



Appeal Decision

Site visit made on 11 September 2019

by Stephen Wilkinson BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2019

Appeal Ref: APP/X1545/W/19/3226909

Land at Oaklands Park, Park Lane, Tolleshunt Knights, Essex CM9 8HB

- 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 P Leonard and Ms A Wilson against the decision of Maldon District Council.
 - The application Ref FUL/MAL/18/01163, dated 24 September 2018, was refused by notice dated 20 November 2018.
 - The development proposed is construction of new dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue whether the proposed development would provide a suitable site for housing, having regard to the proximity of services, the character and appearance of the area and the Oaklands Park Complex Local Wildlife Site (LWS).

Reasons

Site Description and Proposals

3. The appeal site includes a former horse manège and access road through woods at Oaklands, Park Lane. The manège lies towards the centre of this woodland at a point where the land falls away to a clearing, the 'Meadow', giving views over a shallow valley. Part of the wood is identified as a Local Wildlife Site (LWS) and the Meadow includes species on the Essex Red Data List.
4. Park Lane is a cul de sac serving several detached residential buildings and Park Farm. This collection of buildings are located away from the settlement of Tolleshunt Knights. The wider area is agricultural in character with open fields divided by well treed hedgerows.
5. The proposal is for a large 4 bedroom detached house comprising part two, part three storeys with a large single storey extension to the rear set on the north west side of the former manège. The design of the scheme involves three storeys in the centre with a ridge height of 10m and 2 storey 'wings', each of 6.4m height. The second floor would be set in the roof space served by dormers and roof lights. The frontage of the dwelling extends to around 32.2m.

The central section would extend to around 11.5m depth with a single storey extension to the rear. It would be accessed by an approximately 320m long drive of up to around 5.4m in width from Park Road. This drive would run along the edge of the wood along a common boundary to Woodlands Cottage before turning north through the woods into the former manège.

Location of Development

6. The Council's Local Development Plan (2017) (LDP) supports sustainable development seeking to make the most effective use of land with a priority for the development of previously developed land. Policies S1 and S8 seek to encourage new development in settlements to ensure that it is adequately served by local services and facilities. Policy S8 seeks to protect the character and landscape of the countryside. Policy H4 seeks an effective use of land for new development and Policy D1 requires new development to respond to its context. Furthermore, Policy T2 of the adopted plan advocates traffic restraint.
7. Although the LDP precedes the current draft of the National Planning Policy Framework (2019) the principles which underpin these policies are consistent with the Framework. Accordingly, I accord each of the policies full weight. The LDP does not identify Tolleshunt Knight as a settlement where new development would be encouraged due to its limited size and the absence of existing services.
8. The location of the site away from day to day service and facilities means that occupiers of the proposed development would have to rely on private motorised transport to access them. Whilst the appellant has identified the contribution that the dwelling could make to addressing the District's housing supply the Council has provided sufficient evidence to indicate that there is not an under supply of sites.
9. The appellants have included reference in their statement to several appeal decisions around Park Lane and other sites across the District where new detached properties have been allowed. I find that those decisions around Park Lane can be distinguished from the current proposal as they lie closer to other dwellings with direct access from Park Lane. More importantly each of these decisions precede the adoption of the LDP. In any case, I have determined the appeal on its own merits.
10. To conclude on this issue, the appeal site is located away from the collection of detached properties along Park Lane and is not within any defined settlement identified by the adopted plan where new housing should be located. The proposed location is not appropriate as defined by Local Plan Policies S1, S8, H4, D1 and T2 and the principles which underpin the Framework.

Character and appearance

11. Although the appellants' statement identifies that the design incorporates features common to period Georgian mansions which can be found across the District, the dwelling would have a scale and massing disproportionate to its setting. The 'Georgian features' would not add to the scheme serving only to detract from its design which is a large modern detached property which would be a dominant feature in this rural setting.
12. The selection of the proposed application site within the woodlands affords tree cover and screening for the scheme. Apart from views from the northwest of

the site, across 'the Meadow', it would not be possible to see the whole of the proposed house through the wooded areas and from along the path to the north. However, the visibility of the proposed scheme will become more apparent during the winter given the dominance of deciduous trees throughout the wood. The fact that the scheme cannot be seen from every vantage point suggested by the appellants does not make this scheme acceptable for this location. The critical issue is the extent to which this large property impacts on the integrity of the landscape. In this the scheme does not acknowledge the woodland or the 'sweep' of the Meadow to the north west.

13. Furthermore, whilst the access road would broadly follow the route of an existing grassed maintenance track through the woods the proposals would be designed with a width of up to 5.4m and about 320m in length. This would introduce a discordant and urban feature into this woodland landscape.
14. Whilst the appellants identify the site of Toad Hall which was granted planning permission by the Council 8 years ago as a precedent for this appeal proposal, I do not have the full details of this scheme and what led it to being considered acceptable by the Council.
15. Policies S1, S8, D1 and H4 are consistent in seeking to ensure that new development makes the most effective use of land whilst protecting the natural landscape. These policies are consistent with the Framework (2019) and in particular paragraph 79 which identifies that planning decisions should avoid the development of isolated homes in the countryside unless particular circumstances apply. I do not consider that this scheme meets any of the circumstances identified. On this issue, I conclude that the design of the proposal is unacceptable by reason of its scale and massing and fails to respond to its landscape and woodland context contrary to adopted policies and the Framework.

Local Wildlife Site

16. The Phase 1 habitats and species survey identified that no specific harm would result from the scheme albeit with suggestions on 'appropriate controls'. An ecology report suggested a series of enhancements for the Meadow and the woodlands. Although the site of the proposed house would be entirely contained on the site of the former manège it would involve the loss of several trees which lie adjacent.
17. Whilst only a section of the access route through the woods would lie within the Local Wildlife site (LWS), I consider that there would be a high possibility of disturbance to species and habitats during construction caused by movement and noise arising from construction traffic and building activities. Subsequently disturbance would arise through the occupation of the property caused by people accessing the site and enjoying its private amenity space. For these reasons I consider that there is a high probability that disturbance would arise to the LWS.
18. The appellant has submitted reports including a tree survey and constraints plan and others which identify appropriate protection methods and the approach to be taken on the construction of the road to ensure that tree roots are not disturbed. Despite these measures my overall concern is with the likely impact of this proposal on habitats within the LWS and throughout the woods which would result from the proposed scheme. The proposals would therefore

be contrary to Policies and D1, N1 and N2 of the adopted Maldon Local Development Plan 2017 and the Framework.

Other Matter

19. The site lies within a Zone of Influence of a European Site covered by the Essex Coast Recreational Disturbance, Avoidance and Mitigation Strategy (RAMS) which requires payment from developers to fund mitigation measures. If I were allowing this appeal an appropriate assessment would be required although no mechanism to address mitigation has been submitted with the application. However, as I am dismissing this appeal I do not have to complete this exercise.

Conclusions

20. For the reasons given above, the appeal is dismissed.

Stephen Wilkinson

INSPECTOR