



Appeal Decision

Site visit made on 17 July 2024

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2024

Appeal Ref: APP/X1545/W/23/3336148

Land East of Kelvedon Road, Great Totham, Essex CM8 3LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms N Flynn against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/23/00428.
 - The development is continued siting of mobile coffee van.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the appeal site provides a suitable location
 - The effect on the character and appearance of the area.

Reasons

3. The appeal site lies on the east side of Kelvedon Road within a countryside location between the villages of Wickham Bishops and Great Totham. It comprises the southern part of an agricultural field that is currently laid to pasture. The use for the siting of the mobile coffee unit has operated on the appeal site for some time with the mobile unit and associated outdoor seating and planted beds already on the site. The site is accessed directly off Kelvedon Road with gravel drive leading to a gate with small parking area.

Whether in a suitable location

4. Policy S8 of the Maldon District Local Development Plan 2014-2029 (2017) (LP) relates to settlement boundaries (SBs) and the countryside; the appeal site lies outside the SB of both villages and within the countryside. The policy seeks to ensure that the intrinsic character and beauty of the countryside is not adversely affected and lists developments that may be permitted outside the settlement boundaries. These include development identified in neighbourhood plans and employment generating proposals, community services and facilities and those related to rural diversification and tourism which accord with related policies E3, E4 and E5.
5. The appeal site lies within the plan area of the made Great Totham Neighbourhood Plan 2020-2035 (2022) (GTNP). It lies outside and to the west of the Totham South SB and is not identified for any particular use or purpose

and is unaffected by any other designation within the plan. GTNP Policy GT01 states that new development will be focussed within the settlement boundaries. The GTNP does not therefore lend any support to the development and neither party has drawn my attention to any specific policy within it.

6. In terms of the uses provided for by LP policy S8, the appellant contends that the development sought comprises a mix of rural diversification, a community and tourist facility whilst also providing an economic function and is thus supported by the above LP policies. However, the relevant policies contain a number of criteria which need to be satisfied.
7. The use is primarily a business, though to the extent it provides a meeting place for the local community, albeit one which is some distance from the villages, provides a community facility. There is also 'passing trade' from cyclists, horse riders and ramblers, albeit the site is not directly served by public footpaths or bridleways. The GTNP helpfully includes a map of footpaths and bridleways (Figure 7.1) the nearest being some distance to the south and north of the site, both necessitating a walk along Kelvedon Road to access the site. A National Cycle Route runs along Walden House Road and then northwards along Kelvedon Road. Given its location, and in the absence of any clear evidence, its role as a tourist facility is likely to be limited.
8. In terms of rural diversification, policy E4 states that activities associated with agriculture and other land based rural businesses will be supported where a number of criteria are met which in summary are that there should be a justifiable and functional need for the activity, that it is directly linked or ancillary to the existing use, and which could not reasonably be located in existing villages. The appeal site is part of a larger farm holding, but the use itself does not appear to be directly related to it or any other local farming enterprise. There is little evidence to demonstrate a justifiable and functional need for the use to be located at the appeal site, albeit I acknowledge that the development offers a countryside alternative to the existing facilities within the villages.
9. There are a number of individual letters of support and the appellant refers to regular local visitors and a petition which contains a considerable number of signatures, which also demonstrate a level of support for the use. However, whilst this demonstrates that the use is popular and well used, it does not demonstrate a functional need on the appeal site.
10. In terms of accessibility to the local community, there are footways along Walden House Road, Kelvedon Road north of it and Great Totham Road connecting to the villages of Wickham Bishop and Great Totham with a relatively short section of 'green route', comprising part of the verge along the southern part of Kelvedon Road connecting to the appeal site. Overall, these provide reasonable routes for walkers with similar routes available to cyclists. As a result, there would be no conflict in this respect with LP policies E3, T1 and T2 which seek to ensure an accessible environment with safe and direct walking and cycling routes and improved countryside accessibility.
11. Overall, whilst the appeal site is reasonably accessible to the local community and it is a popular, well used business, I find that it has not been demonstrated that the appeal site provides a suitable location for the use in the context of the relevant policies. As a result, whilst LP Policy E3 provides some limited

support, there is conflict with LP Policies E4 and E5 and thereby conflict with policy S8 and with policy GT01 of the GTNP.

Character and appearance

12. The appeal site lies at the southern end of a small field with hedgerows to boundaries with some established trees, mainly adjacent to the access. It is within the Totham Wooded Farmland Landscape Character Area as indicated on Figure 6.1 of the GTNP and displays one of the key characteristics which is 'predominantly agricultural fields enclosed by woodland patches or hedgerows with mature trees'. GTNP Policy GT03 identifies a number of 'key views' though the appeal site is not affected by any of them.
13. Nevertheless, views of the appeal site and its immediate surroundings are available particularly from the north at the junction of Kelvedon Road / Walden House Road / Great Totham Road and moving south along Kelvedon Road. There is little tree cover and the appeal site is open to view with just the low picket fencing and planters marking its boundaries. Whilst there are views of part of the built-up village of Great Totham these are distant and generally screened by mature tree cover. The development is also visible in approaches from the south, again with only the roadside hedge providing any intervening vegetation. There are a couple of trees just to the north of the access and an existing small barn which offer some screening but only in limited views.
14. Within this rural landscape, the van, planters and picket fencing appear as incongruous features spreading across the southern end of the field. The appellant has suggested that the fencing and planters could be painted a different colour to assimilate more readily within the rural views, but whilst this would be an improvement, they would nevertheless retain their 'domestic' appearance which is out of keeping with the natural appearance of the appeal site, its rural surroundings and wider landscape and the intrinsic character of the countryside. It has also been suggested that the van could be re-sited, but given the open nature of the appeal site, this is unlikely to make a significant difference, even with new planting which of itself could appear out of place.
15. The appellant clarifies that the use would operate only during the spring, summer and autumn months but given that this is the majority of the year, and notwithstanding that a greater level of screening would likely be afforded by the existing vegetation at those times, the level of harm remains unacceptable.
16. I find that the development harms the character and appearance of the area, and in that respect is contrary to LP policies S8, E4, E5 and D1, which seek to ensure that development respects and enhances the character and local context and makes a positive contribution to landscape setting and the natural environment.

Other Matters

17. I have taken into account the policies of the National Planning Policy Framework particularly those that seek to support a prosperous rural economy and sustainable rural tourism and that sites to meet local business and community needs in rural areas may have to be found beyond existing settlements. However, these must be sensitive to their surroundings and recognise the intrinsic character and beauty of the countryside which is not the

case this instance. For the reasons set out above, the development does not accord with these policies of the Framework and overall does not comprise a sustainable form of development.

18. I acknowledge that use has been trading successfully for a number of months and this has provided an income for the appellant as well as enabling local part time staff to be employed. I have also taken into account the personal circumstances put forward by the appellant that the use is operated in a sustainable manner and the considerable level of local support. However, whilst these factors are material considerations and demonstrate that there are economic and social benefits which weigh in favour of the development, they are not sufficient to outweigh the harm arising as set out above.
19. Reference has been made to a car event that took place on adjoining fields but from the information provided, this was unrelated to the coffee van use and is not before me as part of this appeal.

Conclusion

20. For the above reasons I conclude that the appeal should be dismissed.

P B Jarvis

INSPECTOR