



Appeal Decision

Site visit made on 24 October 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/X1545/W/24/3336280

Land to the east of Ferry Road, Burnham on Crouch

- 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 and Mrs B and D Saffill against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/00441.
 - The development proposed is erection of 2no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with all matters reserved. I have determined the appeal as such, and any details in relation to the reserved matters have been considered on an illustrative basis.
3. An update to the National Planning Policy Framework (the Framework) has been published since the determination of the planning application. However, other than paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for housing, having regard to access to services and sustainable transport; and
 - whether the effects of the proposed development on the character and appearance of the area would be acceptable.

Reasons

Whether a suitable location

5. The appeal site is located outside of a defined settlement and in the countryside. It is accessed from Ferry Road, which is a narrow road with no footpaths, lined by narrow grass verges and hedgerows. There are a limited number of dwellings in the vicinity of the site accessed from Ferry Road.
6. The settlement of Burnham on Crouch, which includes Ostend, extends westward along the B1010 Maldon Road, intersecting with Ferry Road a short distance north of the site. The settlement's western boundary is loosely defined by the termination of footpaths along the B1010. Although the defined

settlement edge is within a short walk of the appeal site, the absence of footpaths means pedestrians must walk on the road or grass verges.

7. Policy S8 of the Maldon District Approved Local Development Plan 2014-2029, July 2017 (the LDP) seeks to resist proposals outside of defined settlement boundaries unless specific criteria are met. While none of the listed criteria directly address development of this nature, criterion m) does allow development proposals that are in compliance with policies within the LDP, neighbourhood plans and other local planning guidance.
8. In this regard, policy H4 of the LDP provides that backland and infill development will be considered on a site-by-site basis taking account of local services, context and the overall merit of the proposal. Such development will only be permitted if it meets 4 specific criteria, including cases where the land is currently significantly under-used and the development would make more effective use of it. The appellant notes that the site is bordered to the north, south and east by existing dwellings or their amenity land, suggesting that the proposal qualifies as infill development.
9. While the site is in the countryside, it is adjacent to a residential plot with associated buildings to the north. Other residential properties lie further to the south and northeast. Therefore, the site is not isolated. However, the sporadic pattern of development in the area gives the site a distinctly rural character, emphasised by its undeveloped state and dense landscaped frontage. Although permission has previously been granted for a temporary dwelling on the adjacent site to the south, my site visit revealed this area to be mostly undeveloped grassland, with no visible buildings or structures from the road. Together with the appeal site, the lack of development on these adjoining plots enhances the area's rural character. Consequently, even if the proposal qualifies as infill development, the site positively contributes to the rural nature of its surroundings, and I am not convinced that the land is significantly underused. Therefore, the proposal does not meet the requirements of Policies H4 or S8.
10. During my visit, I observed construction to the north of the Ferry Road/B1010 junction for a development known as Burnham Waters. I understand this will provide a retirement community including bungalows, assisted living units, shops, services, highway improvements and new bus stops. The appellant's evidence notes that this forms part of a wider consented development to the north of the B1010.
11. There are existing bus stops within walking distance of the site, although they are not accessible from the site by public footpaths. Although the appellant indicates that the development under construction will include highway and public transport improvements, future occupiers would still need to walk along a section of Ferry Road, either on the verge or the road itself, which has a 60mph speed limit.
12. Ostend has few public amenities apart from a restaurant and a filling station with a small shop. Although the site is fairly close to the planned infrastructure associated with the development north of the B1010, Ferry Road remains physically and functionally separate from this development, and pedestrian access to the appeal site remains challenging. Furthermore, I have limited information on the specific nature or delivery timeline of the proposed

infrastructure. Based on these considerations, it is likely that future occupiers would rely primarily on private cars for transport.

13. For the reasons given above, I conclude that the appeal site is not a suitable location for housing in terms of access to services and sustainable transport. The proposal would therefore conflict with Policies S1, S8, D1, H4, T1 and T2 of the LDP, which together seek, in relation to this issue, for development to promote the effective use of land, to focus development within settlements, to respect and enhance character and context, to minimise the need to travel and prioritise sustainable modes of transport, and to ensure residents can sustainably access services and facilities. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Character and appearance

14. The undeveloped nature of the appeal site, along with its natural landscaped frontage to Ferry Road, reflects its countryside setting. Although the proposal intends to retain much of its frontage landscaping, some removal would be necessary to provide access and infrastructure during both the construction and operational phases. Consequently, even though views of the development may only be glimpsed, the proposal would erode part of the area's rural character.
15. However, the site's character is also shaped by its surrounding context, including nearby residential development along Ferry Road. Nearby residential properties are generally set within spacious plots, which contribute to the area's open and established character. Although the appeal site is of similar scale to these neighbouring plots, the proposed development of 2 dwellings would result in overly compact layouts that do not reflect the spacious character of the surrounding development. Although design matters are reserved for future determination, I am not convinced that future submissions could address this issue.
16. For these reasons, I conclude that the proposed development would result in harm to the character and appearance of the area and conflict with Policies S1, S8, D1 and H4 of the LDP, which together seek, in respect of this issue, for development to maintain the intrinsic rural character and beauty of the district and its countryside, to respect and enhance character and local context, and for development to be design-led having regard to the location and setting of the site, and the existing character and density of the surrounding area. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Other Matters

17. The site lies within the Zone of Influence of one or more European Sites comprising the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The appellant has submitted a signed unilateral undertaking securing a financial contribution to the RAMS, which is proposed to mitigate the additional recreational pressure on the European Sites arising through the proposed development. In the event that I was minded to allow the appeal, it would be necessary to consider this matter within an appropriate assessment.

Planning Balance

18. The proposed development of 2 dwellings would contribute to local housing stock, supporting the government's objective to boost the supply of homes, as set out in the Framework. The development would also deliver economic benefits through increased local spending and employment opportunities during the construction phase. I afford moderate weight to these benefits.
19. There is no compelling evidence to suggest that the Council cannot demonstrate a five-year supply of deliverable housing sites. However, the appellant argues that the tilted balance set out in paragraph 11 d) of the Framework should apply, citing the Council's lack of an up-to-date local plan and its reliance on sites outside of defined settlement boundaries to meet housing targets.
20. The appellant has referenced appeal decisions from other authorities where policies based on settlement boundaries have been afforded limited weight where they have been deemed to reflect out-of-date housing requirements. Specifically, in the case of Maldon District, the appellant argues that planning permissions have been granted for housing on land outside of settlement boundaries, and also in breach of countryside and landscape policies, in order to meet market and affordable housing needs and maintain a rolling five-year land supply.
21. While I acknowledge the examples provided by the appellant, I am not provided with full details of the cases or the relevant policies to which they pertain. Regardless, I must determine this appeal based on the specific merits of the proposal.
22. The Framework directs that due weight should be given to development plan policies according to their consistency with the Framework, not simply their age or date of adoption. While the Council's housing land supply position partly depends on sites outside of settlement boundaries, the development plan policies relating to the main issues described above remain broadly consistent with the Framework. Therefore, considering my conclusions on the main issues and the other considerations in this case, I am not persuaded to reach a decision other than in accordance with the development plan.
23. Because I have found the proposal to be unacceptable for reasons other than the effect on European Sites, an appropriate assessment has not been undertaken.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

P Storey

INSPECTOR