



Appeal Decision

Hearing held on 26 February 2025

Site visit made on 27 February 2025

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/X1545/W/24/3351697

The Land North of Homefield and West of Tillingham Road, Southminster CM0 7DT

- 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 Taylor Wimpey UK Ltd against the decision of Maldon District Council.
 - The application Ref is 23/01244/OUTM.
 - The development proposed is outline application for a residential development of up to 220 dwellings and associated infrastructure, public open space, and highways access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved except for access. It was agreed at the Hearing that adherence to the parameters plan would be sought by condition, and I have considered this plan accordingly. I have had regard to the illustrative landscape strategy plan and the development framework plan relating to the other reserved matters on an indicative but informative basis.
3. In advance of the Hearing, the Council confirmed that it would not be defending reason 1 of its reasons for refusing planning permission. This is due to a change in circumstances in respect of the Council's housing land supply following the December 2024 update to the National Planning Policy Framework (the Framework). Based on the new Standard Method, and a required additional 5% buffer, the Council's housing land supply stands at 2.70 years for the purpose of this appeal.
4. A legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (s106 agreement) was discussed at the Hearing with a final signed and executed version dated 10 March 2025 submitted after the Hearing closed.
5. Reasons for refusal 3, 4 and 5 related to the absence of a completed s106 agreement to secure affordable housing, transport infrastructure, health care, education, library services, the provision and maintenance of open space, and mitigation for recreational disturbance to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) zone of influence. These matters have now been resolved through the submitted agreement and the reasons for refusal are no longer pursued. The s106 agreement is considered later in my decision.

Main Issues

6. The main issues are the effect of the proposed development on:
- the character and appearance of the area, and
 - the setting of nearby grade II listed buildings Sheepcote and Home Farmhouse and the special interest and significance of the Cropmark site SW of Oldmoor scheduled ancient monument.

Reasons

The Development Plan and planning policy context

7. The Development Plan includes the Maldon District Local Development Plan (2014-2029), adopted in July 2017 (Local Plan). Policy S2 confirms that most of the new strategic growth will be delivered through sustainable extensions to Maldon, Heybridge, and Burnham-on-Crouch in the form of Garden Suburbs and Strategic Allocations. 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.
8. Policy S8 sets out the settlement hierarchy where Southminster is identified as a larger village with a limited range of services and opportunities for employment, retail and education serving a limited local catchment and containing a lower level of access to public transport. Sustainable development within defined settlement boundaries is supported. Outside settlement boundaries development is restricted to a limited number of categories.
9. The appeal site comprises agricultural land which lies to the north side of Southminster. It is outside, but adjacent to, the defined settlement boundary for the village. As such it is countryside for the purposes of the Council's spatial strategy where planning permission for development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it meets one of the categories set out in Policy S8, none of which would be fulfilled by residential development.
10. The appeal proposal would conflict with the spatial strategy as a whole. However, Policy S8 must be out of date given the shortfall in housing land supply. Furthermore, the Council has withdrawn its reason for refusal 1 and does not contend that there is conflict with Policies S2 or S8.
11. Moreover, because of the lack of a 5-year housing land supply and footnote 8 to the Framework the most important policies for determining the appeal are out of date. In such circumstances Policy S1 of the Local Plan makes statutory provision by reflecting the presumption in favour of sustainable development contained within the Framework. In this case there are policies in the Framework relating to habitat sites and designated heritage assets that are engaged. It is only if these do not represent a strong reason for dismissing the appeal that paragraph 11d) ii. applies. I return to this later in my decision.

Character and appearance

12. The appeal site comprises 19.1 hectares of arable land on the north side of Southminster. The village edge is next to the southern side of the site with houses

on Homefield and North End adjacent to the southern boundary, properties facing Tillingham Road/Cripplegate to the east and a graveyard and properties facing North End and Sheepcotes Lane to the west. Beyond the houses the eastern site boundary follows Tillingham Road with the site boundary defined by a mature and mostly continuous hedge. As Tillingham Road bends sharply, the appeal site continues to its most northerly point as a vegetated edge adjacent to agricultural land that extends eastwards.

13. To the west side beyond the village extent the appeal site sits adjacent to Sheepcotes Lane, a rural lane and bridleway. Here, the appeal site is slightly higher than the lane and the boundary is mainly open. To the west of the appeal site beyond Sheepcotes Lane is primarily open farmland with the edge of the settlement in the periphery to the south. The watercourse with its well-defined edge of trees and hedging forms the extent of the appeal site to the north. Beyond the northern site boundary, the land rises to Foxhall Road with the intervening land being largely undeveloped agricultural fields. Characteristics of the host landscape are its undulating landform, its arable land use, and hedged boundaries with individual trees as well as small copses and wooded areas.
14. The residential properties on the boundary of the site to the south and east side have a degree of urbanising influence on the southernmost section of the appeal site. However, large parts of the site's east and west boundaries and the northern boundary sit next to open undeveloped land and consequently the appeal site has a strong rural character. It is an integral part of the characteristic undulating arable host landscape. Furthermore, the existing mature planting in gardens and to the graveyard boundary softens the built edge of the village and reinforces the appeal site's rural context.
15. I am mindful that whilst layout remains to be determined, as identified on the parameters plan, the development would be able to deliver a significant area of open space. Nonetheless, the proposals indicate that 6.31 ha of the site is identified as developable area, and the balance of the land is to be used for associated open space, and green and blue infrastructure.
16. The topography of the site has been a key consideration in the formation of the parameters plan, the indicative landscape strategy, and the development framework plan. The land generally falls away to the watercourse on the northern boundary. There is a notable change in the gradient across the field south to north with the southern part at a lesser gradient and considered to be a similar elevation to existing adjacent residential development. Having regard to the site levels the parameters plan indicates that housing would be concentrated on the southern part of the site with the extent of the housing defined by a new walking route and planting. The extent of the proposed housing is in a similar location to a historic field boundary, but there is no longer any boundary evident on site so that the new walking route and planting would seemingly cut across the centre of the agricultural field.
17. The proposed principal access would be via Tillingham Road. This would require some vegetation removal despite the existing agricultural access already providing a gap in the hedge line. From my observations Tillingham Road at this point has a rural character with grass verges to the road frontage and no street lighting along it. The access would extend the developed edge of the settlement. The proposed dwellings are indicated to be set back from the road frontage with open space

close to the road. This is consistent with the parameters plan which shows a green edge to the road frontage. Consequently, the access road would appear relatively isolated and disconnected from the village.

18. The siting of dwellings beyond and set back from the line of the existing frontage development would be incongruous in extending the built form away from the Tillingham Road frontage and exceeding the established edge of the village. Development would be to the centre of the field where the prominence of the dwellings would be exacerbated by the open undeveloped fields to the west and east.
19. Even if development is restricted to a maximum height of 9 metres and of a similar density to the village, dwellings would appear particularly prominent in the landscape considering that the land slopes away at a steeper gradient towards the northern boundary. In addition, the steeper land would cater for the drainage attenuation solution for the housing, provide accessible open space for the development and the village including walking routes and play space together with any necessary infrastructure to make the open space usable. As an outline application these details remain unclear, but infrastructure requirements together with extensive landscaping to define and contain the development would all change the rural agricultural character of the landscape, obtrusively projecting the extent of the development to a significant area beyond the village in a way that is incongruous with its current form and layout.
20. The result would be a conspicuous intrusion of settlement into open, undulating arable farmland landscape with a limited and poor relationship to any adjoining development. The retention of large areas to accommodate less intensively occupied open space and infrastructure would not ameliorate the landscape harm arising from the loss of an undeveloped area of countryside on the edge of Southminster. Accordingly, I share the Council's assessment that the appeal site has a high sensitivity to change and the resultant effect of the development on the character of the landscape would be substantial and adverse.
21. Regarding matters of visual amenity; several properties on Homefield face the appeal site and have open views of the rural landscape. Although the land falls away to the north the proposed development would be prominent and rural views would be lost. The effect of the development on these properties would be substantially adverse and would be unlikely to be moderated to any noticeable extent by landscaping and open areas incorporated into the proposed development.
22. Views of the site from the rear of properties facing Cripplegate would be filtered by existing garden boundaries and vegetation at ground floor but would be more open at first floor. Views to the rural landscape northwards and to the village edge to the south would be oblique. The rural views are not expansive, and the adverse effects of development would consequently be moderately adverse.
23. Elsewhere within the village the appeal site is seen between buildings. In some views absence of development draws in the rural context beyond the village but none of these glimpsed views contribute significantly to the street scene and the effect of development on such views would be minimally adverse.
24. When approaching the village from the north along Tillingham Road the rural character and extent of the appeal site is prominent within the field of vision.

Notwithstanding that the dwellings would be mostly set back from the Tillingham Road frontage with intervening open space and landscaping, the loss of the open agricultural field will be highly perceptible. The openness on the approach to Southminster along Tillingham Road is particularly appreciated because the bend in the road provides an opportunity to experience views over the site. The loss of agricultural landscape would be keenly and harmfully experienced by road users where development in the foreground would noticeably erode the rural context of the village, foreshorten views over the rural landscape and contrast harmfully with the immediate open agricultural surroundings.

25. The required highway junction and associated change to the speed limit signage, visibility splays and footpaths would be notable urbanising features along the lane. The new access point would afford direct views into the built development and the houses would be visible above the roadside vegetation. New planting may moderate some of the consequences of the development over time, but the visual effects of the development would remain moderate adverse.
26. Further East from footpath Southminster 4, views of the appeal site would be filtered by existing and proposed landscaping, even so, the upper part of dwellings would be visible and the wider sense of openness from viewpoints along the footpath across the landscape would be adversely encroached upon.
27. Sheepcotes Lane is an access route and a bridleway. It was acknowledged at the Hearing that the route is well used, and I observed this at my site visit. The boundary of the appeal site with Sheepcotes Lane is relatively open. Here the lane has a tranquil rural ambience with appealing long distant, rural views to the north, east, and west. The edge of the settlement is visible in views when travelling southwards but existing landscaping filters these and the site appears primarily rural in character when looking towards the village from the lane.
28. The appeal proposal would conspicuously diminish rural views from the lane through a combination of visible built form and the indicative landscaping. The associated development of the open space with paths and landscape features would further reduce openness and tranquillity. I acknowledge that the intervening landform and Sheepcote would predominantly limit the visibility of the development on the bridleway to the north, but the development would nevertheless harmfully erode the rural experience for users of the path further south. The effects would be substantially adverse. Planting may filter some impacts of the development over time, but the effects on the lanes rural qualities would remain significantly adverse.
29. There are views to the windfarm in the middle distance to the east, but the presence of these large, isolated utilitarian features, in this location, does not diminish the quality of the landscape or the views across it.
30. From Foxhall Road the village edge is seen set back with the appeal site in the foreground. The land slopes down to the north with the northern field boundary significantly less visible in the landscape. From Foxhall Road views of the new houses would be available across the intervening fields. I do not agree that in such views, development would be seen as a continuation of the existing built-up area. Rather, because of the extent of the development and the topography of the land, the development would appear to notably extend into open undeveloped countryside. The indicative landscaping on the northern boundary would be at a lower level and would do little to filter views of the development, and the

landscaping across the field centre would only minimally soften the development over time given the height and density proposed.

31. While there are no footpaths along Foxhall Road, and views towards the appeal site would on the whole be seen from cars moving east west within the landscape, the proposed development would be detrimental to the rural outlook from Foxhall Road. In other perspectives from Steeple Road, Badnocks Cottages and the more distant views from footpath Southminster 1, landscaping would lessen the visual impact over time but there would remain a residual, perceptible erosion of the wider rural context of the village in these views.
32. I conclude that even taking account of the indicative landscape and development framework plan, and having regard to the fact that other than the parameters plan all details remain to be determined, the identified adverse impacts to the character of the host landscape and the harmful visual effects from various perspectives would very substantially harm the character and appearance of the area. Therefore, the development would be contrary to Policies S1 part 12 and D2 of the Local Plan where these policies seek to ensure that developments respect and enhance the character and local context and make a positive contribution in terms of landscape setting, and where it seeks to maintain the rural character of the district without compromising the identity of its individual settlements.
33. These policies are consistent with the Framework where it seeks to ensure that development is sympathetic to local character and history, including the surrounding built environment and landscape setting, and that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Heritage assets

34. The duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the setting of listed buildings. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
35. There are no heritage assets on the appeal site itself, but there are a number nearby. These include the following grade II listed buildings, Home Farmhouse, The Laurels, 2 North End, Southminster former police station and associated coach house, Spratt's Farmhouse and Sheepcote. The Cropmark site SW of Oldmoor Scheduled Ancient Monument is to the east of the appeal site. I saw all of these heritage assets at my site visits, and I have been able to consider their relationship with the appeal site.
36. The relevant issue is the effect of the proposed development on the significance of these heritage assets. This is defined in the Framework as the value of the asset because of its heritage interest. It may be archaeological, architectural, artistic, or historic. In this case it is the effect on the setting of the heritage assets that is at issue and how the proposed changes would thereby affect their significance. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. It indicates that it may change over time and may make a positive, neutral, or negative contribution to the asset's significance.

37. In respect of The Laurels, 2 North End, Southminster former police station and Spratt's farmhouse I agree with the parties that the proposed development would not be within their setting. Furthermore, there are a number of non-designated heritage assets close to the site. Neither party considers that the appeal site contributes to the significance of these non-designated heritage assets or their setting and having visited the site I see no reason to disagree.

Home Farmhouse

38. Home Farmhouse and its gardens adjoin part of the southwestern side of the appeal site. Its significance relates principally to its architectural interest as an example of an ancient farmhouse which has evolved organically over the centuries.
39. The immediate setting of Home Farmhouse comprises its gardens. The appeal site abuts the rear garden and historically formed part of Home Farm. Although the visual relationship between the farmhouse and the appeal site has been eroded by later housing, the farmhouse derives value from its wider rural setting. The appeal proposal would result in considerable change to the view from the rear garden. The parameters plan indicates that bungalows would be placed to the rear of the farmhouse. This would limit the harm to the appreciation of the farmhouse when viewed from North End because the perception of the built form would be more limited. The form of the development would be subject to control at reserved matter stage although the principles on the parameters plan would be subject to a condition. Nevertheless, the connection of the farmhouse to the wider rural landscape would be lost and in this respect the development would be detrimental to its significance.
40. Consequently, there would be less than substantial harm to the significance of Home Farmhouse by virtue of the proposed development within its setting. The fact that the historical significance of the building predominantly lies in its fabric, which would not be affected, plus the mitigation measures in terms of the form of the development proposed, would result in a low level of less than substantial harm.

Sheepcote

41. Sheepcote is located to the north of the appeal site accessed via Sheepcotes Lane. It sits apart from the Southminster surrounded by arable fields. Sheepcote derives its significance from its architectural interest due to its timber framing and period architectural features. It also derives significance from archaeological interest as far as it retains evidence of the buildings original design.
42. The appeal site forms part of the extended setting of Sheepcote by virtue of its proximity to and intervisibility with the listed building. Its arable character reinforces the isolation of Sheepcote and makes a positive contribution towards its significance.
43. Sheepcote is some distance north of the development. Although there may be some glimpsed views of the development from the upper windows of the property arable fields would be retained around the listed building and views are to be retained towards Sheepcote from Tillingham Road. Even so, such views would be more urban and extending development and recreational uses close to Sheepcote

would reduce the properties isolation resulting in harm to its significance. The harm would be less than substantial in nature and at the low end of the spectrum.

Scheduled Monument

44. The Cropmark site SW of Oldmoor Scheduled Ancient Monument is a substantial site which sits adjacent to New Moor Farm extending across Tillingham Road into the field to the east of the appeal site. The scheduled monument is below ground and its significance derives from its archaeological and evidential interest. Sited between the low lying Dengie Marshes and the higher, drier ground between the river Blackwater and Crouch, the site of the ancient monument would have provided its prehistoric and roman inhabitants with the rich sources of food from both landscapes.
45. The landscape character of the area provides a strong sense of openness with long views to the west towards the appeal site including its relationship with the valley and farmland. This enables the scheduled monument's place in the landscape to be readily experienced and appreciated. This is particularly apparent in views from the public footpath (footpath 4) which is on a line close to part of the monument to its east side. The appeal site is a component of the open, rural landscape around the scheduled monument that makes a major contribution to its setting.
46. The desk-based assessment and geophysical surveys have identified a range of historic environment assets within the proposed development area comprising possible enclosures and linear features that may form the hinterland to the Scheduled cropmark complex, a historic farmstead and a brickfield have also been identified from the historic maps. While the county archaeologist acknowledges that linear features may form the hinterland to the scheduled monument, there is agreement that the archaeology deposits could be protected through a full archaeological investigation, ground works, evaluation, and post excavation assessment.
47. The parameters plan proposes that the development be set back from the Tillingham Road frontage. This would maintain views across the site to the north although the appeal site would appear more urban and the relationship with the valley and farmland would be eroded. Consequently, part of the open rural landscape around the monument would be lost.
48. At the Hearing it was agreed that the set back of the development and measures to further residents' and visitors' appreciation of the site's heritage could be secured by condition. In this context, I agree with Historic England that, in the Framework terms the harm to the special interest and significance of the ancient monument including its setting would be less than substantial.
49. Overall, with regard to designated heritage assets, the proposed development would result in less than substantial harm to Home Farmhouse and Sheepcote. I have had regard to the duty under the act even so I have found that harm would be at the low end of the scale. There would also be less than substantial harm to the special interest and significance of the Cropmark site SW of Oldmoor Scheduled Ancient Monument because of development in its setting. The Framework makes clear that less than substantial harm to the significance of a designated heritage assets should be weighed against the public benefits of the proposal, bearing in mind that great weight is to be given to the asset's

conservation this is consistent with Policy D3 of the Local Plan. I return to this matter below.

European Designated sites

50. The appeal site is within RAMS zone of influence and the proposed development falls within the scope of the RAMS as relevant development. I am the Competent Authority required under Regulation 63 of the Habitats Regulations to consider whether the appeal development either alone or in combination with other plans and projects would have a likely significant effect on the integrity of a designated European Site.
51. The Special Areas of Conservation, Special Protection Areas and Ramsar sites are extensive areas of estuaries and intertidal sand and silt flats, including several islands, shingle and shell beaches and extensive areas of salt marsh which support nationally important breeding and non-breeding birds and a full and representative sequence of saltmarsh plant communities, their qualifying features. The conservation objectives are to seek to ensure that the disturbance of qualifying features is not increased.
52. As the proposal is for an additional up to 220 dwellings and given the appeal site's distance to the European designated sites, the parties agree that it is unlikely that future occupants of the site would access the European sites for recreational purposes in notable numbers. I agree that the numbers are likely to be small but in combination with other developments there would be potential for additional activity to have a likely significant effect on the European sites. Therefore, the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
53. A per dwelling contribution to fund Essex Coast Rams is proposed within the s106 agreement. At the Hearing it was agreed that a condition to ensure specific mitigation measures including the provision of walking routes, signage, and information regarding the sensitivities of the European sites would be necessary. With the contribution insured in the s106 agreement and the details of the onsite open space required by condition, I am satisfied that mitigation measures have been secured. As such, the integrity of the sites would be maintained.
54. As I have concluded that the effects of the development can be mitigated, in terms of paragraph 11d) i. of the Framework, there is not a strong reason to resist the proposed development regarding irreplaceable habitats.

S106 agreement

55. The s106 agreement would place various obligations on the District Council, the County Council and those with an interest in the land. I am required to consider whether these obligations meet the statutory requirements in Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 58 of the Framework. Were I to conclude that they do not, the s106 agreement contains a provision that any such obligations are not binding and would not be taken into account in this decision.
56. The proposed 40% affordable housing would exceed the 30% set out in the development plan policy for this part of the district. The additional 10% reflects the appellant's acknowledgment of the need for such housing. The s106 contains

provisions to secure an appropriate tenure mix for the affordable units and to ensure that rented properties are occupied by individuals with a local housing need. The affordable housing obligation would meet the necessary tests and ensure the proposal would accord with Policy H1 of the Local Plan.

57. The application description includes the provision of public open space, and the parameters plan confirms that a large area of the appeal site would be open space. The indicative landscape strategy illustrates the location of specific provision for a Locally Equipped Area for Play and details of features required as part of the mitigation toward maintaining the integrity of the European Designated Sites. Layout and landscaping are reserved matters, but the agreement would secure the laying out, maintenance and management of the open space. The open space provisions in the agreement would meet the CIL tests and ensure accordance with Policy N3 of the Local Plan and mitigation required to accord with RAMs.
58. The requirement for an Essex Coast Rams contribution is discussed elsewhere within this decision. The contribution is required to maintain the integrity of European designated sites and is calculated in accordance with the mitigation strategy.
59. With regard to primary health care provision, the health partners of the Mid and South Essex Integrated Care System (the ICS) have identified that there is already a deficit in primary health care facilities in the area and the development would add to the deficit. The costs of providing for the population generated by the development is based on a calculation of the primary care floorspace needed to support the additional population. The ICS uses recognised parameters for the calculation of household size, space requirement for primary and community care services and a recognised cost multiplier. Based on these the ICS identify the need for 36.2 square metres of additional floor space and the capital required to create this additional floor space at £109,100. The s106 secures this contribution which I am satisfied would meet the relevant tests.
60. In addition to the above contribution the s106 agreement secures a contribution of £400,000 towards the provision of a new Southminster medical centre. I understand that permission has been granted for the health centre and land for its construction provided. However, evidence submitted by the owners of the land indicates that the new medical centre would be unlikely to come forward because there is a funding gap and financial constraints on the NHS. The landowners confirm that the £400,000 would make a meaningful contribution towards bringing the new facility forward and assist in overcoming the funding gap for the NHS. It would improve the prospects of achieving a viable medical centre development, but it would not entirely address the shortfall in funding.
61. The appellant argues that the £400,000 is necessary to mitigate the impacts of the increased demand for health care provision from the development and sets out the clearly significant shortfall in provision across the whole of the District with Southminster particularly deficient in capacity. However, the ICS advice that the contribution of £109,000 would be the sum necessary to make the development acceptable in planning terms. The appellant considers the delivery of the new health centre facility would be more beneficial and appropriate as a mitigation for the population generated by the development than a contribution based on additional floorspace at the existing medical centre. However, the sum of £400,00

has not been identified as necessary or directly related to the development. The ICS has calculated that figure to be £109,000 using an agreed methodology and this sum is an obligation in the s106 agreement.

62. In terms of being fairly and reasonably related in scale and kind to the development. There is no specific capital project cost associated with the £400,000. While the appellant contends it is proportionate, might support the delivery of the medical facility and secure improvement which might not otherwise arise there is no specific justification for the £400,000 payment. Consequently, I have not taken the Southminster Health Centre obligation into account.
63. There is a confirmed presence of Great Crested Newts in one offsite pond within 250 metres of the appeal site. A district licensing scheme is in place for Essex, led by the Natural England, and as such, this provides an option to ensure that mitigation and licensing requirements for the proposed development are fully addressed. An application can be made to join the district licensing scheme, with a conservation payment to be made towards offsite habitat creation to secure a licence and allow works to proceed. Through this mechanism, the long-term favourable conservation status of the local Great Crested Newt population will be maintained. The payment towards the district licensing scheme within the s106 of £6,817 would meet the CIL tests.
64. The requirement to provide a residential travel plan and an annual monitoring fee until one year after the development is fully occupied accords with policy T1 of the Local Plan and meets the relevant tests.
65. To support the delivery of a more sustainable transport network and to maximise the use of public transport Essex County Council are seeking a contribution of £600,000 to provide additional bus services that would improve bus links from new and existing bus stops near the site to Maldon, Burnham-on-Crouch and Bradwell-on-sea.
66. The bus contribution would support an hourly Burnham to Maldon service via Bradwell Monday to Saturday for 3 years and a 2 hourly service on a Sunday for 5 years. Clarification of the costs involved in providing the additional bus service was provided at the Hearing. I am satisfied that the contribution accords with Policy T1 of the Local Plan and meets the CIL tests.
67. Essex County Council has sought financial contributions towards early years, primary school, and secondary school provision. The County Council set out that the existing school and early years facilities do not have the capacity to accommodate the demand for additional school places resulting from the development. The contributions sought and the requirements in the s106 agreement are in accordance with the Essex County Council Developers' Guide to Infrastructure Contributions (the Guide) revised 2024.
68. In addition, the in catchment secondary school is more than 3 miles from the appeal site and pupils would be entitled to free school travel. Therefore, a contribution towards school transport is also sought in accordance with the Guide. The contributions accord with Policy I1 of the Local Plan.
69. A contribution of £77.80 per dwelling is sought towards library provision for upgrading of existing facilities at the closest Library to the Development (Southminster) to include, but not limited to, additional furniture, technology, and

stock and to expand the reach of the mobile library and outreach services. The basis for the contribution is set out in the Guide and I am satisfied the contribution meets the CIL tests.

70. Skylark is a priority species¹. The ecology survey identified 3 breeding pairs of skylarks within the appeal site. As their habitat (arable) is being lost under the proposals, appropriate compensation is secured through the s106 agreement in the form of offsite Skylark plots and a mitigation strategy. These compensation measures would mitigate for the loss of Skylark habitat within the appeal site and would be implemented from commencement of the development for a period of 30 years. The obligation complies with Policy N2 of the Local Plan.
71. There is an obligation to pay a fee of £4900 (£700 per obligation) to the County Council and £3750 to the District Council for monitoring the s106 obligations. Given the number of obligations this would appear to be a reasonable figure and so I consider the monitoring fee obligations would meet the necessary tests.
72. Taking account of all the information provided to the Hearing, and for the reasons I have given, overall, I am satisfied that, with the exception of the Southminster Health Centre contribution, the planning obligations in the s106 agreement are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the appeal development. They meet the statutory and policy requirements. I am therefore able to take them into account in my decision.

Benefits of the Development

Housing land supply

73. The parties agree that the Council does not have a 5-year housing land supply. Following the publication of the revised version of the Framework incorporating a new standard method for calculation of housing land supply the local housing need for the Council area increased to 569 dwellings per annum an increase of 293 dwellings per annum against the previous standard method.
74. Based on the updated housing need, the parties agree in the Statement of Common Grounds that for the purposes of this appeal the latest supply position is 2.7 years, a shortfall of 1,375 dwellings over the 5-year period.
75. At the Hearing it was confirmed that the appellant has an option to buy the site and should planning permission be granted for the development, most of the scheme would be delivered in the next 5 years. Therefore, the evidence is that the appeal scheme can be delivered in a relatively short time frame and provide a notable boost to the supply of housing where there is a significant shortfall in the supply of housing land.
76. Regarding the housing mix, Policy H2 of the Local Plan requires that the housing mix shall reflect local housing need and demand in both market and affordable housing, particularly the need for an ageing population. This is consistent with the approach in the Framework. The planning practice guidance further identifies that the need to provide for older people is critical.

¹ as defined in accordance with the Natural Environment and Rural Communities (NERC) Act 2006

77. The proposal is in outline with matters of detail to be agreed at reserved matters stage including the mix of dwellings to be provided. The parameters plan sets out that an area of the site would be primarily bungalows for the elderly and developed at a lower density, with the indicated extent is to be finalised at the reserved matters stage. The housing mix is a matter to be resolved at detailed design stage and it is to be expected that the mix would reflect the needs of the community in accordance with the Local Plan policy including older people. The parameters plan does not identify that the numbers of bungalows would be greater than one would expect as part of a mixed development. Nor can I be sure that such properties would be bought by older people in the absence of a specific mechanism to ensure that would be so.
78. Nevertheless, overall, I attach substantial weight to the delivery of housing that would contribute to supply and provide for a mix of dwellings, including for older people, to meet local needs.

Affordable housing

79. The scheme includes the provision of 40% affordable housing, 10% above the policy requirement in the development plan. The affordable housing is secured through the s106 agreement and would provide a development plan compliant tenure split of 75% social rent and 25% intermediate housing.
80. The appellant sets out a comprehensive assessment of the provision of affordable housing within the district. The parties agree that there has been a 480 dwelling affordable housing shortfall accumulated since 2020/21. When the shortfall is factored into the 2021 Local Housing Needs Assessment identified need of 209 affordable homes per annum for the period 2020 to 2040, the number of affordable homes the Council will need to complete increases to 305 net affordable homes per annum over the period.
81. Assuming that all sites in the April 2024 5-year housing land supply statement were to come forward with a policy compliant level of affordable housing there is a possible supply of 139 new affordable dwellings per annum. If the past delivery rate is applied, then this falls to 73 new affordable dwellings per annum. Fewer affordable homes than would be provided by this scheme.
82. The appellant's evidence also sets out that house prices and rents have increased across the lower quartile of the housing market, while at the same time the stock of affordable homes is failing to keep pace with the level of demand so that buying and renting in Maldon is out of reach of more people. In addition, there is a specific need for affordable housing in Southminster, with 60 people on the housing register identifying a preference for Southminster (March 2024).
83. In light of the evidence, the provision of up to 88 affordable dwellings is an important benefit which attracts substantial weight in favour of the scheme and accords with paragraph 66 of the Framework. I have had regard to the various appeal decisions brought to my attention on this matter. My approach in this decision is consistent with these.

Economic benefits

84. There would be a contribution to the economy during the construction period from the jobs created and uplift in local spend. In addition, the employment and skills

plan demonstrates how engagement with the local labour market would provide apprenticeships and other opportunities for local people. Implementation of the skills plan would contribute to the local economy by developing local skills and providing employment.

85. There are local shops and some services within Southminster village enough to provide for day-to-day needs. However, the range of facilities is more limited than in the larger settlements within the Local Plan area which limits the economic benefit of the development to the village economy. Even so, the wider economy would benefit from the provision of additional housing particularly with the upgrade to bus routes and the availability of a train connection. The proposals would also have the potential to reduce the Council's spending on temporary accommodation because of the proposed affordable social rented properties to be provided to those with a local connection. However, given the size of the development and the location of the site away from the main towns within Maldon District I conclude that the economic benefits of the scheme would be moderate.

Access to services and facilities

86. The parties agree that the appeal site is within an appropriate walking and cycling distance to bus stops, railway station and a range of other services and facilities. The improvements to bus services and proposed pedestrian connections to the village centre would support accessibility. The range of facilities within the village are limited. Access to a greater range of shops, services and employment would necessitate a bus ride, train ride or car journey. The improvements to bus services and bus stops would make the possibility of accessing larger settlements a realistic prospect and would also be available for wider public use. The accessibility of the site would be consistent with the relevant policies, in particular paragraphs 110 and 115 of the Framework, and attracts significant weight.

Open space

87. The indicative plans show how the scheme could be laid out to provide open space, including play space, cycling, and walking routes and a community orchard. Layout of the site is a reserved matter so the details of where and whether all these facilities would be provided is yet to be decided. Nevertheless, some of the open space would be necessary to support the new dwellings and new walking routes would in part be to mitigate the likely significant effects to European designated sites. These elements are secured by condition and the wider amount of overall open space is identified on the parameters plan which the appellant is seeking to agree by condition.
88. I agree that the open space is some distance from many houses within the village, but it is next to Sheepcotes Lane, an attractive rural lane for walking and footpaths within the appeal site could provide an extended circular walking route. However, I also saw the existing facilities within Southminster at my site visit and I heard from the Local member for Southminster that the existing amenity spaces within the village are underutilised. I acknowledge that open space in Maldon may be inconsistently distributed and below standards in some areas, but I have little to suggest an overall deficiency in Southminster. All things considered I give limited weight to the provision of open space within the appeal scheme.

Biodiversity net gain (BNG)

89. The Appellant's BNG assessment indicates that there would be considerable gains in habitat units, hedgerow units and river units on the appeal site. It is common ground that the appeal scheme could make provision for 82.06% habitat units, 30.3% in hedgerow units, and 16% in water course units. These are significant gains as at the present time there is no requirement for anything beyond a positive outcome.
90. While I acknowledge that following the principles set out in the landscape strategy plan and in the Aspect BNG document December 2023 could provide gains of a high order a condition requiring specific percentage of gain by condition would be difficult to enforce. Furthermore, achieving such gains is based on several assumptions about landscape design, future management, and hedgerow retention. I am satisfied that the site would provide significant positive gains to biodiversity, however, given that landscaping is a reserved matter and having regard to the assumptions made about the post development habitats I attribute moderate weight to the provision of BNG.
91. Drawing all the above matters together, it seems to me that the appeal proposal would offer a wide range of public benefits. While individually the weight that I have given them varies, when taken together I consider that the package of benefits can be given substantial weight on the positive side of the planning balance.
92. As I have not found that the contribution to the provision of the health centre to meet the relevant CIL tests this would not be an economic benefit of the scheme but even if it had met the tests and contributed to the benefits of the scheme it would not have changed my overall weighting in respect of the scheme's benefits.

Heritage Balance

93. As I have already set out there would be less than substantial harm, on the lower end of any spectrum, to Home Farmhouse and Sheepecote. There would also be less than substantial harm to the Cropmark site SW of Oldmoor Scheduled Ancient Monument. Such harm should be weighed against the public benefits of the proposal. Even where harm would be at the lower end of less than substantial this harm must be given great weight. In any case, I apply no such scale to the less than substantial harm to the scheduled ancient monument. The Framework identifies scheduled monuments as assets of the highest significance and the Framework is clear that the more important the asset the greater the weight should be.
94. The public benefits would be those benefits I have set out earlier in my decision and I have concluded that collectively these carry substantial weight. Given that the parameters plan would form part of the planning conditions and would secure development being set back from the Tillingham Road frontage, albeit over an area of land that would appear more urban in the context of its proposed use, I am satisfied that the public benefits outweigh the identified harm to heritage assets even when giving great importance and weight to such matters. In my judgement heritage assets do not therefore provide a strong reason for refusing the development proposed.
95. The appeal scheme would comply with the historic environment conservation and enhancement policies of the Framework in so much as they provide the opportunity for any less than substantial harm identified to a designated heritage

asset to be outweighed by the public benefits of a development proposal. There would also be compliance with Policy D3 of the Local Plan where it seeks to balance harm against benefits.

Planning Balance and Conclusion

96. The parties agree that the most important policies for determining the application are Policies S1, S2, S8 and D1. In the absence of a 5-year housing land supply with a supply of only 2.7 years, the Council does not allege any conflict with the spatial strategy in Policies S2 and S8. The appeal site is outside the defined settlement boundaries within the Countryside. However, due to the housing land supply position Policies S2 and S8 are out of date. I therefore ascribe very limited weight to the adverse impacts arising from the conflict with these spatial strategy policies.
97. Nevertheless, for the reasons I have set out there would be harm to the character and appearance of the area and the development would conflict with Policies S1 and D1 of the Local Plan. These policies are consistent with the Framework and conflict between the proposal and Policies S1 and D1 attracts very substantial weight.
98. Considering the application of paragraph 11 d) of the Framework, for the reasons I indicated earlier in this decision heritage assets and habitat sites do not provide a strong reason for refusing the proposed development as per paragraph 11 d) i. This means that it is necessary to consider whether any adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies in the Framework for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
99. The appeal proposal would result in substantial adverse impacts to the character of the host landscape and harmful visual effects from various perspectives which would very substantially harm the character and appearance of the area. The Framework seeks to ensure that development is sympathetic to local character and history, including the surrounding built environment and landscape setting and contributes to and enhances the natural and local environment by recognising the intrinsic character and beauty of the countryside. The adverse impacts of the development attract very substantial weight. I have also identified less than substantial harm to the significance of designated heritage assets to which the Framework requires I give great weight.
100. The package of public benefits that would flow from the appeal proposal would weigh substantially in favour of the appeal and I recognise that the benefits meet many of the Framework objectives. However, in this case, the harms identified in the previous paragraph would weigh very heavily against the appeal proposal. In my judgement, the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In reaching this judgement I have had particular regard to key policies referred to in footnote 9 of the Framework. Key policies have been considered in my reasoning and have informed the planning balance that I have applied. Therefore, the presumption in favour of development does not apply.

101. The planning balance in the Framework is given statutory force in the development plan and the proposals would also conflict with Policy S1 of the Local Plan and would conflict with the development plan as a whole.
102. My overall conclusion is that the proposal conflicts with the development plan and that conflict is not outweighed by other material considerations. Therefore, the appeal is dismissed.

Diane Cragg

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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James Stacey	Tetlow King Planning
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FOR THE LOCAL PLANNING AUTHORITY:

Matt Bailey	Maldon District Council
Tim Howson	Maldon District Council
Graeme Drummond	Open Spaces Landscape and Arboricultural Consultant

INTERESTED PARTIES:

Cllr Adrian Fluker	Maldon District Council Ward Member for Southminster
Shalab Aggarwal	Local Resident