



Appeal Decision

Hearing Held on 7 August 2018

Site visits made on 7 and 8 August 2018

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 29 August 2018

Appeal Ref: APP/X1545/W/17/3185429

Land West of Maypole Road, Heybridge, Essex CM9 4SP

- 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 Endurance Estates Strategic Land Ltd against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/01152, dated 4 November 2015, was refused by notice dated 30 March 2017.
 - The development proposed is an outline application for the construction of up to 45 dwellings with associated garaging, parking, public open space, landscaping, access, highways drainage and infrastructure works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline proposal with access to be determined at this stage; all other matters of detail are reserved for future consideration.
3. I undertook an accompanied site visit on 7 August and an unaccompanied visit to the surrounding area on 8 August
4. Since the appeal was made, the Government has published the revised National Planning Policy Framework (NPPF). Comments have been received from the main parties in relation to this and I have taken them into account in determining this appeal.

Main Issues

5. The main issues in this appeal are;
 - Whether the Council demonstrates a suitable supply of housing land
 - The effects of the proposal on the landscape/visual character of the area
 - The effects of the proposal on the setting of the nearby listed building.

Reasons

Housing Land Supply

6. The Council adopted its Maldon District Local Development Plan (LDP) 2014-2029 in July 2017, this post-dates the determination of the appeal scheme by

the Council. Within the reasons for refusal, reference is made to policies within the Maldon Replacement Local Plan (RLP) but it is acknowledged by both main parties that these are no longer relevant.

7. Paragraph 74 of the NPPF states that *"A five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement..."*. In relation to what is considered as 'recently adopted', footnote 38 of the NPPF states that, for these purposes a plan adopted between 1 May and 31 October will be considered 'recently adopted' until 31 October of the following year. At the time of my consideration of this appeal, this clearly means that the LDP is recently adopted, for this purpose. For this reason, the Council considers that it can demonstrate a five year supply of sites, with an appropriate buffer; based on the figures considered by the LDP examination, both a 5% and 20% buffer can be demonstrated. For their part, the appellants make reference to the Inspector's report when examining the LDP, which states that *"...I consider there to be a reasonable prospect of a five year supply existing for 2017 and for some years to come."* In addition, the appellants consider that an assessment of the Council's current housing land supply position must be a relevant consideration.
8. From my consideration of this relevant section of the NPPF, it seems to me that what is stated at paragraph 74 is unequivocal: its clear intention is that where a recently adopted plan includes an appropriate provision for the supply of housing land, then the local planning authority concerned is able to demonstrate a suitable supply of housing land for a certain time period following adoption. This statement is not the subject of any other qualifications on its relevance or application. Having taken account of the Inspector's report for the LDP and his full set of comments relating to housing land supply, and the fact that the LDP was found to be sound as a whole, my view is that the Council can be considered to have a five year supply of housing sites, with an appropriate buffer, for the purposes of this appeal.
9. I was encouraged by the appellants to closely examine the evidence relating to a number of sites and to delivery rates, and some time at the Hearing was taken in this respect. However, if I were to bring these matters into consideration it would be in direct contradiction of the clear policy set out in paragraph 74 of the NPPF. Therefore, my conclusion on this matter remains unchanged.

Landscape/Visual Character

10. Policy S3 of the LDP, entitled 'place shaping' states that, amongst other things, Garden Suburbs will be planned as high quality neighbourhoods that will complement and enhance the character of the District and protect and enhance the environmental qualities of the surrounding area. The policy then sets out a number of principles that must be incorporated into the development of these areas, including a strong landscape character, a clear and harmonious relationship between town and country; it adds that a masterplan for each Garden Suburb will be prepared as a guide for development.
11. The appeal site sits within the North Heybridge Garden Suburb (NHGS) which is identified in Policy S4 of the LDP. The policy identifies a number of key features that development within the Garden Suburb should incorporate, including increased and enhanced green infrastructure. In addition, the policy

states that Masterplans for the garden suburbs will be prepared in accordance with the principles set in the policy and that development within the relevant areas should have regard to the Masterplan. Policy S4 adds that within the North Heybridge Garden Suburb a number of additional principles should be applied, in order to form a clear defensible northern and western boundary and to reduce the potential for future coalescence with neighbouring villages; these include that the area between the new relief road, Maypole Road and Langford Road (which includes the appeal site) will only be used for green infrastructure, agriculture, flood alleviation and/or landscape measures.

12. The Council has endorsed the NHGS Strategic Masterplan Framework (SMF) as a material consideration for development management purposes. In addition the Council approved the Strategic Design Code (SDC) as a basis for the determination of planning applications within this area. It is acknowledged within the Statement of Common Ground that neither document has been adopted as a Supplementary Planning Document. However, I attach some weight to their contents as a clear indication of how the Council expect to see the implementation of its adopted policies, in this respect.
13. The layout within the SMF shows that the appeal site would be for landscape, flood alleviation and/or open space and that residential development would take place on the opposite (east) side of Maypole Road. Within the SMF the appeal site would form part of a larger area of open land extending north and west. This is consistent with the requirement set out in Policy S4.
14. The appeal site is an inverted L shape with its long side adjacent to Maypole Road and its projection in the north-west. Whilst the appeal is in outline form only, an illustrative layout indicates one way in which the site may be set out; this includes an open area within the north-west and residential development on the remainder.
15. I consider that full weight must be given to the provisions of the LDP and Policy S4 is clear in its provision that the larger area of land to the west of Maypole Road here, including the appeal site, should be used for green infrastructure, agriculture, flood alleviation and/or landscape measures. This is refined and given strength by the provision of the SMF. The proposal to construct houses on most of the site is clearly contrary to this provision of the policy within the LDP.
16. The appeal site and the larger area of land identified as open here, forms part of a much larger comprehensive development within the District which has key strategic implications. It involves the development of open land and has obviously involved a balance of the loss of open land for housing and other purposes, with the desire to provide open land which could be protected in some manner by the provisions of the Policy S4 and the SMF. Maypole Road has been identified as a clear and 'defensible' boundary for the built development of this area, for the purposes set out above. I have taken account of the evidence submitted by the appellants and the Council in respect of the landscape and visual effects of the proposal. Whilst I acknowledge that the land is not covered by any specific landscape designation, I judge that its value here is one deriving from the fact that it will form the immediate rural setting at the edge of the Garden Suburb; its intrinsic value is its openness. It will allow the formation of an appropriately designed soft edge to be formed on the opposite side of Maypole Road which will leave the road as the logical and

'defensible' edge of the housing area, in accordance with Policy S4. The proposed development would undermine this aim and be contrary to Policy S4 in this respect.

Setting of the Listed Building

17. The appeal site sits immediately adjacent to the grounds of The Old Rectory and its associated Stables. Both are Grade II listed buildings and it is agreed by both main parties that there would be no unacceptable effects on the setting of the Stables.
18. The Old Rectory is said to date primarily from the late 18th Century and its special interest is agreed to derive from its age, history, architectural interest and its group value with the Stables. Its immediate surroundings are formed by its large garden which includes a swimming pool and tennis court as well as other open areas. The gardens are bounded by trees and other planting which form a screen from surrounding land to the east and north (with the appeal site) and to the west, although photographs reveal that the level of screening is reduced in the winter months.
19. There is an historic association between the appeal site and the Old Rectory in that it formed part of a larger area of land owned and functionally linked to the Old Rectory as glebe land. This functional relationship ceased some considerable time ago. However, I agree with the appellant and Council, that the appeal site has some value in its contribution to the significance of the listed building due to this historic association and its part of the wider rural and tranquil surroundings. I consider this to be secondary to its historic and architectural values and less than the value of its immediate setting represented by its current enclosed large garden.
20. The development of most of the appeal site with housing will reduce the contribution that the site makes to its significance. Taking account of the low level of contribution to the significance of the historic asset that the appeal site makes, I consider that this would result in 'less than substantial harm' to its significance, as set out in paragraph 196 of the NPPF. Within this level of harm the Council suggested that it should be seen as 'moderate' and the appellant suggests that it would be 'minor'; taking account of the above factors, I agree that it would be minor harm that would arise.

The Planning and Heritage Balance and Conclusion

21. The appeal scheme would bring about some benefits associated with it, as set out by the appellants; these include supporting construction jobs, the new homes bonus, the additional spending by new residents, provision of additional homes some of which would be affordable, publicly accessible open land, new planting, a surface water drainage storage and enhanced biodiversity and I confirm that I have considered these in determining the appeal. I have also taken account of the provisions contained within the S106 Agreement.
22. Set against the proposal, I have concluded that, in accordance with the NPPF, the Council can demonstrate a suitable supply of housing land and whilst this is not to be seen as an upper limit, it has implications for the policy context for determining the appeal. For the reasons set out, I find that the proposal is contrary to the provisions of the LDP, in relation to Policies S1, S2, S3 and S4

and I find that the benefits of the proposal are insufficient to outweigh this conflict and the harm arising.

23. In relation to paragraph 196 of the NPPF, although I have identified harm, it is only of a minor nature and in respect of this harm only I consider that the public benefits arising would be sufficient to outweigh it. This in itself is insufficient to alter my conclusion set out above

24. As a result of my findings, the appeal is dismissed.

S T Wood

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

K Slater
R Warren
S Elliott
P Brashaw
J Smith

FOR THE LOCAL PLANNING AUTHORITY:

M Woodger
I Butt
C Bailey
J Longman
T Howsen

DOCUMENTS

1. S106 Agreement
2. 3 sheets relating to glebe land

Richborough Estates