



Appeal Decision

Site visit made on 19 February 2025

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

Appeal Ref: APP/X1545/W/24/3348762

Field View Cottage, Tolleshunt D'arcy Road, Tolleshunt Major, Essex CM9 8LN

- 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 John Snowling against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/01156.
The development proposed was originally described as “A 2 bedroom Bungalow, in a plot which can be positioned by Maldon Council, that is all in the Tolleshunt Major boundary, making as much energy saving as we can. We have a one bedroom Holiday Cottage, that has solar panels on the roof, on the site, which is all hedged, that is looked after by our daughter, she is moving away in the near future, so we need a bungalow to look after the land and the Holiday cottage. It will stop us using our car, going to Tolleshunt Major from Tollesbury. The land we will put more trees onto it and make it into a good place for animals and creatures to live. We will leave a 3 bedroom semi-detached house in a good location for us to sell in Tollesbury.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was for outline planning permission with all matters reserved for subsequent approval. Article 5(3) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 states where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I sought submission from the parties on this matter. I have considered their additional submissions alongside the original representations.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for residential development, with particular regard to planning policy and the accessibility of services and facilities;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on highway safety, with particular regard to intervisibility; and
 - the effect of the proposal on Blackwater Estuary Special Protection Area (SPA) and Dengie SPA.

Reasons

Location

5. Policy S8 of the Local Development Plan 2014-2029, July 2017 (LDP) indicates that in the countryside, planning permission will only be granted where the character and beauty of the area is not adversely impacted upon and where the proposed development meets one of the specified exceptions. As the appeal site is outside of the defined settlement boundaries, it is within the countryside for the purposes of local planning policy. The proposed development does not comply with any of the specified exceptions within LDP Policy S8.
6. Tolleshunt Major is centred around Beckingham Street and a triangular piece of land enclosed by Mill Lane, Tolleshunt D'arcy Road, and Beckingham Street. The appeal site is to the east of the village and separated from the village centre by a large recreation ground. The proposed dwelling would form part of a row of dwellings and there is further development to the east including a church. Nevertheless, the character of the area around the appeal site is different to the village centre. The density of development is lower and there are large breaks in development either side of the road. Moreover, the village sign is sited next to the recreation ground between the village centre and the appeal site. Overall, I conclude that the appeal site is near to, but outside of, the village and that the defined settlement boundary reflects the on the ground circumstances in this part of the village.
7. Given the size of the village, there is a good offering of employment opportunities at Beckingham Business Park. Wicks Manor Farm is only a short distance to the north of the village and offers further employment opportunities. As such, future occupiers of the proposed dwelling may only need to travel a short distance for work. Notwithstanding this, other everyday services and facilities in Tolleshunt Major are very limited. Future occupiers would therefore need to travel to nearby towns or villages to meet their everyday needs. In the absence of regular public transport services, these journeys are likely to be undertaken by private motor vehicle. Furthermore, given the limited provision of services in nearby villages, future occupiers are more likely to travel further distances to towns such as Maldon and Tiptree.
8. In addition, there is no footpath between the appeal site and the village centre, and the route is unlit. Walking or cycling this route would not be a pleasant experience in daylight during the summer. In the dark or inclement weather, at best it would be uncomfortable, at worst it would be unsafe. Therefore, even to reach the limited facilities within the village it would be safer, quicker, and more convenient to drive. Using a car would almost certainly be the default choice for anyone who has access to a private vehicle, even on short journeys.
9. The appellant owns and manages the tourist accommodation next to the appeal site. If they lived in the proposed dwelling this would remove the need to travel from their current home to the area to manage the accommodation. However, the proposed dwelling would not be tied to the tourist accommodation. As such, the reduction in vehicle movements may not materialise. Even if the appellant occupied the proposed dwelling, they would still be likely to undertake journeys by private motor vehicles to meet their everyday needs.

10. The ongoing use of Beckingham Business Park is likely to generate a significant number of vehicle movements. However, the decision to grant consent for the Business Park is materially different as both the benefits and disbenefits would be unlike the appeal proposal. Likewise, residential development within nearby villages is materially different as occupiers of those properties would be more likely to access some facilities using sustainable transport modes.
11. I conclude that the appeal site is not an appropriate location for residential development, with particular regard to planning policy and the accessibility of services and facilities. The proposal would therefore be contrary to LDP policies S1, S8, D1, H4, T1 and T2. These policies indicate that development proposals should provide safe and direct walking and cycling routes to nearby services and maximise connectivity to surrounding areas, amongst other matters.

Character and appearance

12. The appeal site is a piece of grassland located between the tourist accommodation and a residential property. There are multiple properties in proximity to the appeal site, but the density of development is low. There are several large fields near to the appeal site which tend to be bound by mature hedgerows. These aspects combine to create a verdant, semi-rural character on the edge of the village.
13. The planning application, subject to this appeal, was for outline planning permission with all matters reserved for subsequent approval. Consequently, a modest two-bedroom bungalow could be designed. Nonetheless, the appeal proposal would introduce built development to an area where there is currently none. The introduction of built form alongside domestic paraphernalia would represent a further intrusion into the countryside and would have an urbanising effect. Moreover, given the location and orientation of the appeal site, the proposed dwelling would likely be prominent in views from the road.
14. The appellant has indicated that they could introduce temporary development to the appeal site including the siting of caravans or glamping pods. Nevertheless, due to its temporary nature, the suggested alternative development would likely be less harmful to the character and appearance of the area. Regardless, there is no indication that the appellant intends to implement this development and therefore it does not represent a more than theoretical fallback position. Consequently, limited weight is ascribed to it.
15. The effect of Beckingham Business Park on the character and appearance of the area is materially different to the appeal proposal. It is more closely related to the village. Moreover, it is not in proximity to the appeal site and the surrounding character is different. As such, it does not set a precedent for the appeal proposal.
16. I conclude that the appeal proposal would have a harmful effect on the character and appearance of the area. It would be contrary to LDP policies S1, S8, D1 and H4 which indicate that all development will seek to optimise the use of land having regard to the existing character of the surrounding area and shall respect and enhance the character and local context, amongst other matters.

Highway safety

17. To the west of the appeal site is a sharp bend. Regardless of where the access would be formed within the site's frontage, drivers exiting the appeal site would

have poor visibility to the right. In turn, this would mean they would not be able to reasonably anticipate oncoming traffic. The proposal would either result in an intensification of the existing access or the creation of a new access. Regardless, an increased number of slow-moving vehicles entering the carriageway near the sharp bend in the road would increase the chance of an accident. As such, the proposal would have an unacceptable impact on highway safety.

18. This section of Tolleshunt D'arcy Road has a 40mph speed limit. If survey results showed that the average speed of vehicles was much lower than the speed limit, then the required visibility would be reduced. However, there is no evidence before me to demonstrate that the average speed of the road is less than the speed limit.
19. Separate planning permissions¹ were granted for both the replacement and conversion of a building to provide tourist accommodation adjacent to the appeal site. There is no evidence before me on how those proposals affected vehicle movements to and from the neighbouring site. The access may be used less intensively now than prior to those applications. Nonetheless, the acceptance of an access with poor visibility does not set a precedent for either a new access nearby or intensifying the use of that access.
20. I conclude that the appeal proposal would have a harmful effect on highway safety, with particular regard to intervisibility. The appeal proposal would be contrary to LDP policies D1 and T2, which indicate that to create and maintain an accessible environment, development proposals should provide sufficient and safe access to emergency and service vehicles, amongst other matters.

European protected sites

21. The appeal site is within the zone of influence of both the Blackwater Estuary SPA and the Dengie SPA. Both SPAs form part of the Essex Coastal Habitat Sites² which are recognised for their value as coastal habitats and are home to internationally important breeding and non-breeding birds.
22. I have a duty under The Conservation of Habitats and Species Regulations 2017 to assess any impact the proposed development would have on the SPAs. Had I found the proposal to be otherwise acceptable, I would need to consider further the effect of the proposal on the integrity of the SPA and the potential for mitigation, as part of an Appropriate Assessment. However, given the harm I have identified, and as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter any further; nor to consider whether the proposal would comply with LDP policies S1, D1, N1 and N2 in so far as they relate to safeguarding protected sites. For the avoidance of doubt, even if I had identified no adverse effect upon the integrity of both SPAs, it would not have affected the outcome of the appeal.

Other Matters

23. There is a dispute regarding the site area. The difference between the intended plot size and that shown on the Location Plan is small. Whilst my assessment of the proposal is based upon the application plans, the outcome of the appeal would not be different, if I had assessed the proposal against a larger plot size.

¹ Planning permission refs. 07/00706/FUL and 07/0074/FUL

² As identified within the Essex Coast Recreational Avoidance and Mitigation Strategy Supplementary Planning Document, May 2020.

24. The appellant has highlighted two consents³ granted by the Council. One was for prior approval to convert an agricultural building into five dwellings, the second is related to a proposal for the redevelopment of previously developed land. Therefore, both consents are materially different to the appeal proposal and do not set a precedent.

Planning Balance

25. Benefits of the proposal would be the provision of a dwelling which includes energy efficient measures, the creation of a new home for the appellant which may free up a family home, planting of additional trees and the creation of habitats, and economic benefits associated with its construction.
26. The appellant has indicated that the proposed dwelling would be self-build. Although it is the appellant's intention to occupy the proposed dwelling, there is no legal mechanism before me to ensure that this would be the case. Moreover, there is no evidence before me on whether the Council is meeting its statutory duty to grant sufficient suitable permissions to meet demand for self-build. As such, the weight ascribed to this benefit is tempered.
27. The LDP dates from July 2017 but the weight attached to it does not hinge on its age. Rather paragraph 232 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
28. The Framework indicates that the creation of high-quality places is fundamental to what the planning and development process should achieve. The Framework also identifies that the planning system should be genuinely plan led and directs development toward places which are sustainable and reduce the need to travel, and promotes walking, cycling, and the use of public transport. Moreover, the Framework specifies that development should only be refused on highways ground if there would be an unacceptable impact on highway safety or the residual cumulative impact would be severe. As such, substantial weight is ascribed to the conflict between the proposal and LDP policies S1, S8, D1, H4, T1 and T2.
29. There are no policies in the LDP which would support development which is contrary to these policies. As such, the proposal conflicts with the development plan when read as a whole.
30. The Council can only demonstrate 2.70 years supply of deliverable housing land. Therefore, on the premise of no unacceptable adverse effect being caused to the integrity of the SPAs, the presumption in favour of sustainable development would be engaged.
31. The Framework identifies that small sized sites can make an important contribution to meeting the housing requirement of an area. Even when considering the objective of boosting significantly the supply of housing and the Council's housing land supply position, due to the scale of the proposal, I ascribe moderate weight to the benefits.
32. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to securing well-designed

³ Prior approval Ref. 22/00184/COUPA and planning permission ref. 22/00795/VAR

places and directing development to sustainable locations. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

33. The proposal conflicts with the development plan, when considered as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR