



Appeal Decision

Site visit made on 6 November 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/X1545/W/24/3340341

East Hall Cottages, East End Road, Bradwell-on-Sea, Essex CM0 7PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Maryann Peters against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/23/00861.
 - The development proposed is demolition of existing structures and construction of a detached bungalow with associated access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft National Planning Policy Framework (the Framework) is limited given that no final document has been published and it is subject to potential change in the future.
3. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.
4. The decision notice includes a reason for refusal concerning insufficient information being submitted in relation to the likely impact upon protected species. However, within their Statement of Case the Council has confirmed that this matter could be addressed by a suitably worded planning condition and on this basis, they are content not to pursue this reason for refusal further. I have proceeded on that basis.
5. The decision notice also includes a further reason for refusal relating to the absence of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure a financial contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). However, both parties submissions state that this financial contribution has been received and the Council has confirmed its withdrawal of this reason for refusal. I address this later in my decision.

Main Issues

6. In view of the Council's confirmation of its withdrawal of two of the reasons for refusal on the decision notice, the main issues are:
- whether the appeal site is an appropriate location for the proposed development, having particular regard to the development plan's spatial strategy; and
 - the effect of the proposed development upon the character and appearance of the area.

Reasons

Location

7. Policy S1 of the Maldon District Approved Local Development Plan 2014 – 2029 (2017) (LDP) sets out the presumption in favour of sustainable development and provides a list of key principles to be applied in decision making, including minimising the need to travel, and where travel is necessary, prioritising sustainable modes of transport. Policy S2 of the LDP states that the Council will promote sustainable development to deliver economic and residential growth, whilst contributing to protecting and enhancing the area's natural, built and historic environment.
8. In order to achieve this Policy S2 seeks to focus development at the district's main settlements as they constitute the most suitable and accessible locations in the district, with the majority of new strategic growth delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch. Policy S2 does state that a proportion of new development will be directed to the rural villages to support rural housing needs, local services and facilities, and the rural economy. This strategic growth in rural villages will however be related to the settlement hierarchy, reflecting the size, function and physical capacity of the settlement.
9. There is no dispute between the main parties that the site lies outside a settlement and is therefore within the open countryside. Policy S8 of the LDP states that outside the defined settlement boundaries, Garden Suburbs and Strategic Allocations, planning permission will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon, and where the proposal meets one of a list of criteria (a) – (m).
10. Whilst I will consider the impact of the proposal on the character and appearance of the open countryside later in this decision, my attention has not been drawn to any criteria at (a) – (m) which specifically apply to development proposed as part of this appeal. However, I note criterion (m) does refer to other development proposals that are in compliance with policies within the LDP.
11. In this regard, LDP Policy H4 states that backland development will be considered on a site-by-site basis, taking into account local circumstances, context and the overall merits of the proposal. This policy also requires all development to optimise the effective use of land, having regard to considerations including the location of the site, its proximity to public transport, and access to local services and facilities.

12. With the above in mind, the nearest settlement to the appeal site is Bradwell-on-Sea, which is defined as a "smaller village" within LDP Policy S8. This policy states that "smaller villages" contain few or no services and facilities, with limited or no access to public transport, and very limited or no employment opportunities.
13. My attention has been drawn to a number of services and facilities within Bradwell-on-Sea, and I observed on site that this settlement includes a shop, public house, church, primary school and a village hall which includes a children's play area and football pitch. As such, whilst defined as a "smaller village", I found the settlement of Bradwell-on-Sea to be relatively well served in terms of facilities.
14. Nevertheless, during my visit I experienced the walk from the appeal site to the facilities and services in Bradwell-on-Sea was considerable in distance. Furthermore, there was no continuous footway or pavement from the appeal site to these facilities. As such, the appeal site is not currently well connected to these facilities in terms of walking via East End Road, as future occupiers of the proposed dwelling would need to walk within the highway, which does not benefit from street lighting, for a significant proportion of the journey. This would be particularly difficult and hazardous at night, and for pedestrians with buggies and/or a disability.
15. In coming to this view, I acknowledge that there were grass verges along sections of the road leading towards these facilities within the village. However, these would not be an attractive option for use all year round, particularly in dark or adverse weather conditions. Furthermore, these verges would again not be suitable for pedestrians with buggies and/or a disability. I therefore find that the appeal site is not well connected to existing facilities and services within the village of Bradwell-on-Sea by foot.
16. I acknowledge that cycling to these facilities may be an option for some residents but not necessarily an attractive alternative given the lack of separate cycle lanes and street lighting. Additionally, not everyone has access to a bike or the ability to ride a bike.
17. Thus, given the distance, and the lack of separate footways, cycle lanes and street lighting, I conclude that walking and cycling are not realistic alternatives to the car for regular journeys to the services and facilities within the settlement of Bradwell-on-Sea.
18. The appellant has referred to a shop and cafe at a nearby caravan park, however information has not been provided as to where exactly these facilities are located, their opening hours and the services they provide. This therefore limits the weight I can attribute to these purported services. The appellant refers to residents being able to access on-line shopping and home deliveries which would reduce the need for travel. However, this would still result in additional vehicle movements to and from the appeal site.
19. My attention has also been drawn to bus stops at either end of the village which provide access to a bus service that run to some of the larger villages and settlements in the district. Whilst timetables of these bus services have been included as part of the appeal, I have been provided with limited information in respect of the exact locations and distances of the nearest bus stops from the

appeal site, the quality of the waiting facilities at these bus stops or the bus fares.

20. As such, I have insufficient evidence before me that the appeal site is well-connected to these larger settlements by means of public transport and that the waiting facilities at the bus stops would be suitable for use all-year round and during dark or adverse weather conditions. Furthermore, and in the absence of any detail to the contrary, given my previous observations in respect of the lack of a continuous footway between the appeal site and the settlement of Bradwell-on-Sea, it would appear likely that in order to access these bus stops by foot future occupiers would again have to walk a considerable distance to the village and within the highway which, for the reasons given previously, is not an attractive option.
21. Reference has been made to employment opportunities from the local tourism sector, village facilities and a nearby Power Station. However, limited information has been provided in respect of the levels of employment opportunities that would arise from local tourism and jobs associated with the existing village facilities. Furthermore, limited information has been provided in terms of existing employment levels and opportunities at the Power Station, or how accessible the Power Station is from the appeal site without use of the private vehicle.
22. In view of all the above, I find that the appeal site is not well connected to the facilities within the settlement of Bradwell-on-Sea by sustainable modes of transport, including walking, which provide a realistic alternative to the car. I also have insufficient evidence before me that the appeal site is well-connected to any other settlements by means of public transport. Consequently, I find that future residents of the appeal site would be reliant upon the use of a private car to access services and facilities, which is the least sustainable mode of transport.
23. For the reasons given above, the appeal site does not represent a sustainable location for the proposed development. The proposal would therefore conflict with Policies S1, S2, S8, D1, D2, H4, T1 and T2 of the LDP, where they seek to, amongst other things, resist development outside settlements which do not meet specific circumstances; minimise the need to travel and prioritise sustainable modes of transport over private vehicles; maximise connectivity to the surrounding areas; provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate; and require all development to have regard to accessibility to local services and facilities, including proximity to public transport.

Character and appearance

24. The appeal relates to a rectangular shaped parcel of land situated to the rear of a pair of semi-detached dwellings. The appeal site's planning history details that the site has an equestrian use, however at the time of my site visit the appeal site did not appear to be in active use. The site is accessed via a relatively long track off East End Road and is currently occupied by a timber stable building, a portacabin style building and a metal shipping container. The boundary of the site is currently defined by a post and rail timber fence on all sides.
25. The Council has commented that two of the existing buildings on the site do not benefit from planning permission. However, the appellant states that one of the buildings has been on site since 2012, and the other since 2019. The submission is supported by a statutory declaration in respect of this matter. The Council

does not appear to dispute the information put forward by the appellant, including the statutory declaration. Furthermore, my attention has not been drawn to any pending enforcement action in respect of these buildings. Consequently, and with limited evidence to the contrary, I have no reason to doubt the appellant's statutory declaration in respect of these existing buildings.

26. The appeal proposal seeks to demolish the three existing buildings and construct a two-bedroom bungalow in their place. The bungalow would be L-shaped, with a hipped roof design, and the existing post and rail boundary fencing would be retained, with a hedgerow planting along a section of the southern and western boundaries.
27. The appeal site is located within a rural setting and the surrounding topography is flat. The site is set back considerably from the highway of East End Road, however it is visible from this highway given the open and flat nature of the agricultural fields directly either side.
28. Nevertheless, the appeal site already contains built development, by way of three detached buildings, and these are currently visible from relatively long-distances along the highway of East End Road. Furthermore, I observed that as a result of their design the existing container and portacabin do not currently make a positive contribution to the intrinsic beauty of the open countryside.
29. The submission details that the removal of these existing buildings, to be replaced by a bungalow, would result in a reduction in the overall footprint and volume of buildings on the appeal site. The submission also comments that the proposal would result in a significant reduction in hardstanding from the site.
30. Whilst I note that the ridge of the proposed bungalow would be taller than the buildings it would replace, I find that the replacement of the three existing buildings on the site with a single-storey dwelling, of modest size and scale, would overall have a neutral visual impact upon the intrinsic beauty of the open countryside.
31. I acknowledge the Council has commented that the domestication of the site would have a harmful visual impact. However, the submission details that the existing post and rail fence would be retained along the boundary and conditions could be attached to control the erection of any new fencing, as well as limiting any extensions to the proposed dwelling or the erection of outbuildings.
32. I am aware this would not prevent other domestic paraphernalia, including parked cars, from being sited within the curtilage and garden area of the proposed dwelling. Nevertheless, the existing dwellings directly to the south of the appeal site have domestic paraphernalia in their rear gardens that can currently be viewed from long distances and I did not find these to be particularly harmful within the wider landscape.
33. Furthermore, I observed on site that a horse trailer was currently being stored on the appeal site and it is not uncommon for such features, or other similar paraphernalia, to be stored on sites used for equestrian purposes. As such I find that the paraphernalia that could be erected in association with a proposed dwelling would not necessarily be any more visually harmful than items that could be stored on this site in association with its existing equestrian use.
34. I also observed numerous examples of built development extending significantly back from the highway of East End Road within the vicinity of the appeal site.

Noticeable examples of this include the caravan park to the west and the buildings at Othona to the east, which both include built development that extends further back from the highway of East End Road than the appeal site. Also, on the opposite side of East End Road is a large, detached dwelling which is also set significantly back from the highway.

35. As such, development that is set back from East End Road, and therefore extending into the open countryside, is a relatively common feature of this landscape. In this regard, the appeal site is adjoined to the south by the curtilages of existing residential dwellings and currently contains built development that already has a visual impact on the open countryside. As such, I therefore find the proposed development would not have a greater visual impact on the landscape or the intrinsic beauty of the countryside, than that which I observed from the existing site and other nearby sites within the surrounding landscape.
36. In view of the above, I conclude that the proposal would not harm the intrinsic beauty of the countryside, or the character and appearance of the area in general. It would therefore accord with LDP Policies S1, S8, D1 and H4 where these policies seek to ensure, amongst other things, that new development respects and enhances the character and local context of an area, including optimising the use of land having regard to the setting of the site, and the existing character of the area; and where they also seek to maintain the rural character of the district and protect the countryside for its landscape, intrinsic character and beauty.

Other Matters

37. The proposed development is identified within the appeal documentation as being located within the Zone of Influence of the Dengie RAMSAR and Special Protection Area (SPA) and the Essex Estuaries Special Area of Conservation (SAC), which are covered by the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy Supplementary Planning Document (2020).
38. Had I been minded to allow the appeal I would have carried out an appropriate assessment (AA) of the effect of the proposal on the integrity of the RAMSAR, SPA and SAC. However, as the proposed development is unacceptable for other reasons, an AA is unnecessary as doing so would not change the outcome of the appeal.

Planning Balance

39. The proposal would support the Government's objective of significantly boosting the supply of housing, including the provision of a smaller two-bedroom dwelling for which I am aware there is a local need. I also note the appellant's comments in respect of the important contribution that small sites can make to meeting housing requirements and that they are often built-out quickly, as detailed at paragraph 70 of the Framework. Nevertheless, I note the Council can currently demonstrate in excess of five years supply of housing and the benefits arising from the provision of one additional dwelling would be limited.
40. Economic benefits would arise from the proposal, including contributions to the local economy during the construction phase of the development. These however would be short term benefits. Further economic benefits would also arise from additional spending in the area by future occupants of the dwelling.

Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.

41. The appeal scheme would allow for an energy efficient dwelling to be provided on site. However, limited information been included to demonstrate the energy efficiency level that the proposed dwelling would achieve and this therefore limits the weight I can attribute to this matter in favour of the appeal proposal at this stage.
42. The proposal would provide an opportunity to increase the overall biodiversity of the site. However, given the scale of the development site, I attribute this matter limited weight in favour of the appeal.
43. In view of the above, whilst I have found that there would be benefits arising from the appeal scheme, these benefits do not outweigh the clear conflict with the development plan in terms of its policies relating to the appropriate location of housing development within the district.
44. The appellant has put forward that the Council's housing supply position is principally the result of anticipated delivery from a strategic site, and it being calculated against local housing need. It is argued that by using this approach to calculate the supply of housing LDP Policy S2 is out-of-date and therefore paragraph 11 (d) of the Framework is engaged.
45. I have however very limited information before me in respect of the methodology used by the Council to calculate its housing land supply position in order to conclude that Policy S2 is out-of-date for this reason.
46. Nevertheless, LDP Policies S1, S2, S8, and H4 are fundamental to the suitability of the site's location for housing and the principle of the development. These policies therefore make up the basket of the most important policies for determining this proposal.
47. Even in a scenario whereby I was to accept the appellant's view that Policy S2 is out-of-date for the reason claimed, when read together Policies S1, S2, S8 and H4 collectively seek to ensure that development is located within suitable locations, with regard to access to local services and facilities, including prioritising sustainable modes of transport over private vehicles, and minimising the need to travel. As such, these policies are consistent with the provisions of the Framework and therefore in the context of paragraph 225 of the Framework very significant weight can be given to them.
48. Consequently, having regard to the conflict the appeal proposal has with the most important policies for determining this proposal, even if Policy S2 was determined to be out-of-date for the reason suggested by the appellant, the other policies within the basket of the most important policies are not out of date. Accordingly, paragraph 11(d) of the Framework is not engaged.
49. Furthermore, and notwithstanding the above, the proposed development would only result in the addition of a single dwelling. Therefore, even if I were to have found that the basket of the most important development plan policies is out of date and paragraph 11(d) of the Framework was engaged, I consider that the harm identified would significantly and demonstrably outweigh the benefits of providing a single additional dwelling.

Conclusion

50. I have found that the proposed development would not harm the intrinsic beauty of the countryside, or the character and appearance of the area in general. However, for the reasons given earlier, I have concluded that future residents of the appeal site would be reliant upon the use of a private car to access services and facilities, which is the least sustainable mode of transport, and the appeal site does not therefore represent a sustainable location for the proposed development.
51. The proposal conflicts with the development plan as a whole and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

R Major

INSPECTOR