



Appeal Decision

Site visit made on 13 December 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/X1545/W/24/3341856

Land to the West of South Street, Bradwell On Sea, Essex CM0 7QJ

- 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 S L Bache, P J Mate and J S Rushton against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/01110.
 - The development proposed is erection of 9 retirement bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline permission, with all matters reserved. I have considered the appeal on this basis and have treated any plans in relation to matters of access, appearance, landscaping, layout and scale as illustrative.
3. The appeal is accompanied by a planning obligation dated March 2024 and this has been taken into account in the determination of the appeal.
4. During the course of the appeal, a new National Planning Policy Framework has been published (the Framework). The policies which are most relevant to the determination of the appeal have not been subject to substantive changes and I am satisfied that the parties have not been prejudiced by my taking it into account.

Main Issues

5. During the course of the appeal the Council have stated that issues relating to flood risk could be dealt with by a planning condition and it has also withdrawn its objection regarding the effects of the proposal on designated Habitat Sites. As these are no longer matters in dispute I have not dealt with them as main issues of the appeal.
6. The main issues are:
 - Whether the site is suitably located for new housing, having regard to the Council's spatial strategy and the intrinsic character of the countryside;
 - Effects on the Bradwell-on-Sea Conservation Area;
 - Effects on protected species, and;
 - Effects on highway safety.

Reasons

Location for Housing

7. Policy S1 of the Maldon District Local Development Plan 2017 (the LDP), sets out key principles for policy and decision making which include delivering homes in the most sustainable locations. Policy S2 goes on to set out where new homes will be delivered, and states the majority of new strategic growth would be within extensions to Maldon, Heybridge and Burnham-on-Crouch. It acknowledges, however, 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. It adds that strategic growth in rural villages will be related to the settlement hierarchy, reflect the size, function and physical capacity of the settlement and will not result in unsustainable spatial patterns to the detriment of the wider area. Policy S8 of the LDP states that sustainable developments within the defined settlement boundaries will be supported and sets out a settlement hierarchy.
8. The appeal site is located to the south of Bradwell-on-Sea. Based on the evidence the LDP defines the settlement boundary which runs fairly tightly around the buildings of High Street and East End Road. As a consequence, the appeal site is located outside and not directly adjacent to, the settlement boundary. The site should therefore be considered to be in the countryside for the purposes of assessment against the development plan.
9. Policy S8 gives criteria where development outside settlement boundaries will be granted, and makes clear that the countryside will be protected for its landscape, natural resources and ecological value, as well as its intrinsic character and beauty. None of the criteria set out in the policy would be met by the proposal.
10. Under Policy S8 the effect on the landscape character is also a consideration in establishing whether the site is suitable for new housing. As set out above, the defined boundary of the village of Bradwell-on-Sea occupies a small area of relatively dense development set around the church. There are a number of buildings which lie outside the defined settlement boundary, however, these have a more dispersed arrangement and comprise predominantly buildings set in generous and open plots. This includes the site of the village hall and Blossom Cottage to the north of the appeal site, which contribute to the transition of the village into the countryside. The adjacent playing pitches and historic gardens opposite the site similarly contribute to the more open landscape character surrounding the village.
11. The appeal site has a distinctly rural character by reason of its open and largely undeveloped nature and contributes positively to the character of the countryside and the landscape setting of the village. While the proposal is in outline only, it would introduce 9 homes to a plot of approximately 0.5 hectares. While the site layout drawing is indicative, this suggests the buildings would have small plot sizes, amounting to a dense form of development with little open space around the buildings, more akin to a village centre or suburban setting.
12. As a consequence, the proposal would have a poor visual relationship to the village, be visually disconnected and would cause harm to the intrinsic character and beauty of the countryside surrounding the village. Given the

quantum of development proposed and its location, I am not satisfied that this could be adequately addressed at the reserved matters stage. Similarly, it cannot be established that the proposal would be obscured in views from the public highway.

13. In conclusion on this main issue, the proposal would not be suitably located for new housing and would cause harm to the intrinsic character and beauty of the countryside. It would conflict with policies S1, S2 and S8 of the LDP summarised above, as well as Policy D1 which requires respect for landscape and townscape setting.

Heritage Assets

14. The site lies outside the Bradwell-on-Sea Conservation Area (the CA). Its boundary extends further than the settlement boundary discussed above and the CA boundary directly adjoins the appeal site to the north and east. Based on the evidence and findings of my site visit, it comprises a small rural village focused around the Parish Church of St Thomas and encompasses a collection of historic vernacular buildings. It is set within a distinctly rural landscape which forms a part of its setting and the way in which its significance is appreciated and experienced. The appeal site, being open and verdant in character, sits at the southern entrance to the CA and contributes positively to the setting of the CA and how it is experienced in approaching from the south.
15. Despite being in outline, for the reasons set out above in the first main issue, the proposal would result in the extensive loss of the open and rural character of the site by reason of the amount of housing and associated necessary roads and paraphernalia. This would cause a harmful dilution in the rural setting of the CA.
16. I acknowledge that design and landscaping solutions may, however, assist in integrating the development into the rural setting of the CA to some extent. Nonetheless, given the quantum of development proposed, some harm would arise, although this would amount to less than substantial harm and at this stage would be at the lower end of the scale. The Framework requires that great weight should be given to the asset's conservation.
17. Accordingly, the Framework requires that the less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits. In this case the primary benefit would be the provision of housing. There is dispute between the main parties surrounding the availability of land for housing in the District. However the extent of the contribution here would be 9 homes, which would make a small contribution to the supply of homes in the District, even if the appellant's position were adopted and if there were a shortfall in supply. There would also be economic benefits arising from the construction process and ongoing expenditure into the economy by future occupants. Despite the level of harm being at the lower end of the scale, taken together the public benefits of the proposal would not outweigh the harm identified to the CA, to which I must give great weight.
18. In conclusion on this main issue, the proposal would cause harm to the setting of the CA and this would not be outweighed by public benefits. The proposal would conflict with policies D1 and D3 which relate to preservation or enhancement of designated heritage assets. There would also be conflict with the heritage objectives of the Framework as set out.

Protected Species

19. The appellant has provided a Preliminary Ecological Assessment which identifies that the likelihood of the majority of protected species on the site is negligible and that no further consideration of them was required. However, it acknowledges the site to be within the amber risk zone for Great Crested Newts (GCNs) with ponds being close to the site, including on the opposite side of South Street. The report recommends GCNs require further consideration or survey.
20. There is therefore a reasonable likelihood of GCNs being present on the site and affected by the development. Based on the evidence, it is not apparent to what extent they are present on the site or the extent to which they would be affected. On this basis there is insufficient information and uncertainty about the effectiveness of the proposed condition for a precautionary method statement alone as a means of mitigation. To secure survey work by condition would similarly not be appropriate here given the extent of the impact should be established prior to the grant of planning permission.
21. In conclusion on this main issue, it cannot be established that the proposal would have acceptable effects on populations of GCNs. The proposal would conflict with Policy N2 of the LDP which, among other things, requires mitigation for any negative biodiversity impacts. It would also conflict with the Framework insofar as it relates to the protection of sites of biodiversity.

Highway Safety

22. Details of access would fall to be considered at the reserved matters stage if the scheme were otherwise acceptable. The site lies on a relatively straight section of road and the speed limit reduces to 30mph to the north of the site on the approach to the village. Given the characteristics of the road, and as access is not a matter before me, I have no strong reason to believe that a suitable access could not reasonably be achieved. As such, and in conclusion on this issue, the proposal before me would be acceptable in terms of its effects on highway safety. It would comply with Policy T2 of the LDP and the Framework insofar as they relate to highway safety.

Other Matters

23. The site is close to the Grade II* Bradwell Lodge and grounds, which lie on the opposite side of South Street. Given the distance from these heritage assets, and the presence of intervening landscaping and the highway of South Street, the proposal would preserve their setting.
24. Notwithstanding the above conclusions relating to the site's location, the appellant considers the site to have a sustainable location. I observed that Bradwell-on-Sea does have some services and facilities, including a school, church, community facilities and public house. I understand there is also a limited bus service which operates through the village. While these would meet some of the needs of future occupants there would still be an inherent need to travel by car, covering some distance, to reach other services and facilities, and this is acknowledged in the Council's strategy for the location of new development set out above. As such, the presence of these features within the village does not convince me that lesser weight should be afforded to the conflict with the spatial strategy. The appellant refers to other recent

planning permissions in the area, however I have not been provided with details of those proposals or the reasons they were found to be acceptable. As such, I cannot be satisfied that their circumstances were the same as this appeal scheme.

25. The appellant considers that the provisions of 11d) of the Framework should apply to the appeal. While noting the age of the LDP, this does not necessarily mean it is out of date for the purposes of paragraph 11 and the Framework is clear that policies should not be considered out of date simply because they were adopted before the Framework. Based on the evidence before me, I have no strong reason to find the relevant policies to be inconsistent with the Framework.
26. The appellant accepts that the Council have a five year land supply for housing, but notes that this cannot be delivered without breaching the settlement boundaries and there is a heavy reliance on windfall sites. Nonetheless, it is not apparent that these factors should necessarily reduce the extent of the Council's housing land supply and the Framework includes provisions for the inclusion of windfall sites in anticipated supply. Neither has it been substantiated that the majority of the Council's windfall sites are outside settlement boundaries or are similar to the appeal scheme before me. The appellant refers to appeal decisions relating to housing outside settlement boundaries in the administrative areas of other local planning authorities and, based on the evidence, the same circumstances do not apply here in respect of housing land supply and the age and circumstances of the policies referred to. For these reasons together I do not consider the most important policies for determining the appeal to be out of date as set out in paragraph 11d). However, even if they were out of date, or if the Council's position had changed following the publishing of the new Framework, the application of policies in the Framework relating to designated heritage assets, would provide a strong reason for refusing the development proposed. In that event the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.
27. The proposal would, nonetheless, deliver the benefit of nine new homes, which would contribute to the national objective to boost the supply of homes. The Framework acknowledges that sites of this size can make an important contribution to meeting housing need and can often be built out relatively quickly. There would also be some economic benefits from construction and expenditure by future occupants as set out above.
28. It is stated that tree planting could take place on the remaining field to benefit biodiversity and carbon capture. However no such scheme, nor mechanism to secure it, forms part of the appeal before me and this does not weigh in favour of the development. An undersupply in retirement housing in the District is also alleged although it is not apparent how the proposal would be secured for retirement housing if the appeal were otherwise allowed. Similarly, as the scale of the new homes is not for consideration at this stage, I have not given weight to the benefit of providing small sized homes. The unsuitability of the site for agriculture has not been substantiated and adds very little weight in favour of the development. Overall, the benefits of the proposal would not outweigh the harms which would arise.

29. The appeal site is within the designated Zone of Influence of one or more of the European designated sites scoped as part of the Essex Coast Recreation disturbance Avoidance and Mitigation Strategy. The effects of the proposal on these formed one of the Council's reasons for refusing planning permission and the appellant has provided a planning obligation which relates to financial mitigation. The Council have confirmed it has withdrawn its objection in this respect. However, Regulation 63(1) of the Habitats Regulations¹ indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not therefore necessary to address this in any further detail.
30. I have had regard to the additional issues raised by third parties, however I have not addressed these in further detail since they would not change the outcome of the appeal.

Conclusion

31. The proposal would be contrary to the development plan and there are not material considerations of sufficient weight which indicate a decision should be made other than in accordance with it. For the reasons given the appeal is dismissed.

C Shearing

INSPECTOR

¹ The Conservation of Habitats and Species Regulations 2017