



Appeal Decision

Site visit made on 23 May 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2023

Appeal Ref: APP/X1545/W/22/3305339

7 Pingles, Beacon Hill, Great Totham, Essex CM8 3EA

- 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 application for outline planning permission.
 - The appeal is made by Mrs Carole Parker against Maldon District Council.
 - The application Ref 22/00502/OUT PP-11168749, is dated 2 April 2022.
 - The development proposed is a single detached dwelling consisting of four bedrooms and detached garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development set out in the planning application form, with the omission of those elements that do not relate to acts of development.
3. The Council failed to give notice of its decision within the prescribed period, however it has provided a statement of case. This indicates that it would have refused planning permission and sets out its areas of concern with regard to the proposed development. These have framed my main issues.
4. The application was made in outline form, with all matters being reserved for future consideration. As matters relating to access, landscaping, layout, scale and appearance have been reserved for future consideration, the submitted plans can only be taken as being indicative at this stage, and I have treated them as such.

Main Issues

5. The main issues are:
 - the effect of the proposal upon the character and appearance of the area;
 - whether the appeal site is an appropriate location for the proposal, including having regard to access to services and facilities, and;
 - the effect of the proposal upon biodiversity and ecology.

Reasons

Character and appearance

6. Beacon Hill is a road of rural character, without footways and addressed by the entrances to the gardens of residential properties, which are generally large,

detached and set within commensurately sized gardens. Consequently, it has a particularly verdant character with a number of large trees of high amenity value located close to the road, and within and around gardens. Many properties feature substantial hedges fronting onto the road, which further accentuates this character.

7. The Maldon District Design Guide ('the MDDG') identifies Great Totham as an 'Arcadian Settlement', where the rural environment is integrated by a picturesque and pastoral approach to landscape design and structural planting in streets and individual plots. Although located outside of the settlement limit, the appeal site and its surroundings are reflective of the arcadian character identified in the MDDG.
8. The appeal site itself is located within a residential garden and would be situated between 7 Pingles ('Pingles') and Tall Trees, the neighbouring property to the east. The side garden of Pingles is set at a lower level than the road, and the appeal site currently hosts a mature hedge and a number of large and mature trees close to the road.
9. Although the application is made in outline form, the erection of a detached dwelling of four bedrooms and with a detached garage would introduce significant built form into the existing gap between Pingles and Tall Trees. The existing large visual gap between these properties is reflective of the character of the area and contributes positively to it. As identified within the Great Totham Neighbourhood Plan ('GTNP') and the MDDG, the infilling of spaces between houses has historically led to the erosion of the existing arcadian character.
10. Whilst I acknowledge that matters relating to access, layout, scale and design and appearance have been reserved for future consideration, the size and shape of the appeal site, and the provided indicative plan demonstrate that it would be difficult to locate the proposed development within the site, without the introduction of further built development being evident from the wider area. Consequently, the proposal would have an urbanising effect on the appearance of road. It would result in a prominent encroachment of built development into an open space that would detract from arcadian character of the area.
11. For these reasons, I conclude that the proposal would harm the character and appearance of the area. It would therefore be contrary to Maldon District Local Plan ('MDLP') Policies S8, D1 and H4, as well as GTNP Policy GT02 which together and amongst other criteria, seek to protect the character and beauty of the countryside, respect and enhance the character and local context, in terms of landscape setting, townscape setting, layout and density, and require new development to respect the arcadian nature of Great Totham by avoiding an overly dense feel and taking opportunities to retain views between buildings. It would also conflict with the Framework where it seeks to ensure that development is sympathetic to local character and history, including the surrounding built environment and landscape.

Whether an appropriate location for the proposal

12. It is not disputed between the parties that the appeal site is situated outside of any settlement boundary and is therefore located within the countryside. MDLP Policy S8 directs new residential development towards existing urban areas,

but does make provision for development within the countryside where it is for a specific purpose set out within the policy, and does not adversely affect the intrinsic character and beauty of the countryside.

13. GTNP Policy GT01 states that new development will be focused within settlement boundaries, and that outside of settlement boundaries, development proposals to meet identified local housing needs will be supported where it is demonstrated that no available sites exist within settlement boundaries, the site is well-related to the settlement boundary, and the site does not breach a defensible boundary.
14. No justification has been provided as to why the appeal proposal is required to be located within the countryside for the purposes of MDLP Policy S8, and in any event, I have concluded that the proposal would harm the character and appearance of the area in this countryside location.
15. The proposal would provide a boost to housing supply, but as a four-bedroom property, would not contribute towards the identified housing need set out in the supporting text to GTNP Policy GT01, which indicates that there is a need for smaller one and two-bedroomed properties. Furthermore, there is no evidence before me with regards to the availability of other potential sites within settlement boundaries.
16. In terms of accessing services and facilities, Beacon Hill forms part of a wider network of small settlements and areas of residential of development connected by a series of rural lanes. Some of these, such as Beacon Hill, have a pronounced rural character without footways or extensive streetlighting.
17. Although the appellant considers that local shops are located within reasonable walking distance, I have not been provided with any substantive evidence with regard to the number, nature or precise location of such facilities, or whether public transport options exist. Even if such facilities were located within reasonable walking distance, the lack of a footway on this road means that it is unlikely that accessing services on foot would be an attractive option for its future occupiers, particularly at night or in inclement weather.
18. I am mindful that the Framework sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and I acknowledge the support to nearby settlements that can result from rural development.
19. However, based upon the evidence that is before me, I consider it likely that in order to meet many day-to-day needs, future occupiers would rely on the use of a private car. The fact that the occupiers of other existing developments in the area face similar challenges does not, in itself, justify the approval of this particular scheme, nor does the fact that the Council has raised no concern with regard to the provision of parking and safe vehicular access.
20. I conclude that the appeal site would not be an appropriate location for the proposal and would have poor access to services and facilities. It would therefore be contrary to MDLP Policies S1, S8 and D1, as well as GTNP Policy GT01 which together, and amongst other matters, require new development to be located within existing settlement boundaries unless specific exceptions apply, and to minimise the need to travel and prioritise sustainable modes of transport. It would also conflict with MDLP Policy T2 insofar as it relates to

providing safe and direct walking and cycling routes to nearby services, facilities and public transport. There would also be additional conflict with the Framework which states that new development should be planned in ways that can reduce help to reduce greenhouse gas emissions.

21. The Council has also stated that the proposal would fail to accord with MDLP Policy T1 with regard to this main issue, however my attention has not been drawn to any particular wording within this policy with specific regard to assessing the location of new development with regard to access to services and facilities.

Biodiversity and ecology

22. The appellant asserts that a biodiversity report is not required for an outline application. However, whilst acknowledging that the use of the appeal site is currently residential garden, given the number of mature trees and hedgerows within it, there is reasonable potential for the appeal site to provide habitat for protected or priority species.
23. With no substantive evidence before me with regard to the potential of the site to host protected or priority species, priority habitat, designated sites or its current level of biodiversity having been provided, I am unable to conclude that the proposed development would not adversely affect protected or priority species and habitats, where there is a reasonable prospect that they may be present. It would not be appropriate to consider potential affects at the reserved matters stage.
24. Therefore, the proposed development would be contrary to MDLP Policies S1, D1, N1 and N2, NP Policy GT05 which together state that development should conserve and enhance the natural environment, by providing protection to, and increasing local biodiversity, make a positive contribution in terms of designated and non-designated sites of biodiversity value, and that proposals with the potential to adversely affect sites with designated features, priority habitats and/or protected or priority species should be accompanied by an ecological assessment. It would also be contrary to the Part 15 of the Framework which states that planning decisions should contribute to and enhance the natural environment by minimising impacts on biodiversity.
25. The Council has also stated that the proposal would fail to accord with MDLP Policy I1 with regard to this main issue, however my attention has not been drawn to any particular wording within this policy with specific regard to the effects of the proposal upon matters of biodiversity or ecology.

Other Matters

26. Whilst I acknowledge that the Council failed to determine the application within the prescribed period, I am required to determine this appeal on the basis of the merits of the proposed scheme, and cannot therefore, afford this weight in my consideration.
27. I acknowledge that no objections have been raised with regard to the proposal by Great Totham Parish Council, the Highway Authority or the Council's Environmental Health Officer, however these are neutral factors that do not weigh in favour of the scheme.

28. The appeal site lies within proximity to a number of European designated sites, including the Essex Estuaries Special Area of Conservation, Blackwater Estuary Special Protection Area and Ramsar site, Dengie Special Protection Area and Ramsar site, and Crouch and Roach Estuaries Special Protection Area and Ramsar site ('the European Sites'). The Conservation of Species and Habitat Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
29. The Council considers that the proximity of the site to the European Sites means that it is likely that they would be subject additional pressures from recreational visits from future occupiers of the proposal. Although the individual effects would be likely to be limited, the cumulative effect would be significant when considered in combination with other residential development also in proximity to these sites.
30. Had I been minded to allow the appeal, it would have been necessary to carry out an appropriate assessment in order to establish whether or not the mitigation contained within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, endorsed by Natural England, would be an effective means of mitigating these impacts. I address this matter further within the planning balance.

Planning Balance

31. The appeal scheme would lead to harm to the character and appearance of the area, and would be located such that future residents would have a significant level of reliance on means of travel other than public transport, walking or cycling in order to meet day-to-needs. In addition, I cannot be certain that there would not be harm to protected habitats and species.
32. The Framework indicates that due weight should be afforded to existing policies according to their degree of consistency with the Framework. The countryside is protected for its intrinsic character and beauty, and this is recognised by the Framework. The Framework also expects development to priorities sustainable means of travel, and to conserve and enhance the natural environment. Therefore, the conflict between the proposal and LP Policies S1, S8, D1, D4, H4, N1, N2 and D2, as well as GTNP Policies GT01, GT02 and GT05 should be given significant weight in my considerations.
33. The Council cannot demonstrate a five-year supply of deliverable housing sites. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. The proposed development would make a positive, albeit modest contribution towards boosting housing where the Council has stated that it can demonstrate only 3.66 years supply of housing sites. It would also result in some economic benefits during the construction phase and through local expenditure by future residents. Although Paragraphs 60 and 81 of the Framework highlight the importance of ensuring an adequate supply of housing sites, and the need to

support economic growth and productivity, having regard to the small scale of the proposal, I give these considerations limited weight.

35. Taking account of Paragraph 11 (d) of the, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. Consequently, the presumption in favour of sustainable development does not apply in this case.
36. If I had come to a different conclusion, I would have sought additional information in order to undertake the appropriate assessment, and be satisfied the integrity of the European Sites would not be adversely affected. However, as I have found that the presumption does not apply in this case, this has not been necessary.

Conclusion

37. The proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that the development should be determined other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR