



Appeal Decision

Site visit made on 28 June 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

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

Decision date: 16th August 2023

Appeal Ref: APP/X1545/W/22/3313956

Land north of Captains Wood Road, Great Totham, Maldon CM9 8PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an outline application.
 - The appeal is made by Mr M Cork, Mr T Jenkins and Mrs S May against the decision Maldon District Council.
 - The application Ref 22/00889/OUT, dated 3 August 2022.
 - The development proposed is the erection of two self-build custom designed dwellings.
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Decision

1. The appeal is dismissed and planning permission is refused for the erection of two self-build designed dwellings.

Application for Costs

2. An application for costs was made by Mr M Cork, Mr T Jenkins and Mrs S May against Maldon District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The appeal application was in outline form with all matters reserved. By reason of delays in validation related to ecological information, an appeal on the grounds of non-determination with the prescribed period was submitted. The Council identified 4 putative reasons for refusal albeit, the fourth reason has been withdrawn by the Council because a Unilateral Undertaking to secure a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been provided by the appellants.
4. Since the determination of the appeal application, the Council can now demonstrate a 5-year supply of deliverable housing land. This position is not challenged by the appellants and, accordingly, the presumption in favour of sustainable development referred to at paragraph 11 of the National Planning Policy Framework does not apply to the determination of this appeal. Full weight is given to the relevant policies of the development plan, including Policy S8 of the Maldon District Local Development Plan (LDP).

Main Issues

5. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and

(b) ecological interests and (c) whether the appeal scheme would be in an accessible location.

Reasons

Character and Appearance

6. The proposed development includes the erection of 2-self build homes. The development plan does not have a specific policy on self-build homes. By reference to national policy and the requirements of the Self-build and Custom Housebuilding Act 2015, the delivery of land suitable for self-build homes is a material consideration to which significant weight is given.
7. The proposed dwellings would be erected on a paddock that is located outside the the defined development boundary of Great Totham which is identified under LDP Policy S8 as a larger village. LDP Policy S8 seeks to protect the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. It refers to planning permission only being granted for specific proposals outside defined development boundaries where the intrinsic character and beauty of the countryside is not adversely impacted upon. The appeal scheme is not one of the specified forms of development.
8. Policy GT01 of the Great Totham Neighbourhood Plan (NP) echoes, in part LDP Policy S8, concerning development being within the settlement boundary. However, development proposals to meet identified local housing needs on sites that are outside the settlement boundary will be supported where they meet the specified criteria.
9. The site is adjacent to, but not abutting, the development boundary of the settlement. However, the site is not well contained by strong boundaries, especially to the north and west. Although there is housing to the south of Captains Wood Road, the lack of containment means that the proposed dwellings, wherever located on the site, would physically and visually result in the encroachment of built development into the open and verdant countryside to the north of the road. There would be a conflict with LDP Policies S8 and H4 concerning housing schemes having regard to the location and the setting of the site.
10. The available data from the Freedom of Information requests provided demonstrates that there are a low number of planning permission and completions of self-build plots over the past 5-years. However, this data is related to the District rather than demonstrating a local need for self-build plots within the area covered by the Neighbourhood Plan. There is also no specific data about the need or demand for such homes within the local area. Further, no evidence is adduced as to whether or not there are self-build plots are available within the settlement. Accordingly there would be a conflict with the local housing needs criterion of NP Policy GT01.
11. The significant weight given to the provision of self-build homes has to be balanced against the Council's ability to demonstrate a 5-year supply of deliverable housing land, the proposed erection of dwellings in the countryside beyond the defined development boundary and the lack of any specific evidence about a local need for self-build homes within Neighbourhood Plan area. It is judged that collectively these matters demonstrably outweigh the provision of self-build homes. Accordingly, it is concluded that the proposed

development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with LDP Policies S8 and H4 and NP policy GT01. In respect of this issue, there is no conflict with LDP Policy D1 and NP Policy GT02 which concern details design matters which would be more appropriate to assess at the reserved matters stage.

Ecological Interest

12. As has already been identified, the appeal site has been cleared and vegetation removed for the potential location of the access from Captains Wood Road. Although the comments of the Place Services' Ecologist have been noted, from what was observed the site itself possesses limited ecological interest with the main feature being the hedgerow fronting the road. This hedgerow is proposed to be retained. Other vegetation on the boundary of the site is limited and, subject to consideration of the layout when the reserved matters are submitted, these features could be retained. As such, a detailed ecological assessment is unnecessary in this case.
13. A Unilateral Undertaking to secure a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy is necessary to secure mitigation to protect the integrity of the habitats of European designated sites, including the Stour and Orwell Estuaries. The Council is satisfied the Undertaking submitted and signed as a Deed by the landowners secures the necessary contribution. There are no reasons for me to disagree with the Council on the content of, nor the ability to enforce, the Undertaking which would ensure that there would be no adverse effect on the integrity of the European designated sites.
14. On this matter it is concluded that the proposed development would not cause unacceptable harm to ecological interests and, as such, it would not conflict with LDP Policy N2 and NP Policy GT04. Amongst other matters, these policies refer to any development which could have an adverse effect on sites with designated features, priority habitats or protected or priority species requiring an assessment and for proposals to retain trees, shrubs and hedgerows.

Accessible Location

15. LDP Policy T2 refers to development proposals providing safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate. As the appellants have identified there are services and facilities within the surrounding area, including a bus stop. These facilities and services are accessible on foot using existing footways within the built-up area thereby providing future residents with an alternative to using a private car to undertake such trips.
16. Accordingly, it is concluded that the appal scheme would be in an accessible location and, as such, it would not conflict with LDF Policies S1 and T2. LDP Policies D1, S8 and T1 are not considered to be of direct relevance to this issue because they concern matters related to potential types of development outside settlement boundaries, detailed design requirements and generic transport matters rather than accessibility considerations applicable to the location of proposals and travel choices. Further, NP Policy GT01 does not refer to accessibility criteria for housing development adjacent to the defined settlement boundary.

Other Matters

17. The appellants have referred to other appeal decisions¹ albeit the full planning circumstances of these schemes are not provided. From the available information, one scheme concerns alterations to an existing building to create a dwelling and the other a new dwelling outside the settlement. For the proposal to erect a dwelling it is noted that there was a shortfall in the 5-year housing land supply causing the Inspector to give less than full weight to LDP Policy S8 which does not apply to this appeal scheme. Further, these other appeal decisions do not refer to the policies of the Neighbourhood Plan which have been cited by the Council in the putative reasons for refusal.
18. Other schemes approved by the Council have been referenced by the appellants but their full planning circumstances have also not been provided. Accordingly, limited weight is given to all these other schemes in the determination of this appeal which has been assessed based upon its own planning circumstances.

Conclusion

19. Although the proposed development would not cause unacceptable harm to ecological interests and would be in an accessible location, these matters are demonstrably outweighed by the significant harm which would be caused to the character and appearance of the surrounding area. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR

¹ APP/X1545/W/20/3258926, APP/X1545/W/20/3253887 and APP/X1545/W/20/3258925