



Appeal Decision

Site visit made on 3 June 2025

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th June 2025

Appeal Ref: APP/X1545/W/24/3354388

Land at Silver Lake, Southminster Road, Asheldham CM0 7DZ

- 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 Mrs Lisa Brown against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/00070.
 - The development proposed is the erection of a 3 bed bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application which is the subject of this appeal was made as an outline application with all matters (access, appearance, landscaping, layout and scale) reserved for future consideration. As such I have considered the appeal on this basis.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. Comments have been sought from both parties in relation to the revised Framework and any comments received have been taken into consideration within my decision.

Main Issues

4. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities; and
 - the effect of the proposed development on the character and appearance of the Silver Lake site and the surrounding area.

Reasons

Location

5. The appeal site forms part of a wider site that was previously a quarry and is now used for commercial leisure and tourism purposes. It is situated adjacent to the site's main access road and car park with a separate access point from Rushes

Lane to the west of the site. The appeal site is currently unoccupied and largely covered in scrub with several small trees. In the surrounding area there are a number of residential dwellings, including a care home, agricultural land and the wider Silver Lake site. The proposed development would introduce a single storey, three-bedroom dwelling to the site, with a private access from Rushes Lane.

6. Policy S1 of the Maldon District Approved Local Development Plan 2014-2029 (the LP) 2017 seeks to deliver a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations. Policy S2 of the LP states that strategic growth will be focused at the District's main settlements, as they constitute the most suitable and accessible locations in the District.
7. Policy S8 of the LP states that the Council will support sustainable developments within the defined settlement boundaries and outside of the defined settlement boundaries, the Garden Suburbs and the Strategic Allocations, planning permission for new development will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted upon and provided it falls under one of a list of exceptions. Although within the village of Asheldham, the appeal site is located outside of a defined settlement boundary and would not fall under any of the exceptions listed. Therefore, the proposal would be contrary to this Policy.
8. Policy D1 of the LP seeks to ensure new development maximises connectivity to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes. Policy H4 of the LP requires development to have regard to the proximity to public transport and Policy S1 of the LP considers sustainable development to minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport. Policies T1 and T2 of the LP also seek to give priority to pedestrians, wheelchairs, cycling and public transport over private vehicles with development providing safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate.
9. This is not an isolated site, as it is located in close proximity to several other dwellings. Therefore, paragraph 84 of the Framework is not applicable. However, paragraph 83 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include consideration of providing support for local services even in a village nearby.
10. Although there are a number of dwellings, there are very few services and facilities within the village of Asheldham, where the appeal site is located. These are extremely limited and a broader range is available within the settlements of Southminster, Tillingham and Burnham on Crouch, including a school, doctors surgery and shops, amongst other things. Nevertheless, these are some distance from the appeal site, between approximately 2km – 4km away, with no dedicated footpath access. Therefore, due to the distance and lack of sufficient footpaths, these facilities would be difficult to access by foot from the appeal site for most. Furthermore, although traffic levels appear to be relatively low on the surrounding country lanes, there is also no evidence of any dedicated cycling lanes to the closest settlements, thereby making cycling an unattractive option for most of the day to day family needs, even with the use of an electric bike.

11. It has been highlighted that there is a bus stop within Asheldham, approximately 0.4 miles from the appeal site, providing access to these settlements. However, from the information provided, this does not appear to be a frequent service with limited options at the weekend. There also appears to be no safe pedestrian access to the bus stop from the appeal site and therefore would not be a suitable option for most. I do note that Southminster has a train station which could be used by future occupiers of the proposed dwelling to reach various services and facilities. However, this would still likely require a short journey by car and therefore would not be a fully sustainable option. Therefore, the proposed development would not accord with Policies D1, H4, S1, T1 or T2 of the LP in this regard.
12. Whilst paragraph 110 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development, the benefit to services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 83 of the Framework.
13. In conclusion, the necessary services and facilities which would be required by the future occupiers of the proposed dwelling would not be readily accessible and a single dwelling would not provide significant support for local services nearby. There are limited sustainable transport options and therefore the future occupiers would largely be reliant on the use of a car to serve their day to day needs on a regular basis.
14. The appellant contends that an increase in development would result in an increase in demand for a bus service. However, due to the scale of the development proposed, it is unlikely this would have a significant impact on the viability of such services. It is also noted that planning permission was previously granted on the wider Silver Lake site for tourism and leisure purposes. However, even if the Council did then consider the site to be in a sustainable location for this commercial use, it is markedly different from a residential use where occupiers would need to travel for all their day to day needs.
15. Consequently, the proposed dwelling would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing. Therefore, for the reasons above, the proposed development would not be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities. It would therefore conflict with Policies S1, S2, S8, D1, H4, T1 and T2 of the LP as outlined above.

Character and Appearance

16. The appeal site is located within the wider Silver Lake site, a local wildlife site with extensive woodlands surrounding a large lake and several buildings placed further into the site supporting the leisure and tourism facilities. It has a verdant and rural appearance in keeping with its countryside location. The appeal site is adjacent to the site's main car park and is an unused piece of scrubland which, due to limited visibility from the public realm, has a neutral impact on the overall character and appearance of the area. However, it is highly visible from within the Silver Lake

site and its open nature contributes positively to its rural character and countryside location.

17. The appeal site is located to the north of the sporadic residential and commercial development on Rushes Lane, Tillingham Road and Southminster Road, in the village of Asheldham. Whilst the appeal site is adjacent to this cluster of built development, it appears visually separate to the village, clearly forming part of the more rural Silver Lake site as an open and unoccupied piece of land within this wildlife site. As such, a building in this location, of the scale to accommodate a three bedroom property, along with the proposed access and other necessary domestic paraphernalia, would appear at odds with the identified character of Silver Lake and its contribution to this site and the wider countryside. This would be regardless of the design of the proposed dwelling, which is currently unknown due to the outline nature of the application.
18. Whilst the appellant considers that the appeal site is previously developed land, in visual terms, this is no longer the case and the site is currently open and unoccupied. Furthermore, they indicate that it was once used as a car park, which would have had considerably less impact on the appearance of the site and the surrounding area than the permanent built form proposed.
19. Therefore, for the reasons above, the proposed development would result in harm to the character and appearance of the Silver Lake site and the surrounding area and would conflict with Policies S1, S8 and D1 of the LP. These policies collectively seek to ensure that development encourages high quality design, respects and enhances the character and local context with the countryside protected for its intrinsic character and beauty.

Planning Balance

20. The Council have confirmed in their most recent update that they now cannot achieve a five year supply of deliverable housing and are only able to demonstrate a 2.70 year supply of land for housing, a significant shortfall. As such, due to the provisions of footnote 8, paragraph 11(d)(ii) of the Framework should be applied.
21. In the context of the development, I have found that the proposal would be contrary to Policies S1, S2, S8, D1, H4, T1 and T2 of the LP, resulting in harm to the character and appearance of the Silver Lake site and the surrounding area and a development which is not in a suitable location for new housing. The Framework supports the creation of high quality buildings and places which are sympathetic to local character, including the surrounding built environment and landscape setting, and supports sustainable housing development in rural areas where it will enhance or maintain the vitality of rural communities whilst identifying and pursuing opportunities to promote walking, cycling and public transport. Therefore, as these policies are generally consistent with the relevant aims of the Framework, I attach substantial weight to the conflict with them.
22. It is noted that the appellant considers Policy S8 of the LP to be out of date and inconsistent with the Framework and that, in evidence provided by the appellant, the Council consider that the policy needs reviewing. However, this appears to largely relate to the ambiguous wording of the policy in relation to other policies within the development plan. Therefore, I do not consider that, in relation to the appeal before me, Policy S8 of the LP is out of date.

23. The development would add to the overall housing land supply and make a contribution to the Government's objectives of significantly boosting the supply of homes, with the addition of a single dwelling on, what the appellant considers is, previously developed land, which is encouraged within the Framework, where suitable opportunities exist and is supported by Policy S1 of the LP. However, given the scale of the scheme, for only one dwelling, any such benefits would be relatively small.
24. The appellant has also outlined that the proposal would provide the investment needed to realise the full potential of the wider site as a leisure and tourism facility, with economic development and the employment of more staff. However, whilst this is generally supported by the Framework, the level of economic benefit has not been fully quantified and no evidence has been provided to demonstrate that this investment could not occur without the proposed development or how this would be appropriately secured. Therefore, I can only afford this limited weight.
25. Therefore, even with a significant shortfall in the five year housing land supply, the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable housing, individually or in combination. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

Other Matters

26. The appellant has also provided a list of 12 developments within Asheldham for new dwellings which were granted planning permission by the Council or at appeal. They consider that these were for open market dwellings close to the appeal site which, as they were granted planning permission, were found to be in a suitable location for new housing. Whilst these developments are all located within the same village as the appeal site, the specific circumstance of each case are unknown, in terms of proximity to public transport provision at the time or other services and facilities and the weight given as part of the planning balance. Therefore, as I must consider the proposed development on its own merits, I do not consider that these cases set a precedent for the appeal proposal before me.
27. Two appeal decisions have also been brought to my attention by the appellant. One is for the retention of an existing dwelling¹, located in a different area within the same district. The second appeal decision² is for a new live/work residential unit, to the south of the settlement of Southminster. The appellant considers these appeals to be similarly sited to the appeal site. However, I can see from the appeal decisions provided, that in both appeals only limited conflict was found with the development plan which was outweighed by the benefits of the scheme. Therefore, they are not comparable to the appeal proposal before me, where I have found that the adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits.
28. The Council have highlighted that the appeal site is located within a recreational zone of influence of the 'Essex Coast RAMS', although the specific European sites

¹ APP/X1545/W/21/3280861 (Meadow Nursery, Park Lane, Tolleshunt Knights, Maldon CM9 8HB)

² APP/X1545/W/22/3298485 (Chestnuts, Seamar Road, Southminster, Essex CM0 7BX)

have not been identified. Given that the proposal is for additional housing, there is a reasonable likelihood that the European Sites would be accessed for recreational purposes by future occupiers of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. A unilateral undertaking has been submitted to secure a financial contribution in relation to the protection of habitats.

29. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

30. Therefore, for the reasons given above and having had regard to all other matters raised, the development would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR