



Appeal Decision

Site visit made on 15 October 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2024

Appeal Ref: APP/X1545/W/24/3339304

Land to the south of Rectory Road, North Fambridge

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr P & J Friedlein against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/00192.
 - The development proposed is described as outline application with all matters reserved for the erection of 3no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in my banner heading above is taken from the original planning application form.
3. The application is submitted in outline with all matters reserved.
4. A signed Unilateral Undertaking (UU) has been submitted in accordance with the Essex Coastal Recreational Avoidance and Mitigation Strategy. I address this later in my decision.
5. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
6. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement. While these proposed changes can only be given limited weight at this stage, those parts most relevant to the appeal are not proposed to be amended. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issue

7. The main issue is whether the site is an appropriate location for development having regard to the development plan policies and its countryside location and accessibility.

Reasons

8. The appeal site comprises paddock land located at the end of a row of existing residential properties on the southern side of Rectory Road. The railway line runs parallel to the site's southern boundary.
9. Whilst close to the settlement boundary for North Fambridge, nonetheless, the appeal site is situated in the open countryside. Mature landscaping to its boundaries contributes to its rural character.
10. Under Policy S8 of the Maldon District Approved Local Development Plan 2014-2029 (Local Plan) North Fambridge is a smaller village defined as a settlement containing "few or no services and facilities with limited or no access to public transport, very limited or no employment opportunities". In such locations development will only be permitted subject to the exceptions set out in the Council's countryside policies. No argument has been made that these exceptions apply and as a result the development would conflict with this policy.
11. The nearby pub/restaurant and marina would offer some commercial activity, tourism and leisure opportunities for future occupiers. However, this provision would not cater for the day-to-day needs of future occupiers.
12. Access to North Fambridge Railway Station is within a short walk, via footpaths, albeit un-lit, which provides links to larger settlements. However, from the evidence before me services are limited.
13. The appeal site is some distance from larger settlements. Given the distances involved, and the fact that the much of the journey would require unlit country lanes with no footway to be traversed, it is unlikely that walking to these settlements would be a reasonable alternative for most day-to-day trips. It is reasonable to assume therefore, that occupants would be reliant on private vehicles. While this is not necessarily unusual in rural areas, the site is not what could be considered a sustainable location.
14. For the reasons stated, the proposal would not be an appropriate location for development having regard to the development plan policies and its countryside location and accessibility. Conflict therefore arises with policies S1, S8 and T2 of the Local Plan. Collectively, amongst other things, these policies set out the strategic approach to housing delivery and seek to protect the countryside. I also find conflict with the Framework insofar as it seeks to promote sustainable development.

Other Matters

15. The proposal would make efficient use of the land and would make a positive contribution to housing supply. I also acknowledge that the Framework is supportive of small and medium sized sites, such as this, which are often built out relatively quickly.
16. It is not disputed between the parties that the site could accommodate the three dwellings proposed without causing significant harm to the character and appearance of the locality or living conditions of existing occupiers. These, however, are neutral factors.

17. The appellant has drawn my attention to examples of other permissions which they consider lend support for the appeal scheme. Whilst I recognise the similarities between the appeal site and the site for residential development on Land West of Willows End, Stephenson Road¹ from the evidence before me this decision was made at a time when the Council could not demonstrate a 5 year housing land supply, to which the Inspector gave significant weight with the titled balance under paragraph 11d) of the Framework engaged. I must consider the appeal having regard to the current housing land supply position and therefore the material circumstances differ.
18. Although limited information is before me, the scheme at Maldon Road, Burnham-on-Crouch² appears to relate to a retirement community, comprising 232 dwellings, and therefore being of a different description and quantum of development the scheme is not comparable to the appeal before me. Similarly, Land at Gilda Terrace and North of Flitch Way, Braintree³ relates to a scheme of 123 dwellings and Land North of Netherhouse Copse, Fleet⁴ for 423 dwellings. In addition to the scale of the proposals differing significantly the locations differ too. In respect of Land East of Ruxley Cottage⁵, the evidence before me indicates that this site contained a number of agricultural buildings, and its context is therefore markedly different from the appeal site.
19. For the reasons outlined above, it would appear that none of the examples given are comparable, and thus do not add weight in favour of the development. In any event, I have determined this appeal on its own merits based on the evidence before me.
20. Even if I were to accept the appellants assertion that the land has no agricultural value, and is not suitable for farming, this would not overcome the harms identified.
21. The proposal falls within the Zone of Influence (ZOI) for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). It is anticipated, without mitigation, new development in the ZOI could have a significant effect on the sensitive interest features of the European designated sites through increased recreational pressure, particularly when considered in combination with other plans or projects. A signed UU has been submitted to secure a contribution to mitigate the impacts of development in accordance with the RAMS. However, as the appeal is being dismissed for other reasons mentioned in the decision, no further consideration is required on this matter.
22. It is not disputed that the Council can demonstrate a Framework compliant supply of deliverable housing land. However, the appellant submits that the titled balance remains engaged as a result of the Council's lack of an up-to-date local plan and reliance on sites outside of its defined settlement boundary to make up its supply. The Framework states that existing policies should not be considered out of date simply because of their date of adoption. Due weight should be given to them according to their consistency with the Framework. The policies for the distribution of residential development, sustainable development and protection of the countryside are broadly consistent with the Framework. I have limited information regarding site's that make the Council's

¹ 22/00734/OUT and 23/00201/OUT

² APP/X1545/W/21/3283478

³ APP/Z1510/W/20/3265895

⁴ APP/N170/W/17/3167135

⁵ 20/00553/FUL

housing land supply. Nevertheless, the material considerations in this case do not lead me to a view as to make a decision contrary to the provisions of the development plan.

23. There would be moderate, social and economic benefits associated with the proposal relating to construction employment and spend within the local economy upon occupation of the dwellings. Whilst the benefits of the proposal weigh in favour of the scheme given the limited scale of development these benefits would be modest and would not outweigh the harm I have identified.
24. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. In this case, I find conflict with the up-to-date policies of the development plan, to which I give substantive weight.
25. I have considered all other matters raised by interested people. However, as I have found the development to be unacceptable for the reasons given, it is not necessary for me to reach a conclusion on these matters.

Conclusion

26. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. The appeal is therefore dismissed.

R. Gee

INSPECTOR