
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

Appeal Ref: APP/X1545/W/17/3169977

Land on east side of Park Lane, Tolleshunt Knights CM9 8HA

- 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 A Curtis & Mrs S Dawson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/00541, dated 29 April 2016, was refused by notice dated 8 September 2016.
 - The development proposed is a pair of semi-detached 2 bed dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice refers to Policies D1 and T2 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 policies and the Inspector's report has not yet been published, having regard to the advice provided in the National Planning Policy Framework (the Framework)¹, I give these policies in the emerging Development Plan limited weight as a material consideration.

Main Issues

3. The main issues are (i) the effect of the proposed development on the character and appearance of the area and (ii) whether the proposal would represent a suitable site for housing development having regard to principles of sustainable development.

Reasons

Character and appearance of the area

4. The appeal site comprises of an open field with a stable block lying on the eastern side of Park Lane on the edge of the village of Tolleshunt Knights. The narrow rural lane serves several other properties to the west and to the north. To the east of the site are the garden areas and outbuildings associated with the low density ribbon development running along Barnhall Road to the south of the site. A small field immediately adjoins the appeal site to the south fronting onto the lane. The site is enclosed by a mature boundary hedgerow

¹ Paragraph 216 of the National Planning Policy Framework (2012)

- and trees that possess a distinctively appealing rural appearance, which is further enhanced by the presence of mature landscaping and established trees within the adjoining field, gardens and the open countryside beyond.
5. The proposal would involve the construction of a pair of two bedroomed semi-detached dwellings with associated gardens, access and parking. Each of the two storey dwellings would have a floor area of about 62 sqm and would be constructed in blockwork with a rendered finish and a dual pitched tiled roof.
 6. The appeal site is a relatively large plot and as such the development would not appear overlarge, relative to the overall plot size. However, 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 field and gardens, provides a significant contribution to the visual quality of and an important contribution, to the rural landscape setting of the village. I have considered the appellants statement that two modest two bedroomed dwellings have been designed to reflect the character of the modest rural workers houses in the area. Whilst there is a pair of semi-detached dwellings on the opposite of the road, this should not be taken as an acceptable context for or justification of the appeal scheme.
 7. I consider that the bland design and suburban appearance of the proposed dwellings would be out of keeping with the more traditional vernacular rural architecture in the area. I note the appellants comments that the proposal would remove only part of the existing hedgerow along the front of the site. However, this does not overcome the adverse effects outlined above. I consider that the development, by virtue of its scale, siting and design, would adversely harm rather than positively contribute to the rural character and appearance of the area.
 8. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area and conflicts with saved Policies BE1 and CC6 of the Maldon District Replacement Local Plan (2005) (RLP). These policies seek to ensure that development is compatible with its surroundings, harmonises with the character of the area, protects and conserves the landscape character in the locality and seeks to control development outside the settlement boundaries within the countryside. It also 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).

Sustainable development

9. The Council's Development Strategy is set out in saved RLP Policy S1 and seeks to direct development to within the district's settlements that have development boundaries. The appeal site is located outside the development boundary of Tolleshunt Knights, wherein saved RLP Policy S2 seeks to protect areas from new development in the interests of protecting the countryside and coastal landscapes of the district.
10. 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 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.

11. The provisions of Paragraph 55 of the Framework are relevant to my assessment. Paragraph 55 seeks to promote sustainable development in rural areas by locating housing where it will enhance or maintain the vitality of rural communities. Paragraph 55 goes on to state that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances. These include where there is an essential need for a rural worker, or where the development would be of exceptional quality, or would be of a truly outstanding or innovative design, to help raise design standards more generally in rural areas, which does not apply in this case.
12. The Framework also states that new residential development is most appropriate in locations where there is access to alternative modes of transport other than the private car (paragraph 30) and where journey lengths to services and opportunities for employment can be minimised (paragraph 37). These aims are reflected in saved RLP Policy T1 which seeks to give priority to development within the development boundaries that offers alternative choice of transport modes to reduce car dependency and minimises the need to travel.
13. Tolleshunt Knights has a limited range of local services and facilities, lacking any medical or shopping facilities and significant employment opportunities. This would, therefore, necessitate the need to travel for day to day services and facilities to other nearby villages and towns. These settlements are a reasonable distance away and are not readily accessible by safe public footpaths and whilst the appellants state that the village has reasonable access by public transport, do not provide any information about the frequency of the service. Therefore, the appeal site would, in my judgment, be sufficiently isolated in this rural location such that the future occupiers of the proposed development would be reliant on the use of the car to reach day to day services, facilities and employment elsewhere.
14. The appellants consider that the proposal would form a sustainable form of development that would provide some social and economic benefits, through contributing to local services and the mix of housing in the area in accordance with paragraph 50 of the Framework and meet the need identified in the district's Strategic Housing Market Assessment. I also note the appellants offer to build modest two bedroom properties that would be available for local residents to acquire and some environmental benefits, associated with the design of the appeal scheme. However, two dwellings would make a limited contribution to the vitality of this rural community and, more generally, to the housing stock in the district.
15. Therefore, for the reasons given above, I consider that the adverse impacts arising from locating the proposed development in this rural location, together with harm identified to the character and appearance of the area, would conflict with the environmental dimension of sustainable development. In my view, this would be sufficient to outweigh the scheme's benefits when assessed against the policies in the Framework as a whole.
16. Consequently, I conclude that the proposal would conflict with the requirements of saved RLP Policies S2 and T1 as set out above and would not amount to sustainable development in the terms of the Framework. In

addition, it would conflict with paragraph 55 of the Framework which seeks to avoid isolated homes in the countryside.

Other matters

17. The appellants statement question the compliance of saved RLP Policy S2 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. Whilst saved RLP Policy S2 is somewhat dated and is no longer fully in line with national policy, it reflects the aims of the Framework, which seeks to protect the countryside from unnecessary development recognising its intrinsic character and beauty.
18. The appellants also question the Council's current housing policy position in light of the overall housing supply and a number of appeal decisions in the district. 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 are challenging the appeal decision at Wickham Bishops² and the four dwellings allowed in Goldhanger³ are located within the built up area of the village and have different development and locational characteristics to the appeal proposal. I therefore accord these matters limited weight.
19. I have noted the other developments in the area drawn to my attention by the appellants. The planning application granted for the demolition of a dwelling and erection of two dwelling on the opposite side of Park Lane⁴ and the two dwellings allowed on appeal in Great Totham⁵ were allowed in a different policy context when the Council could not demonstrate a 5 year land supply and have different development characteristics to the appeal scheme. I therefore accord them limited weight as precedents in this case.
20. I have noted the support for the proposal from Tolleshunt Knights Parish Council and local residents on the basis of the benefits to the village from the additional smaller housing in the area. However, these matters are addressed above and as such I accord these matters limited weight. I have also noted the objections from local residents to the proposal. However, in light of my findings on the main issues above, my decision does not turn on these matters.

Conclusion

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

David Troy

INSPECTOR

² APP/X1545/W/16/3152640

³ APP/X1545/W/16/3160262

⁴ FUL/MAL/12/00429

⁵ APP/X1545/W/14/3001153