



Appeal Decision

Site visit made on 23 July 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 17th August 2018

Appeal Ref: APP/X1545/W/17/3186253

Land opposite 18 Handleys Lane, Wickham Bishops, Witham, Essex CM8 3NJ

- 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 Marden Homes Ltd against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/01495, dated 23 December 2016, was refused by notice dated 6 April 2017.
 - The development proposed is described as 'redevelopment of the site to provide 5 residential units including (5x5 bed units) with associated soft landscaping and shared access form Handleys Lane'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision it has adopted the Maldon District Approved Local Development Plan 2014 – 2029 Adopted July 2017 (LDP). The LDP has superseded the Maldon District Replacement Local Plan 2005 and renders the Council's Planning Policy Advice Note V5 as being out of date. The adoption of the LDP was referred to in the Council's submissions so the appellant has had an opportunity to deposit further comments addressing this change.
3. In addition, following the Council's decision the revised National Planning Policy Framework (the 'Framework') has been issued and this has superseded the 2012 version. Accordingly, both the Council and the appellant were afforded an opportunity to supplement their submissions in respect of this matter.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposed development would be in a suitable location, with particular reference to policies concerned with housing in rural areas and the effect of the proposed development on the character and appearance of the area; and
 - Whether the proposed development would incorporate an appropriate housing mix.

Reasons

Whether the proposed development would be in a suitable location

5. In order to support sustainable and planned development and protect the countryside for its landscape, natural resources and ecological value Policies S1, S2 and S8 of the LDP establishes a spatial strategy for development that includes housing delivery. In particular, Policy S8 establishes settlement boundaries and states that sustainable development within these areas will be supported.
6. Outside the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations defined and identified in the recently adopted LDP, Policy S8 states that planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon *and* provided it is for certain types of development identified in closed list that includes, for example, employment generating proposals and the re-use of rural buildings. Policy S8 provides scope for advancing additional housing sites through the neighbourhood planning process if they are outside a settlement boundary and unallocated in the LDP. A neighbourhood plan for Wickham Bishop is currently under preparation.
7. There is a negative corollary within Policy S8 that means most housing outside the defined settlement boundaries and allocations is to be precluded, including general open market housing, as this is not listed in Policy S8. The use of settlement boundaries can be a useful component of a locally prepared plan aimed at delivering sustainable development and therefore I consider such an approach to be consistent with the Framework. Policies S1, S2 and S8 have recently been examined and adopted and I have seen nothing to suggest the evidence base underpinning them is now out of date. For these reasons any conflict with these policies can be afforded significant weight when applying Paragraph 213 of the Framework.
8. The appeal site is outside the settlement boundary of Wickham Bishop and the appeal scheme would not deliver any of the types of development listed within Policy S8 of the LDP. Thus, the proposal would be at odds with, and undermine, the spatial strategy for housing (Policies S1, S2 and S8 of the LDP) and the consistency and relative certainty that should flow from a plan led approach to the location of new development.

The effect on the character and appearance of the area

9. The appeal site encompasses a small paddock on the edge of the village. It has not been grazed for some time and now has the appearance of an overgrown meadow. The site is of an irregular shape, largely open and most of its boundary is enclosed by mature planting. This positively incorporates the site within the setting of an apparently well used wooded footpath (it is referred to as such in the Village Design Statement) along the south eastern boundary of the appeal site. This is an important recreational amenity which links with the playing field beyond and provides a route to and from Beacon Hill. The appeal site has a pleasant rural character that positively contributes to the appearance of the countryside on the edge of Wickham Bishop, which is defined as an arcadian village in the Maldon Design Guide.

10. There are views from the footpath of the appeal site and over it towards the housing that delineates the edge of the village. The housing is viewed as being in the distance and this provides the footpath with a sense of rural tranquillity. The openness of the eastern half of the appeal site is particularly important to the setting of the footpath. I therefore share the conclusions of the Council's Landscape Character Assessment that the village edge is sensitive to change and encroachment, particularly along Handleys Lane.
11. The appeal site is accessed from Handleys Lane, a narrow route branching off The Street. The properties along this thoroughfare are generally detached and set back from the road in large to medium sized plots. There is a suburban character to the lane but this tapers off as the route becomes a footpath.
12. The introduction of five tall dwellings within the appeal site of considerable massing, with large garages, the associated domestic paraphernalia, a formal highway access and an internal road would inherently urbanise the appeal site and significantly harm its open appearance and rural character when viewed from surrounding vantage points, including the nearby public footpath. The suburban form of a cul-de-sac would compound this impact, particularly so given the guidance in the Council's Design Guide that cul-de-sacs on the edge of the village are eroding its arcadian character.
13. The impact would be lessened to a notable extent by the high quality design of the individual properties, with attractive materials, detailing, forms and styles employed. Moreover the massing would be broken up and the properties would occupy spacious plots which would afford opportunities for landscaping, although the extensive driveways would limit this potential advantage. The single storey nature of the garages would also result in attractive proportions and the central wildlife pond would be a pleasing feature. Moreover, I note the findings of the appellant's landscape and visual impact assessment that the visual impact upon the wider landscape would be very limited. I agree as the existing mature boundary planting would contain the development in distant views.
14. However, Plot 2 would be particularly harmful in views from the public footpath given its position, size and orientation with its rear elevation presented to the public realm. It would also block views of the rest of the development thereby interrupting an aspect of what would be attractive new dwellings that could present a natural rounding off of the settlement. In this respect Plot 2 would be an extensive building close to the footpath with a strident and imposing presence. This would not be mitigated by the screening effect of boundary landscaping, which would be particularly ineffective when the plants are not in leaf. Plot 4 would also be too close to the site boundary and this would put pressure on the mature boundary hedge in much the same way that the landscaping along the western edge of the appeal site¹ has been eroded over time. The site plan already shows the opening up of the hedge behind this dwelling, presumably to create a view over the adjoining field.
15. Thus, I am not satisfied it would be appropriate to site housing on the eastern side of the proposed wildlife pond as it would result in built development being located too close to the footpath (and site boundary), thereby eroding the tranquillity and rural setting.

¹ Along the boundaries with Beech Green and Poney Chase

16. Although there is much to commend in the design of the proposal, my overall conclusion is that the appeal scheme would harm the character and appearance of the area. It would therefore be in conflict with Policies D1 and H4 of the LDP, as supported by the Maldon District Design Guide, which seek to ensure new developments respect and enhance the local character and context. These policies are consistent with Paragraph 127 of the Framework and therefore the conflict with them can be afforded significant weight.

Whether the proposed development would incorporate an appropriate housing mix

17. Policy H2 of the LDP states that *all* development will be expected to provide a suitable mix and range of housing in terms of size, type and tenure. The supporting text to Policy H2 provides some context to this requirement and explains that the relevant Strategic Housing Market Assessment (SHMA) identified a good supply of larger 3+ bedroom homes in the district but there is a need to better balance the housing stock with a higher proportion of smaller homes (1 and 2 bedrooms) to better cater for an ageing population and younger people entering the market.
18. I have seen nothing of substance to suggest these findings are out of date at a district wide or local level. From what I observed in the village, recent developments, such as that at Chantry Grove, appear to have continued the trend for larger homes. If this was to continue over time then certain sectors of the market would find it increasingly difficult to find the homes they need. I afford little weight to the appellant's suggestion that there is a need for larger homes as this is unsupported by robust evidence that counters the findings of the SHMA.
19. The appeal scheme would encompass five very large five bedroom homes. This mix would be entirely at odds with the findings of the SHMA and the aims of Policy H2. I have seen nothing of substance to suggest the provision of some smaller homes would be unviable. The expectations of Policy H2 could be accommodated within the envelope of the built form proposed, by, for example, splitting one of the larger homes into a semi or including small homes in lieu of garages. Thus smaller homes need not harm the character of the area or one of the scheme's design concepts of integrating the proposed dwellings with the scale and massing of the larger homes nearby.
20. I therefore conclude that the appeal scheme would not provide an adequate mix of housing and this would conflict with, and harmfully frustrate, the aims of Policy H2. This leads me to question whether the appeal scheme would be an effective use of land. Policy H2, and any conflict with it, is afforded significant weight given the consistency with Paragraph 61 of the Framework.

Other Matters

21. A planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework states that where a planning application conflicts with an up-to-date development plan permission should not usually be given. It is within this context that I have considered the other matters raised by the appellant.
22. It has been suggested that the Council's ability to demonstrate a five year housing land supply (around 6.28 years) is precarious given its reliance on large strategic sites. However, such an approach was examined by an

- Inspector and found to be sound. As such, the policies which are most important to the determination of the planning application are up to date and therefore the tilted balance in Paragraph 11(d) of the Framework is not engaged in spite of the sites 'sustainable' location close to services.
23. The appeal site scored well in the Council's Strategic Housing Land Availability Assessment but I afford this point very limited weight as a matter in favour of the grant of planning permission as the purpose of this document is to consider development options rather than allocate sites or convey them with any particular status. The document itself includes a qualification in this regard.
 24. The appeal scheme would deliver a number of benefits as it would support the local economy through construction jobs and the circulation of funds. However, the practical effect of this has not been demonstrated, construction jobs would be short term and there is nothing to suggest services are failing for lack of demand. These factors limit the weight I attach to these benefits.
 25. Policy H1 of the LDP sets out the requirements for affordable housing on sites proposing more than five homes and the appeal scheme would trigger this. The appellant is seeking to meet its obligation through a financial contribution and has submitted a completed planning obligation to this end. However, I have seen no substantive evidence that demonstrates onsite provision would be impractical or unviable and it is unclear what consultation has taken place with registered providers. I would need to see further evidence before taking a view on this and whether the Council's approach is consistent with the Framework. Nevertheless, the financial contribution is a benefit of the scheme. However, as it is unclear what the contribution would deliver it is a point of only moderate weight in favour of the proposal.
 26. The proposal would boost housing supply in a location close to services and facilities but the Council can demonstrate a five year housing land supply so there is no pressing need to approve development that is in conflict with the spatial strategy in the development plan or harms the character and appearance of the area. Moreover, the delivery of housing, as a benefit, would be accrued by proposals that are consistent with the development plan.
 27. There may be some gains to biodiversity but this is unquantified and thus not determinative.
 28. In my view, the overall benefits of the proposal would not outweigh the harm that would occur and the subsequent conflict with the development plan if the scheme progressed.
 29. Reference has been made to other developments that have been constructed on land outside the settlement boundary of the village but these were granted at a time when the Council could not demonstrate a five year housing land supply and therefore at a point in time when the tilted balance in the Framework was engaged as a material consideration.
 30. The appeal decision relating to Willotts Farm is of very limited relevance as the appeal site before me is not surrounded on all sides by housing, is clearly part of the countryside and the decision related to a site in a different local authority area that would have been subject to different policies and circumstances.

31. The emerging Neighbourhood Plan is still in its formative stage so its policies are still in draft and thus of limited weight.
32. I note that a number of concerns have been raised by interested parties, including reservations relating to the effects upon highway safety, infrastructure, wildlife (including badgers) and the risk of flooding. However, given my findings it has been unnecessary to consider these points further as the appeal has failed on the main issues.
33. The appeal scheme was supported at an Officer level but I have reached my own conclusions for the reasons given and therefore this is not a determinative point in favour of the proposal.

Conclusion

34. The appeal scheme would be contrary to the development plan and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, for this reason, the reasons given above, and having regard to all matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR