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## Appeal Decision

Site visit made on 14 June 2021

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> June 2021**

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**Appeal Ref: APP/X1545/W/20/3256261**

**Wheatsheaf Farm, Rushes Lane, Asheldham, Southminster, Essex CM0 7NY**

- 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 & Mrs Robinson against the decision of Maldon District Council.
  - The application Ref OUT/MAL/19/00920, dated 17 June 2019, was refused by notice dated 20 January 2020.
  - The development proposed is a single storey dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application is for outline permission with all matters reserved. A site layout plan has been submitted which is illustrative of a possible scheme and I shall consider that plan on this basis.

### Main Issues

3. The main issues in the appeal are:
  - i) the effect of the development on the character and appearance of the area;
  - ii) its accessibility to services and facilities by sustainable means; and
  - iii) the effect of the development on European designated habitat sites.

### Reasons

#### *Character and Appearance*

4. The site is in the open countryside to the north of the small settlement of Asheldham. It is outside the settlement boundaries as defined in the development plan. The site consists of a grassed field which lies adjacent to the house and farm buildings of Wheatsheaf Farm. It fronts onto Rushes Lane, which is a private road that connects to Tillingham Road both to the east and south of the site.
5. Development in the immediate area is sporadic with the buildings of Rushes Farm to the west of Wheatsheaf Farm and two semi-detached dwellings to the south-east of the site. The character of the area is open and rural. The illustrative plan shows that the proposed dwelling would be set well back from

the road, and in this respect its siting would be similar to that of the adjacent farm buildings.

6. Although the appellants state that the site forms part of the garden to the adjacent house, there is no evidence before me that planning permission has been granted for this use. I saw that the site has the appearance of an open field rather than a domestic garden.
7. The proposed dwelling would be screened in wider views to a large extent by trees and hedging around the boundaries of the site, although it may still be visible to some extent through gaps in the trees. The dwelling would be visible along its access drive from Rushes Lane, which is a public footpath route.
8. Taking these factors into account, the proposal would significantly affect the character and appearance of the site and the area. It would be intrusive in the open countryside and out of character with its rural surroundings.
9. For the reasons given above I cannot give weight to the appellants' claimed fallback position that a residential outbuilding could be erected under permitted development rights. Neither can I give weight to the former existence of a cattery on the site as any building that may have previously existed has been removed.
10. Policy S8 of the Local Development Plan (LDP)<sup>1</sup> allows for specific categories of development outside settlement boundaries where the intrinsic character and beauty of the countryside is not adversely impacted upon. The proposal does not fall within any of those categories and does not accord with that policy.
11. Policy S1 of the LDP requires conservation and enhancement of the natural environment and maintenance of the rural character of the District. Policy D1 of the LDP requires development to respect and enhance the character and local context in terms of the natural environment. For the reasons given the proposal would not accord with those policies. I conclude that the development would unacceptably harm the character and appearance of the area and I give significant weight to this harm.

### *Accessibility*

12. The appellants point out that it is possible to walk along Rushes Lane to Asheldham where there are bus services to larger centres. These services provide access to Maldon, Southminster and Witham, where there is a range of services and facilities. The site is within walking distance of the bus stops in the village using that route. Such pedestrian access would however be limited by the lack of street lighting and the unsurfaced nature of much of that route. No details of the frequency of the bus services are before me.
13. The National Planning Policy Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. While any occupier of the proposed dwelling would be likely to rely on the private vehicle for transport the alternative option of bus travel is available, albeit with limitations.
14. Policy S1 of the LDP requires minimisation of the need to travel and promotion of sustainable modes of transport. Policy D1 also seeks to maximise

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<sup>1</sup> Maldon District Local Development Plan 2014-2029 (2017)

connectivity to surrounding areas. In that the proposal would have some connectivity by means of public transport it would not conflict with those policies.

15. For this reason, there would be some accessibility to services and facilities by sustainable means. This would be limited however and does not weigh either in favour or against the proposal.

#### *Effect on European Habitats*

16. The site is within a zone of influence for one or more European designated habitats as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Residential development in combination is likely to have a significant effect on the European sites as a result of recreational disturbance. Under the RAMS, financial contributions are secured which are used to fund mitigation measures which ensure that developments do not adversely affect the integrity of the European sites.
17. A Unilateral Undertaking has been submitted which is intended to secure the requisite financial contribution, but this has not been signed or dated, and for this reason I cannot take it into account. I conclude that the development would be likely to adversely affect the integrity of European designated habitats. For these reasons the proposal would not accord with Policy S1 of the LDP, which requires protection of biodiversity, or with Policy I1 of the LDP, which requires developer contributions towards infrastructure.

#### *Other Matters*

18. The appellants explain that the proposed dwelling is required for family reasons, but these personal circumstances do not outweigh the identified conflicts with planning policy and do not justify a decision other than in accordance with the development plan.
19. The proposal would be of social and economic benefit by contributing to housing supply and to the local economy. I also note that it is intended to provide benefits for biodiversity. These considerations carry limited weight because of the limited scale of the proposal and do not outweigh the conflict with the development plan.
20. There is no information before me to indicate that the policies most important for determining the application are out-of-date. However, for the avoidance of doubt, if this were the case the adverse impact on the character and appearance of the area would be of sufficient weight to significantly and demonstrably outweigh the limited weight that would arise from the benefits.

#### **Conclusion**

21. For the reasons given I conclude that the appeal should be dismissed.

*Nick Palmer*

INSPECTOR