



Appeal Decision

Site visit made on 27 January 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

Appeal Ref: APP/X1545/W/20/3259185

Old Wheatsheaf, The Street, Stow Maries, Chelmsford, CM3 6RU

- 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 Mr N Brown against the decision of Maldon District Council.
 - The application Ref OUT/MAL/20/00499, dated 12 May 2020, was refused by notice dated 31 July 2020.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for one dwelling where all matters are reserved for later consideration.
3. The council confirms that the financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been paid. Therefore the second reason for refusal has been overcome.
4. The latest Housing Delivery Test: 2020 Measurement was published on 19 January 2021. This showed for Maldon District that the 3 year total number of homes required over the relevant three year period 2017 - 2020 was 802, and that the total number delivered was 969, resulting in the Test Measurement of 121% with the consequence shown as none. I invited the parties to comment on these results and have taken account of the responses in my consideration of the appeal below.

Main Issue

5. The main issue in this case is the suitability of the site for residential development.

Reasons

6. The starting point is the development plan: determination must be made in accordance with the plan unless material considerations indicate otherwise¹. In this case the refusal notice cites policies S1, S8, D1 and H4 of the Maldon District Local Development Plan 2014-2029 dated July 2017 (MDLDP). The

¹ Section 38 (6), Planning and Compulsory Purchase Act 2004

National Planning Policy Framework² (the Framework) is not part of the development plan, but is a material consideration of considerable importance.

7. The policies of MDLDP support the emphasis on sustainable development set out in the Framework by directing development to defined settlements. Stowe Maries is defined as a 'Smaller village', which are settlements containing few or no services and facilities, with limited or no access to public transport, very limited or no employment opportunities. The settlement boundary for Stowe Maries excludes the appeal site, although it is immediately abutting the boundary. As such there is a strong policy objection to the proposed development.
8. In the face of the policies, it is argued for the appellant that the site is in a sustainable location, and makes reference to recent appeal decisions that it is suggested support the case. It is pointed out that there is a church, church hall and public house in the village, and some employment opportunities. In addition, it is said that there is a school bus and a local bus service to surrounding villages including Cold Norton, where the bus stops are about 50 m and 100m away from the appeal site. Additionally, there is the hourly Dengie DaRT 5 Service, which has bus stops along the route to connect with the surrounding villages of Cold Norton, Fambridge, Althorne and to the towns of Burnham and South Woodham Ferrers. There are also railway stations at North Fambridge and South Woodham Ferrers with connections going into London or the town of Burnham on Crouch.
9. As far as the bus services and their linkages are concerned, the council points out that the closest bus stops service school routes or the DaRT service, with the closest public bus stop situated on Howe Green Road approximately 0.7 miles from the site. The D1 service operates on a two hourly basis to Bradwell and Maldon, starting at 8am with the last service at 5pm; the D2 service operates on an hourly basis between 9am and 5pm, Maldon to Bradwell.
10. These bus services are insufficient and too limited to have a significant impact on peoples' decisions about choice of modes of transport. Taken with the very limited facilities in Stow Maries, it is clear to me that any residents at the appeal site would almost certainly rely heavily on private vehicles. I agree that recent times have seen a growth in working from home, and that this may well continue to a degree after the pandemic; but the loss of 1 return journey to work does not necessarily mean that there would not be additional journeys for other purposes. The lack of shopping, educational, medical, employment and other services within walking or cycling distance means that this is not a proposal for sustainable development. Nor would a single dwelling have any material effect on maintaining or enlarging the village facilities that do exist.
11. The 'tilted balance' set out in Framework paragraph 11d has been referred to as a justification for the development. It is true that, between the time that the appeal application was refused by the council, and the time of the appeal, the council's position has changed from one where it could demonstrate a 5-year housing land supply, to one where it has a supply of 4.9 years. However, set against this is the fact that, as I refer to at paragraph 4 above, the recently published Housing Delivery Test (HDT): 2020 Measurement showed for Maldon

² The council's refusal notice refers to the Framework 2012, although the extant Framework was revised in 2018 and the latest amended version is dated February 2019. It is the policies in this version that will be referred to in this decision.

District that the total number of homes delivered in the 3 year period 2017 - 2020 was 121% of the requirement, and that therefore the consequences are shown as none. The council believes that it is in a positive position at present with a further 433 homes being completed for the year 2020/2021 against a yearly target of 310 homes, and therefore it is very likely that the Council will also pass the HDT in 2021. The appellant considers that the council is being optimistic.

12. I have also been supplied with a copy of the council's Monitoring Report for 2019/2020 which shows that in the years 2014/2015 to 2019/2020 there was a shortfall of 384 completions compared to the requirement. However, I see that the results for the last 2 years show a steady improvement with 2018/2019 having a shortfall of only 4 units, whilst 2019/2020 had a surplus of 152 units. I conclude from this that the HDT results do not lead to the tilted balance, whilst the housing land supply has a shortfall of only 0.1 year. Furthermore, the HDT shows actual results, whilst the 5-year housing supply is necessarily an assessment of what might be achievable. Given that I do not consider that the appeal site is in a sustainable location, and that 1 dwelling would not make a significant contribution to the district's apparent current housing land supply position, I conclude that site is not a suitable location for residential development.
13. The appellant also suggests that the use of the site is 'domestic', shown by the presence of a garage and structures that have since been removed. I take this to imply that the site has a residential use. Looking at the site as it was at my site visit, I am not convinced that the 'garage' has been in domestic use; its appearance being equally similar to a building that might be associated with agriculture or a smallholding. I note that in a photograph included in the evidence, there are small features that appear to be pig arcs. Furthermore, the appeal statement refers to ad hoc storage barns and sheds having been present on the site, which again suggests an agricultural use. I am far from convinced that the site has ever had a domestic use or is previously developed land, within the meaning set out Annex 2: Glossary to the Framework. Nor can the proposal be reasonably described as 'infill' development, which is also suggested.
14. I have considered all other matters raised, including a planning permission given by the council, within the settlement boundary, and 4 appeal decisions³. One of these appeals was in Burnham-on-Crouch outside of the settlement boundary but in an area that had substantially changed character; 1 appeal, said to be at Purleigh, but the site is to the east of Stow Maries, was outside the settlement boundary; 2 appeals are put forward to show that a single dwelling can be regarded as contributing to sustainable development.
15. None of these throw any useful light on the matters leading to my decision in this case. The appeal site is outside the settlement boundary, the development would not be sustainable, and would be contrary to the development plan policies S1, S8, D1 and H4 of the MDLDP. The appeal is therefore dismissed

Terrence Kemmann-Lane

INSPECTOR

³ Application No.MAL/20/00090; Appeal references 3028111, 3207171, 3245694, and 3256266.