



Appeal Decision

Site visit made on 11 January 2023

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2023

Appeal Ref: APP/X1545/W/22/3294692

Surridges, Rectory Lane, Latchingdon CM3 6HD

- 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 Freestone against the decision of Maldon District Council.
 - The application Ref OUT/MAL/21/00791, dated 26 July 2021, was refused by notice dated 3 November 2021.
 - The development proposed is the erection of a detached four bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. I have had regard to the submitted plans but have regarded all elements of these drawings as indicative.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for housing having particular regard to the accessibility of services and facilities; and
 - the effect of the proposed development on the character and appearance of the countryside.

Reasons

Appropriateness of location

4. The appeal site forms a parcel of land, near to but separate from the residential property known as Surridges. In that context the site cannot reasonably be described as 'isolated' within the terms of National Planning Policy Framework paragraph 80 (the Framework). Nevertheless, the appeal site undisputedly falls outside of the settlement boundary of Latchingdon and therefore within the open countryside.
5. Policy S1 of the Maldon District Local Development Plan (LDP, 2017) sets out that development should be delivered in the most sustainable locations, minimising the need to travel and prioritising sustainable modes of transport. LDP Policy S8 seeks to support sustainable development within the defined settlement boundaries, although this is to protect the countryside for its

- landscape, natural resources and ecological value, rather than reducing the need to travel.
6. The nearest settlement is Latchingdon, which provides some key services including a school, public house and local shop. I also note the designated employment areas that exist within Latchingdon.
 7. I accept that the distance between the appeal site and Latchingdon is similar to that of Surridges, at approximately 0.4 miles, although some of the services within the village would be a little further away. To reach Burnham Road in Latchingdon, individuals would have to proceed alongside Rectory Lane by foot or bicycle, which is narrow, does not have a dedicated footway, substantial verge or street lighting. This would be particularly undesirable in winter months, after dusk or during inclement weather conditions. I also acknowledge that there are public rights of way in the area, including opposite the appeal site, which could in part be used to reach services and facilities. However, these routes are not sufficient to rely on, particularly as they are unlit and of an uneven terrain. Moreover, the nearest bus stop is 0.5 miles away with railway stations located further afield, and accessed along those same unsatisfactory routes.
 8. Paragraph 105 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural locations. However, in this location, the occupants of the proposed dwelling would be highly reliant on the use of private vehicles to access most services and facilities due to a lack of satisfactory cycling and walking routes and a lack of public transport facilities within a reasonable distance of the site.
 9. My attention is drawn to appeal reference APP/X1545/W/17/3198063 where development was allowed for the erection of 3 dwellings. I also note the other planning permissions referenced on that same site¹. Whilst I have sight of only limited details of these schemes, their context and circumstances are not directly comparable with those before me. Not least as that site is positioned closer to Latchingdon, near to a dedicated footway into the village and set amongst more consolidated development. My attention is also drawn to an appeal at Great Totham under reference APP/X1545/W/20/3258926. That site is positioned near to a different settlement, within a group of established dwellings and appears to have reasonable access to public transport. Accordingly, it is not directly comparable to the scheme before me.
 10. With respect to the schemes referenced on other sites², I have limited details before me that would enable me to draw comparisons between them and the appeal proposal. Ultimately, I have considered this appeal, including its relationship with the settlement boundary, on its own individual circumstances.
 11. For the above reasons, I conclude that the appeal site would form an inappropriate location for the proposed development, contrary to the relevant provisions of LDP Policies S1, S2, H4 and T2. These policies, in summary, seek to ensure development is located to minimise the need to travel and provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate. This is in a similar vein to the objectives of paragraph 104 (c) of the Framework, which says that transport issues should

¹ 18/01048/FUL; 21/00372/FUL

² 12/00912/OUT; 20/00411/FUL; 15/00396/OUT

be considered from the earliest stages of plan making and development proposals so that opportunities to promote walking, cycling and public transport use are identified and pursued.

Character and appearance

12. The appeal site forms a grassed parcel of land adjacent to Rectory Lane. It is separated from adjoining agricultural land by a boundary fence and landscaping.
13. Despite some scattered buildings, the area surrounding the site is rural in character, formed of open fields and mature landscaping. I accept that the site is fairly self-contained, accessed from Rectory Lane and separated from the surrounding fields by its boundary fence and landscaping. However, and irrespective of its association with Surridges, which is reasonably close but physically detached from the site, these features do not give it a domestic character. This arrangement and physical separation of land is typical in the countryside, and not unique to the site. Moreover, the site does not have the appearance of a traditional garden.
14. Although other developments exist within the wider area and details of appearance and scale are reserved for subsequent approval, the proposed development would be highly visible from Rectory Lane, through and above established hedgerows and landscaping due to the vegetation's fairly low level and breaks in coverage. It would introduce a domestic building in this highly prominent countryside location, eroding the rural character of the site and surrounding area. Even if landscaping were to be enhanced on the site and some areas left over for garden space, its currently open appearance would be lost to development, including the inevitable hard surfacing and paraphernalia typical of a domestic property. This would have a harmful urbanising effect on the site and surrounding area.
15. LDP Policy D1 sets out that development should respect and enhance the character and local context, including in terms of landscape setting. LDP Policy S1 requires the maintenance of the rural character of the district and LDP Policy S8 seeks to protect the countryside for its landscape, natural resources and ecological value, as well as its intrinsic character and beauty.
16. I acknowledge that Policy S8 is somewhat out of date in relation to setting settlement boundaries given that the Council cannot demonstrate an up to date 5-year housing land supply (HLS). Nevertheless, and although I accept that the site is not subject to any landscape designation, the policy is consistent with paragraph 174 of the Framework in respect of recognising the character and beauty of the countryside.
17. The appellant has set out that the use of permitted development rights forms a fallback position. Specifically, they set out that domestic outbuildings could be erected on the appeal site without the need for planning permission. Nevertheless, I have seen no substantive evidence, such as a certificate of lawful development, to convince me that the appellant could reasonably implement a similarly harmful scheme under their PD rights. I therefore give this argument limited weight.

18. That the proposal before me is for a single dwelling and not for a higher number of properties, as has been the case on some other sites, does not overcome the harm I have identified.
19. For the reasons above, I conclude that the proposed development would cause significant harm to the character and appearance of the countryside, contrary to the relevant provisions of LDP Policies S1, S2, S8, D1 and H4, which in summary seek to direct development towards existing settlements, protect the intrinsic character and beauty of the countryside and ensure that new development is of a high quality.

Other Matters

20. There is no dispute that the Council cannot demonstrate an up-to-date HLS. Accordingly, the most relevant development plan policies relating to the supply of housing are out-of-date, and so paragraph 11(d) of the Framework is engaged. This states that in such a situation where development plan policies are deemed out-of-date because a 5-year supply of housing land cannot be achieved, planning permission should be granted unless one of two criteria apply. One of these is if any adverse impacts would '*significantly and demonstrably*' outweigh the benefits when assessed against the policies in the Framework taken as a whole. This is known as 'the tilted balance'.
21. The proposed development would represent a contribution of one extra dwelling to the housing supply in the district. This would represent a social benefit, but limited to a single dwelling. Therefore, I afford this moderate weight. There would also be other economic benefits due to the construction of the dwelling and the bringing about of extra trade to services and facilities once occupied. However, these benefits would inevitably be limited due to the scale and nature of the development. I give this factor only limited weight. The appellant sets out that the development would meet a number of other planning objectives, including in respect of living conditions, access, parking, highway safety and private amenity space. Those matters are not in dispute between the Council and appellant. However, even were I to reason that the scheme was acceptable in those respects, this would essentially be neutral in my assessment of the appeal. I therefore afford this only limited weight.
22. The appellant also says that the site is previously developed land. The Council disputes this, but even if I were to agree that the land is part of the curtilage of Surridges, the glossary in the Framework sets out that it should not be assumed that the whole of the curtilage should be developed.
23. Against these matters are the significant harm to the character and appearance of the area and the planning harm in respect of a lack of access to services by a sustainable choice of travel.
24. On balance, even if I accepted the appellant's position that the HLS is as low as 3.26 years, I find that the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
25. In respect of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy, Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development of that site. Given my

reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard. Even were I to find that the proposal was acceptable in this respect, it would be a neutral factor in my determination of the case.

Conclusion

26. For the reasons above, and having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A. Price

INSPECTOR