



Appeal Decision

Site visit made on 28 September 2021

by Julie Dale Clark BA(Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021.

Appeal Ref: APP/X1545/W/21/3269794

64 Southminster Road, Tillingham CM0 7UF

- 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 Richard Embling against the decision of Maldon District Council.
 - The application Ref OUT/MAL/20/00549, dated 5 June 2020, was refused by notice dated 4 September 2020.
 - The development proposed is proposed construction of a detached 3 bedroom bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The proposal is for outline planning permission with all matters reserved for later determination. Plans have been submitted indicating a detached bungalow and a separate double garage. These are marked as being for illustrative purposes only and so I have taken them as indicative only.

Main Issues

3. I consider that the main issues are: -
 - the effect of the dwelling outside the settlement boundary in relation to its impact on the rural character of the area; and
 - the effect of the dwelling on a European designated nature conservation site.

Reasons

Outside Settlement / Character and Appearance

4. No 64 Southminster Road is located at the end of a linear row of properties on the northern side of the road. Adjacent to the house are a series of sheds close to the road and the appeal site is located to the north of them with an access point directly to the road. There is a public footpath to the west of the site and open fields to the north and west.
5. The identified settlement of Tillingham is located further to the east of the appeal site. The row of properties, including No 64 and the appeal site are

outside the settlement. Local Plan¹ Policy S8 identifies Tillingham as a small village where there are few or no services and facilities, with limited or no access to public transport and limited or no employment opportunities. Policy S8 establishes that the countryside will be protected for its landscape, natural resources and ecological value as well as its intrinsic character and beauty. Outside defined settlements planning permission will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon.

6. Local Plan Policy S1 establishes that sustainable development is at the heart of the planning system and this reflects the advice in the National Planning Policy Framework². Amongst other things, Policy S1 seeks to 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. It also indicates that a key principle is to maintain the rural character of the District without compromising the identity of its individual settlements.
7. Policy S2 indicates that the Council will promote sustainable development to deliver economic and residential growth and sets out its targets for housing provision. Since the planning application was refused, the Council has confirmed that it can no longer demonstrate a five year supply of housing land and so not meet its targets set out in Policy S2. The Framework establishes a presumption in favour of sustainable development and in the case where a Local Planning Authority cannot demonstrate a five year supply and its policies are therefore out of date, the presumption is to grant planning permission.
8. In instances where there is a shortfall of housing land it is appropriate to assess whether the site is a sustainable one. In assessing sustainability and the merits of the proposal, the Framework advises that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The appeal site is clearly outside the settlement boundary and Local Plan policies must be weighed against development in such locations. The lack of a five year supply of housing land is a material consideration and must therefore be weighed in the planning balance on this matter.
9. Although the proposal is for just one dwelling it is capable of contributing towards the supply of housing in the District. However, a single dwelling can only make a modest contribution and I have considered this contribution against the effect of allowing new development outside the village settlement. I note that the village does have some facilities and services although these are modest and it would seem that public transport, whilst available, is limited.
10. Physically the appeal site is fairly close to the settlement of Tillingham but it is also quite separate from the identified settlement boundary. The appeal site does not adjoin it but is set apart. Also, whilst the row of housing in this section of Southminster Road follows a linear pattern along the roadway, the appeal site is located behind existing buildings and so its projection into the open rural area would be that much more pronounced.
11. I have carefully balanced the development of a house in this location with that of the Council's shortfall in housing provision in accordance with the Council's

¹Maldon District Council Maldon District Approved Local Development Plan 2014 – 2029, July 2017.

² Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

policies and the Framework's presumption in favour of sustainable development. I cannot agree that the sustainability of the site is sufficient to justify allowing development outside the settlement in this instance. The proposal would encroach beyond the settlement and also beyond the row of properties in this section of Southminster Road. As such the proposal would have a harmful effect on the character of the rural area.

Nature Conservation

12. The Council describes the appeal site as falling within the Zone of Influence for one or more European designated sites as defined by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites through increased recreational pressures. The Council's assessment concludes that provided that mitigation is secured, the proposed new dwelling, when considered in combination with other development, would not have an adverse effect on the European sites from recreational disturbance. The Council clarify that mitigation through a financial contribution should be secured through a legal agreement.
13. No legal agreement has been submitted to meet the mitigation measures required by the Council and no explanation is given as to why the appellant does not consider this necessary. However, given that I find the proposal unacceptable in terms of the first issue I have identified above, I do not intend to pursue this matter further.

Other Matters and Conclusion

14. I have taken into account the reference made by the appellant to other developments in the area but I have limited information about these and so they have not altered my conclusion. I also appreciate that the appellant is not professionally represented. I have considered all other matters raised but none alter my conclusion.
15. I find that the proposal would not represent sustainable development, it would be outside the identified settlement and the Council's shortfall in its provision for housing land supply does not outweigh my concerns. I conclude that the proposal would encroach outside the settlement boundary and outside the existing pattern of development and have an adverse effect on the rural character of the area. As such the appeal fails.

J D Clark

INSPECTOR