



Appeal Decision

Site visit made on 30 November 2021

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Appeal Ref: APP/Z1510/W/21/3271198

Garden Land to the right of Ullswater, Maldon Road, Witham CM8 1HU

- 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 Mrs Samantha Mott against the decision of Braintree District Council.
 - The application Ref 20/01520/OUT, dated 13 September 2020, was refused by notice dated 5 March 2021.
 - The development is described on the application form as '4 detached chalet style 1.5 height properties with 3 bedrooms on the garden land adjoining Ullswater'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative, apart from the height of the building (as set out in the development description).

Main Issue

3. The main issue is whether the proposed development would provide a suitable location for housing having regard to the character and appearance of the area.

Reasons

Site and location

4. The appeal site forms a strip of land at the southern tip of Witham. At the time of my site visit, the appeal site appeared to be used as residential garden land (associated with Ullswater) with seating, children's play equipment and regularly mown grass.
5. The area to the immediate north is urban in character, made up of predominantly residential properties, whereas that to the south and west of the site is in predominantly agricultural and equestrian use. To the east of the site lies Benton Hall Golf Club.
6. Mature hedging and landscaping, albeit scrubby in part, lines the boundary of the site adjacent to Maldon Road. A screen of mature trees exists to the back (east boundary) of the site. Together, these landscaping features contribute to the verdant, rural character along this part of Maldon Road.

7. Notwithstanding the current use of the site, it undisputedly falls outside of the designated development boundary of Witham. I note that policy SP3 of the Braintree District Plan 2013-2033 (Section 1, adopted February 2021) sets out how development will be 'accommodated within or adjoining settlements according to their scale, sustainability and existing role...'. I am also told that there are proposals within the emerging Local Plan to alter the existing development boundary to include the properties to the immediate north of the appeal site.
8. However, the Section 2 Local Plan has yet to be adopted and this extended development boundary would still not include the appeal site¹. Moreover, the support in policy SP3 of the Section 1 Local Plan to development adjoining settlements is not unconditional but requires, amongst other things, that consideration is given to the distinctive character and role of settlements including conserving their setting.
9. In that context, the site falls within the countryside in terms of the development plan, where development will be strictly controlled to appropriate uses. This is in order to protect the intrinsic character and beauty of the countryside, with possible exceptions for affordable housing developments.

Character and appearance

10. In all likelihood the development would be highly visible from Maldon Road, in both directions, but particularly upon approaching the site from the south. The dwellings would be visible through and above the existing hedgerow and landscaping that lines the road (due to the vegetation's fairly low level, with occasional breaks in coverage) and would have a significant presence in front of the mature treeline that sits behind. The provision of four dwellings here would, in all likelihood, afford little meaningful opportunity for additional roadside screening. As landscaping is not before me, there is nothing substantive to include otherwise.
11. As a result, the currently verdant nature of the site would be damaged and the development would have a harmful urbanising effect on a site which is currently open and undeveloped (consistent with much of the land to the immediate south and west). Although the properties would potentially be of a similar scale to those that exist to the immediate north, their presence (as outlined above) would have a detrimental impact on the rural character of the southern approach to Witham and surrounding area. I note paragraph 174 of the National Planning Policy Framework (Framework) speaks of recognising the intrinsic character and beauty of the countryside, notwithstanding the fact that this site is subject to no protective designations.
12. Irrespective of any settlement boundary defined in existing or emerging policy, I saw that the A12 represents a clear physical feature beyond which development peters out into the rural surroundings of Witham. It appeared to me that four dwellings accommodated within a site stated to be of approximately 1,500 square metres would represent an incongruous level of density for this location. Accordingly, the scheme would fail to maintain the pleasant rural transition that currently occurs here.

¹ As explained within the Council's officer report under the heading Location and Access to Services and Facilities

13. I acknowledge that there would be some social and economic benefits to the proposed development, including the provision of four new houses in the District, construction jobs and increased local spend. However, the new market dwellings would provide only a limited contribution towards housing supply. Similarly, I consider the economic advantages of creating the homes, located some distance away from local services and facilities, would be limited.
14. The proposal would therefore run contrary to the provisions of policies RLP2 and RLP90 of Braintree District Local Plan Review (2005), policies CS5, CS7 and CS8 of Braintree District Local Development Framework Core Strategy (2011), which in summary seek to direct development towards existing settlements, protect the intrinsic character and beauty of the countryside and ensure that new development is of a high quality. Similarly, the proposal would fail to conserve the setting of Witham and conflict with the approach in policies LPP1 and LPP55 of the emerging Section 2 Local Plan, which seek to achieve similar aims as the relevant provisions of the development plan set out above.

Other Matters

15. I have reasoned above that the proposal would have certain benefits (in terms of housing provision as well as economically and socially). I accept that Framework paragraph 69 is supportive, in general terms, of supply from smaller sites. However, the benefits in those respects would be limited, and the support in the development plan, and Framework, for new housing is not at the expense of appropriate design. Even were I to reason that the scheme were acceptable in all other respects, for example in respect of ecology, those would be essentially neutral in my determination of the appeal.
16. The appellant refers to Paragraph 60 of the Framework and its objective of supplying a sufficient amount and variety of homes where they are needed. I note that at the time of the original planning permission, the Council did not have evidence of a five-year housing land supply. The appellant avers that the Council delayed the decision of the planning permission until such a time that a five-year housing land supply could be evidenced, as is now the case². There is, however, no definitive information before me on that point. Nevertheless, as clarified in the Planning Inspectorate procedural guide to appeals, para 1.10.1, I must make the decision under the circumstances existing at the time I make the decision. Although I note the appellant's concern in this respect, I have nevertheless followed the foregoing approach.
17. The appellant has brought to my attention the recent planning permissions at the nearby golf club under Ref 19/01980/FUL and 21/0162/VAR. The appellant takes from these decisions a reference by the Council in its justification for issuing planning permission. This refers to the golf course site being situated in close proximity to the existing, and proposed, development boundary of Witham. The appellant contends that this point is of importance in coming to a decision on this appeal. However, the cases are situated on different sites, relate to different types of development and are not directly comparable. I have considered this appeal, including its relationship with the development boundary, on its own merits.
18. Linked appeal Refs APP/Z1510/W/19/3226390 and APP/Z1510/W/19/3226391 have been brought to my attention by the appellant. Whilst these are

² As set out within the Council's Appeal Statement under the heading *5 Year Housing Land Supply Update*

acknowledged, the characteristics of each site and location are different. Paragraph 13 of this linked decision states that 'the development would be quite clearly contained within the existing developed fabric of the settlement'. This is in marked contrast with the circumstances at this site, where the development would take place at the very edge of Witham, beyond any other existing housing development. Furthermore, the referenced appeals also include the provision of affordable housing. For these reasons, the circumstances that applied to these other cases, and the planning balance there, are not directly comparable to those before me.

Conclusion

19. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR