies S2 and CC7 with the Framework and the weight that should be attached as they consider it is overly restrictive. However, as is pointed out in paragraph 211 of the Framework, for the purpose of decision making, the policies should not be considered out of date simply because they were adopted prior to the publication of the Framework. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
16. Whilst the policies are somewhat dated, I consider that saved RLP Policies BE1, CC6 and CC11 are relevant and broadly consistent with the Framework in relation to approach to good design, landscape protection and development in rural areas. Although RLP Policies S2 and CC7 take a more restrictive approach and are no longer fully in line with national policy, they reflect the aims of the Framework, which seeks to protect the countryside from unnecessary development recognising the intrinsic character and beauty of the countryside.

17. The appellant also questions the Council's current housing policy position in light of the overall housing supply, emerging MDLDP and a number of appeal decisions in the district. The appellant consider that this proposal would amount to a sustainable form of development for Tollesbury that would boost the housing supply in line with the requirements of the Framework. However, there is no substantive evidence before me to contradict the Council's statement that it has the required five year supply of deliverable sites and neither paragraph 14 nor 49 of the Framework are engaged in this case. I am aware from the Council's submissions that it is challenging the appeal decision at Wickham Bishops<sup>3</sup> and as such limits the weight I attach to this matter.
18. I have noted the other developments in the area drawn to my attention by the appellant. The bungalow style developments relate to individual buildings that have different locational characteristics, some arising in different policy contexts some time ago. The two storey cul-de-sac style development at Porter Place has different development characteristics to the appeal scheme. I therefore accord them limited weight as precedents in this case.
19. I have noted the appellant's comments regarding the Council's intention to deliver additional housing in the rural area through Neighbourhood Plans (NP) and that it is considered that the proposal would not fetter the ongoing work on NP by Tollesbury Parish Council. However, this is at a very early stage in the process and as such is a matter to which I accord limited weight.
20. The appellant considers that the proposal would constitute a sustainable form of development that is well connected to existing services and facilities and would provide some social and economic benefits through contributing to the supply of housing in the area, particularly for older persons, providing a deliverable site for a small builder and accessibility improvements through upgrading the public highway.
21. However, while I note the appellant's views that the appeal scheme's design, biodiversity enhancements and the additional landscaping would amount to environmental benefits, I consider that the adverse impacts arising from the harm identified to the area's character and appearance, would conflict with the environmental dimension of sustainable development. In my view, these adverse impacts would be sufficient to outweigh the scheme's benefits when assessed against the policies in the Framework as a whole. The proposal would not therefore amount to sustainable development in terms of the Framework.
22. I have also noted the objections from Tollesbury Parish Council and local residents to the proposal. However, in light of my findings on the main issue of the appeal, my decision does not turn on these matters.

### **Conclusion**

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Troy*

INSPECTOR

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<sup>3</sup> APP/X1545/W/16/3152640