



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/24/3341022

Land at Top Road, Woodham Walter Easting: 580795, Northing: 207011

- 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 M Firth of Granville Property Solutions Limited against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/00521.
 - The development proposed is outline application for up to 6 dwellings and garages.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved¹ for future consideration. On this basis, I have treated the submitted drawings as illustrative only.
3. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024.
4. 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. I have therefore had due regard to these publications in my determination of this appeal and the main parties were given the opportunity to comment on these publications. I have taken into account any comments raised.
5. The decision notice includes a 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 affordable housing. However, a Unilateral Undertaking (UU) has been submitted as part of the appeal documents and the Council has subsequently confirmed its withdrawal of this reason for refusal. I have proceeded on that basis.

Main Issues

6. Based on the Council's unresolved refusal reasons, the main issues in the appeal are:

¹ Access, appearance, landscaping, layout and scale

- 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 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. It is not disputed that the appeal site lies outside a settlement and is within the open countryside. Policy S8 of the LP 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 a number 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 the development proposed as part of this appeal. Consequently, the appeal proposal does not accord with LDP Policy S8.
11. The appellant has however drawn my attention to an appeal decision² whereby the Inspector explains that where a proposal does not comply with the adopted policy because it lies beyond the settlement boundary, this alone is not sufficient for a dismissal to be justified and there has to be evidence of harm in line with the policy objection. I agree with this Inspector's assessment.
12. With the above in mind, whilst the appeal site is located within the open countryside it does adjoin the settlement boundary of Woodham Walter, 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.

² Appeal Ref: APP/APP/A1530/W/20/3245754

13. The appellant has commented that Woodham Walter is classified as a Medium Village within the Maldon District Rural Facilities Survey and Settlement Pattern (May 2023) document which is an evidence base document for the development of the review of the Local Plan. The Parish Council has provided a copy of this document and I note that Woodham Walter scores at the lower end of the list of medium villages. Whilst this document is a material consideration, my attention has not been drawn to its status as an adopted document for the decision-making process and this therefore limits the weight I can attribute it at this stage.
14. Furthermore, during my own on the ground assessment, I observed that the village of Woodham Walter includes a primary school, a children's nursery, a public house and a village hall. I did not however observe a village shop or any medical facilities, and my attention has not been brought to any employment opportunities within the village.
15. Consequently, based on the information before me and my observations on site, I find that the settlement of Woodham Walter contains very limited services and facilities. Therefore, future residents of the appeal proposal would need to travel outside the village of Woodham Walter to access day-to-day services and facilities. In coming to this view, I acknowledge residents would be able to access on-line shopping and home deliveries which would reduce some of the need for travel. However, this would still result in additional vehicle movements to and from the appeal site.
16. I have been made aware of a bus service from Woodham Walter which runs to larger, and more sustainable, settlements. Whilst a timetable of this bus service has been included as part of the appeal, from the timetable provided it appears as though there are no buses at weekends and the frequency of buses on weekdays appears to be limited.
17. Furthermore, I have not been provided with any substantive information in respect of the 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. Thus, I cannot make a judgement on the attractiveness of the bus for use all-year round and during adverse weather conditions. My attention has not been brought to any nearby train stations.
18. As such, on the evidence before me I also find that the appeal site is not well-connected to the larger, and more sustainable, settlements by means of public transport.
19. The appellant has referred to the appeal site being included in the Council's "call for sites" process and it being identified in the list of sites within the Housing and Economic Land Availability Assessment (October 2023) (HELAA) as being 'suitable' for development. The appellant therefore contends that the inclusion of the site within the HELAA demonstrates that it is located within a sustainable location.
20. I do note however, in the "Location & Sustainability Considerations"³ section of the Site Assessment, the HELAA states "*...that settlement should have some services and facilities, at least a shop for basic daily needs*". As detailed above, the settlement of Woodham Walter does not include a shop.

³ Para 3.10

21. In any case, the HELAA is an evidence base document that does not formally allocate land or indicate that proposals relating to land identified as 'suitable' for development should be permitted. Although it may suggest that the site is 'suitable' for development, that is principally a matter for the Council to consider as part of its plan-making and site allocation processes.
22. Moreover, a "call for sites" is a high-level theoretical exercise that lacks the rigorous assessment involved in considering a planning application. It does not therefore remove the need for a detailed assessment of the effects of the scheme or indicate the harms I have identified in respect of the lack of sustainable forms of access to services and facilities should be disregarded. As such, the inclusion of the appeal site within the HELAA is a matter of limited weight in favour of the appeal scheme.
23. In view of all the above, I find that the settlement of Woodham Walter contains very limited services and facilities to serve the needs of future residents of the appeal proposal. Additionally, it has also not been evidenced that the appeal site is well-connected to other larger, and more sustainable, settlements by sustainable modes of transport which provide a realistic alternative to the car.
24. Consequently, I find that future residents of the appeal site would be heavily 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.
25. For the reasons given above, the appeal site represents an unsustainable location for residential development. The proposal would therefore conflict with Policies S1, S2, S8, T1 and T2 of the LDP, insofar as they together 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.

Character and appearance

26. The appeal relates to a prominent section of a green field fronting onto the northern side of Top Road. Whilst no topographical details have been provided it was clear from my site visit that the ground level of this field, and therefore the appeal site, is set at a higher level than the highway of Top Road and the existing properties on the southern side of this highway.
27. The appeal site is linear in shape and is adjoined at either end by properties fronting onto Little Baddow Road and Rectory Road, which both run almost perpendicular to Top Road. As referred to above, there is also existing development on the southern side of Top Road. These surrounding existing properties are situated within the settlement boundary of Woodham Walter.
28. The appeal site however is outside the settlement boundary and therefore within the open countryside. It currently provides an important gap between the existing built development within the settlement boundary, reinforcing the verdant character of the locality and the wider rural landscape. The site is also largely open where it adjoins the back of Top Road, providing attractive views across this open field, and into the open countryside, from this highway. Consequently, the appeal site currently makes a positive contribution to the intrinsic rural character and appearance of the wider area.

29. The proposal seeks outline permission to erect up to 6no. dwellings and garages on this parcel. Whilst layout is a reserved matter, the site edged red spans almost the full length of the existing gap between the built development at either end of Top Road. The appeal proposal would therefore result in a significant proportion of this existing gap being lost and likely result in a continuum of development between the existing properties within the settlement boundary at either end of Top Road. The proposal would therefore, regardless of layout being a reserved matter, inevitably erode at least some of the existing open and rural character the appeal site currently provides, to the detriment of the visual qualities of the wider countryside landscape. It would also result in the loss of existing open views across the appeal site into the wider countryside.
30. Furthermore, whilst scale and appearance are also reserved matters, the proposal would nevertheless introduce built development, and associated domestic paraphernalia, onto a visually prominent site that is currently open and free from any such built form. Whilst I appreciate the submitted layout plan is indicative, it nevertheless suggests a relatively suburbanised layout dominated by vehicular access and parking with extensive areas of hardstanding between the dwellings and the highway within this open countryside location.
31. In coming to the above views, I acknowledge the proposed development could be designed with an open plan frontage, the dwellings could be single-storey and an appropriate mix of materials and design could be achieved. Nevertheless, the proposed development would introduce a scale of built development and domestic paraphernalia on this site that would be visually prominent and harmful to the intrinsic rural character of the area, particularly in comparison to the positive contribution the existing open site currently provides to the area.
32. Moreover, the raised ground level of the appeal site would only exacerbate the prominence of the development when viewed from Top Road. Whilst I note that land levels can potentially be altered to reduce this impact, given the application is at outline stage, with all matters reserved, I have very limited information before me as to how these levels could be altered or the wider visual impacts of doing so.
33. I also note the appellant argues that the open views currently afforded by the appeal site could be lost through the planting of a hedgerow along this frontage. However, the green and verdant appearance of a hedgerow along this frontage would retain the countryside appearance of the appeal site and still likely afford some views of the greenery beyond. As such, I do not find that the potential planting of a hedge along the frontage of the appeal site would have the same visual impact on the open countryside as a development for up to 6no. dwellings and garages, with associated domestic paraphernalia.
34. In conclusion, the appeal proposal would harm the rural character and appearance of the appeal site and the wider countryside context. It would therefore conflict with LDP Policies S1, S8, D1 and H4, insofar as they seek to secure development that 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

35. The appeal site is not located within a conservation area. However, the boundary of the Woodham Walter Conservation Area (the CA) adjoins a section of the appeal site on Top Road. Furthermore, also on the opposite side of Top Road is the Woodham Walter Women's Club building, a non-designated heritage asset (NDHA).
36. The CA runs predominantly in a linear form to the east of the site, incorporating properties on The Street, Rectory Road and Church Hill. Its significance derives in part from it being a good example of an attractive and historic Essex Village, with properties of varying ages and designs.
37. From the CA the appeal site is largely only visible from the junction where Top Road, The Street and Rectory Road all meet, as well as the car park to the rear of the Queen Public House, which at the time of my site visit was not in active use. The appeal site therefore makes a very limited contribution to the setting of the CA.
38. In terms of obstructing views towards the CA, views of the CA from public vantage points to the north are currently restricted by the raised nature of the ground level of the appeal site, meaning that only the roofs of properties within the CA are visible. Whilst layout, appearance and scale are all reserved matters, it is likely that the roofs of the proposed dwellings would also be visible from these vantage points. However, subject to the acceptable scale and design of the proposed properties, and their roof design, being secured at reserved matters stage, I find that the proposal would not have a harmful impact upon views towards the CA.
39. Consequently, I find that the appeal proposal would have a limited affect upon the significance of the heritage asset as a whole, and would therefore not harm the significance of the CA.
40. The nearby Woodham Walter Women's Club is situated directly opposite the appeal site and its significance as a NDHA is mainly derived from its local architectural and historic interest. Whilst matters of appearance, layout and scale are all reserved at this stage, I find that if designed sympathetically, the appeal proposal would not cause harm to this NDHA.
41. The proposed development is identified within the appeal documentation as being located within the Zone of Influence of one or more of the European designated sites covered by the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy Supplementary Planning Document (2020) (RAMS).
42. 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 European designated sites. 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.
43. I note the appellant's comments that the Council has not reviewed the LDP and as per the scheduled Review Plan it will likely be nine years since any new land allocations have been sanctioned through the Development Plan process. As a consequence, it is claimed that there is a lack of housing development sites within the rural settlement boundaries.

44. The Council has stated that work is ongoing with the review of the LDP and their submissions contend that a 6.3 years' worth of housing against the Council's identified housing requirement can be demonstrated. The appellant has not contested the Council's housing land position. As such, on the evidence before me, there is currently no requirement for new housing land allocations and the LDP's spatial policies for residential development are not preventing the required levels of housing from coming forward at this time. Furthermore, the allocation of new housing sites within rural settlements is a matter for the Council to consider as part of its LDP review, as demonstrated by the "call for sites" exercise.
45. The appellant argues that the Council's housing land supply position hinges on an over reliance of urban sites and there is a serious District-wide deficiency of smaller sites, resulting in the Council not achieving the requirement in the Framework for a minimum of 10% of housing to be accommodated on small and medium sites.
46. I have not been provided with a detailed breakdown of the Council's housing land position to substantiate these claims by the appellant. Furthermore, paragraph 70 (a) of the Framework requires Council's to identify, through the development plan and brownfield register, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare, unless it can be shown, through the preparation of the relevant plan policies that there is a strong reason why this 10% target cannot be achieved. Consequently, this is a requirement of the plan making process, rather than through the decision-making process on individual planning applications.
47. It is also argued that the LDP made limited provision for housing within villages and that landowners were promised a Rural Area DPD following the adoption of the LDP, which never materialised. It is not my role as part of this appeal to re-examine the Local Plan and determine whether sufficient provision was made for housing within the villages when it was adopted. Additionally, I have no evidence before me in respect of any promises over a Rural Area DPD.
48. It has been suggested that there is restricted choice, as well as a general shortage, of rural housing within the district. However, I have limited substantive evidence before me to substantiate these claims.
49. Within their Final Comments document, the appellant makes reference to the inclusion of a UU to secure affordable housing enables the proposal to be considered a '*rural exception site*' in the spirit of paragraph 82 of the Framework. The appellant has also submitted details from the Council's Housing Team that there is an unfulfilled demand for affordable housing in Woodham Walter.
50. Nevertheless, I do not consider that the evidence before me is a robust demonstration of local need, sufficient to justify the development of the site as a rural exception. Furthermore, Annex 1 of the Framework defines rural exception sites as "*Smalls sites used for affordable housing...*" and explains that "*...a proportion of market homes may be allowed on site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding*". Additionally, the Planning Practice Guidance states that "*Rural exception sites can deliver a small proportion of market housing, provided it can be demonstrated that this is necessary to ensure the overall viability of the site*".
51. In this case the application was submitted as a 100% market housing scheme and did not include any affordable housing. Thus, the proposal did not seek planning permission as a rural exception site. As part of the Council's consideration of the

planning application it was determined that affordable housing was required. As such, the appellant has provided a UU to secure the provision of affordable housing on this scheme as part of their appeal submission.

52. The provision of affordable housing on a mainly market housing scheme does not however represent a rural exception site, which should be affordable housing led with any market housing clearly and robustly justified in terms of viability. As such, the appeal proposal for mainly market housing, with some affordable units, does not represent a rural exception site scheme.
53. As part of their response to the request for comments on the "*National Planning Policy Framework: draft text for consultation*" document and the Written Ministerial Statement, the appellant has commented that the Government's proposed application of the Standard Method will increase the Council's Housing delivery requirement by almost 100%.
54. As detailed earlier, the weight I can give to the changes proposed within the "*National Planning Policy Framework: draft text for consultation*" is limited at this stage given that no final document has been published and it is therefore subject to potential change in the future.

Planning Balance

55. The proposal would support the Government's objective of significantly boosting the supply of housing and the reserved matters application could include the provision of smaller dwellings 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. As the Council can currently demonstrate in excess of five years supply of housing I attribute modest weight to these benefits in favour of the appeal scheme.
56. 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 low. I therefore attach limited weight in respect of the economic benefits.
57. The UU intends to secure 2no. on-site affordable dwellings and a financial contribution towards the provision of off-site affordable housing in the district. The appellant claims there is an unfulfilled demand for affordable dwellings within Woodham Walter and this does not appear to be disputed by the Council. In that context the delivery of affordable homes would be a significant benefit even though a small number would be provided in absolute terms.
58. The proposal would provide an opportunity to increase the overall biodiversity of the site and the submitted indicative layout plan does show areas of new planting. However, given the application is for outline permission, with landscaping a reserved matter, as well as the modest scale of the development, this limits the weight I attribute to this matter in favour of the appeal.
59. The appeal scheme would allow for energy efficient dwellings to be provided on site. However, limited information has been provided to demonstrate the energy

efficiency levels 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.

60. Reference has been made to a planning application⁴ that has been approved by the Council to extend the village school's playing field. It is stated that the land subject to this application is owned by the appellant and that if this appeal is allowed a long lease will come into effect enabling the playing field extension to be implemented. I have very limited information before me in respect of this playing field application or exact details as to how it relates specifically to the appeal scheme. In addition, there is no mechanism before me which secures this purported benefit as part of this appeal. This therefore limits the weight I attribute to this matter in favour of the appeal.
61. 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 and the harmful impact of proposal on the character and appearance of the area.

Conclusion

62. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR

⁴ Council Ref: 23/00762