



Appeal Decision

Site visit made on 13 July 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/X1545/W/20/3264988

Orlands, Maldon Road, Bradwell-on-Sea, Southminster, CM0 7HS

- 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 Jeremy MacBean against the decision of the Maldon District Council.
 - The application Ref. 20/00207/OUT dated 19 February 2020, was refused by notice dated 9 July 2020.
 - The development proposed is the erection of 1, two storey cottage, within the garden curtilage of Orlands on the location of existing foundations.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application is in outline, with all matters reserved for later consideration.

Main Issues

3. There are 2 main issues in this case: i) the suitability of the appeal site for a dwelling taking into account the countryside location and the remains of a building on the site; and ii) the impact on European designated nature conservation sites.

Reasons

The suitability of the appeal site for a dwelling

4. The principal development plan policies, which are the starting point for this appeal, are S1 and S8 of the Maldon District Local Development Plan (LDP). Policy S1 carries the presumption in favour of sustainable development, in line with the National Planning Policy Framework. This policy covers a range of matters, the most relevant in this case being: "2) *Deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations;* and 6) *Create sustainable communities by retaining and delivering local services and facilities;*".
5. Policy S8: 'Settlement Boundaries and the Countryside' sets out the hierarchy of settlements and provides clarification in terms of the types of development that may be more suitably located in the countryside with reference to other relevant policies within the LDP. Within this, both Bradwell-on-Sea and Tillingham are identified as a 'Smaller village'. The main thrust of this policy, as far as development outside of settlement boundaries is concerned, is to protect

the countryside for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside of the defined settlements and allocations, planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted. There is a list of acceptable development types, that may be permitted, given in this policy, but none are relevant here.

6. Policies D1 and H4 are also mentioned in the refusal reason, but the former is about achieving good design, which is not relevant here as the application was in outline with all matters reserved for later consideration, while the latter is about using land effectively. It seems to me that policy H4 would only come into consideration once the proposed development is found to be satisfactory in principle.
7. Orplands, is a large farmhouse, rebuilt in the Victorian period, but known to exist since the 15th century, situated within an extensive curtilage. It is locally listed as a substantially complete Victoria farmhouse of very good local architectural interest, displaying high quality materials and detailing. From what I saw, it is currently set in grounds that have become largely overgrown. The appeal site itself has the remains of a demolished building, so that all that can be seen is some brick footings of walls, largely hidden under high grass and vegetation. I have been supplied with a photograph of the building that once existed on the site, which appears to have been a fairly substantial Victorian outhouse of some kind.
8. As I saw at my site visit, Orplands is located at the eastern extremity of the Dengie Peninsular which is a largely rural area that is bounded by the River Blackwater to the north and the River Crouch to the south. In the vicinity of the site are the settlements, small villages or hamlets, of Bradwell-on-Sea, East End and Bradwell Waterside and, a little further, Tillingham. The site is well outside the settlement boundaries of Bradwell-on-Sea and Tillingham, the only settlements mentioned that have settlement boundaries.
9. On behalf of the appellant it is said that there are public transport links, with 3 bus stops at St Peter's Court, Woodyards and The Kings Head, located within 630m, 1km and 1.1km respectfully from the site, providing access to larger towns such as Maldon within 1 hour. In addition, Bradwell-On-Sea has a local community shop, which stocks all essential foods required, which is located 1.2 km away.
10. The immediate surroundings consist of countryside and sporadic, mainly long established dwellings, and some commercial development. As can be seen from the description of the broader location above, this is a situation that would inevitably be reliant for most everyday needs and services on private motorised transport, and cannot be regarded as a sustainable location. The development proposed would clearly be contrary to policies S1 and S8. It would not come within item 6) of the former because the occupants of a single dwelling, bearing in mind the nature of the nearby settlements, could not be said to assist in creating sustainable communities by retaining and delivering local services and facilities.
11. The justification for the development given by the appellant is 2-fold: that it would occupy the site of a previous building, and that the dwelling is intended to house the appellant's elderly parents, meeting their needs for an accessible and disability friendly home, whilst keeping them financially independent.

Neither of these matters justifies the development. There is no doubt that a substantial out-house of some kind once existed on the site, but that has been demolished and the ground has effectively returned to its natural state. From the family's point of view it is easy to understand and sympathise with the desire to provide suitable accommodation for elderly parents, but the fact is that the dwelling would exist well beyond the period that this justification would last.

Impact on the European designated nature conservation sites

12. The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). It is the council's duty as a competent authority to undertake a Habitats Regulations Assessment to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS SPD requires that a tariff of £125.58 (index linked) is paid per dwelling unit, to be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
13. Since I am now the competent authority, I must ensure that necessary mitigation takes place. No payment of the tariff has been made, nor any legal obligation to pay it before any development starts has been entered into. Without either, this is a further reason for the appeal to fail.

Overall conclusion

14. I conclude that the appeal site is not in a suitable or sustainable location for a dwelling taking into account the countryside location and that there was previously a building on the site. In addition, without satisfactory mitigation, the development would have the potential to cause disturbance to European designated sites. No such mitigation has been provided.

Terrence Kemmann-Lane

INSPECTOR