



Appeal Decision

Site visit made on 6 June 2025

by **N Perrins MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2025

Appeal Ref: APP/X1545/W/25/3359146

Godfreys Bungalow, Sheepcotes Lane, Great Totham, Essex CM9 8NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Matthew Leigh against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/24/00435.
 - The proposed development is the provision of a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2024. This introduced a new standard method for calculating an area's housing requirement, which the Council has confirmed results in them not being able to demonstrate a five-year housing land supply.
3. I note the appellant has advised that due to an administrative error the owner of the land was not put down as the applicant on the planning application form. However, whilst I agree that this error has not prejudiced anyone, I am unable to change the appellant from that listed on the planning application form.
4. I am aware that application Ref FUL/MAL/14/00622 granted planning permission for a replacement dwelling at the site. I understand that Condition 11 of this planning permission required the bungalow subject of this appeal to be demolished within 3 months of either the replacement dwelling being occupied or connected to utilities, whichever was the sooner. With the replacement dwelling having been built and occupied, the appeal property remaining in situ is in direct contravention of Condition 11. I acknowledge that this appeal seeks to partly address this conflict by obtaining a new and separate standalone planning permission on the appeal site.

Main Issues

5. The main issues are:
 - (a) whether the development is in a suitable location for housing with regard to the local development strategy and the accessibility of services and facilities;
 - (b) the effect of the development on the character and appearance of the countryside; and

- (c) the effect of the development on Habitats Sites, designated for their nature conservation importance.

Reasons

Location of development

6. The appeal site is a detached bungalow within a relatively large plot including garden, driveway and a small garage. It forms part of a small group of dwellings located along and accessed from Sheepcoates Lane. The site is located outside of a settlement boundary within an area designated as countryside in the Maldon District Local Development Plan 2014-2029 (LDP). The nearest settlement is the village of Little Totham, which the council state is around 1.5km to the northeast. Great Totham is located further than this to the northwest of the appeal site.
7. Policy S1 of the LDP seeks, amongst other matters, to deliver a sustainable level of housing growth to meet local needs in the most sustainable locations in the District, to minimise the need to travel and to prioritise sustainable modes of transport. Policy S8 supports sustainable development within the defined settlement boundaries. Outside of settlement boundaries, Policy S8 states that development will only be granted planning permission if the intrinsic character and beauty of the countryside is not adversely affected and provided it is for one of several prescribed exceptions, none of which are met in this case. I deal with the development's impact on the character of the countryside later in this decision.
8. Policy D1 of the LDP requires development to make a positive contribution to maximising connectivity to the surrounding areas. Policy D2 requires development to reduce the need to travel by encouraging sustainable transport modes. Policy H4 of the LDP requires development to have regard to proximity to public transport. Policies T1 and T2 of the LDP seek to secure provision for sustainable transport in new development, give priority to pedestrians, wheelchairs, cycling and public transport over private vehicles and to provide safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate. Paragraph 83 of the Framework seeks to locate development in rural areas where it will enhance or maintain the vitality of rural communities, and Paragraph 110 recognises that transport solutions will vary between urban and rural areas.
9. It is evident that the appeal site is some distance to the nearest settlements of Little Totham and Great Totham and services within. I also understand that there are no bus services in the vicinity of the appeal site or dedicated cycleways or footways that can provide occupants with a range of sustainable transport options to the nearest settlements. Occupants of the development would, therefore, need to access services primarily using a car. Whilst I acknowledge that the driving distances to the nearest settlements, and related traffic generation, would likely not be extensive, the development's location is contrary to several development plan policies that seek to promote sustainable travel and accessibility.
10. I acknowledge that the appellant has provided various decisions where planning permission has been granted at locations in the area with purportedly similar or worse sustainability credentials. Whilst these other planning permissions help demonstrate that a level of car reliance in rural locations can be considered acceptable, each case must be assessed on its own merits. From the information before me I am also not satisfied that these other examples are directly comparable to the appeal development in terms of proposal or relative proximity to sustainable

transport options and services such that any more than limited weight can be given to them. These other examples, therefore, do not provide conclusive justification for the location in this case, which as set out above does not provide for a genuine choice of sustainable transport modes for occupants of the development.

11. In conclusion and for the reasons given, the development is contrary to the Council's adopted development strategy in terms of its location. The development, therefore, does not accord with Policies S1, S8, D1, D2, H4, T1 and T2 of the LDP.

Character and appearance

12. Policy S8 of the LDP seeks to protect against development that has an adverse impact on the intrinsic character and beauty of the countryside. Policies S1 and D1 of the LDP have similar provisions to protect the District's rural character and appearance.
13. The immediately adjacent character of the area around the appeal site comprises large, two-storey detached dwellings within expansive and mostly open plots. This creates an appearance of openness and spaciousness around the limited built form that exists, which contributes positively to the character of the area. The buildings present are not uniform to each other in terms of their design, appearance and layout. This creates an interesting and varied street scene with more modern properties and traditional rural designs co-existing together with each building presenting its own individual style and set within open and verdant plots.
14. The bungalow in this case is single storey with a standard form of design. It is visible in the street scene due to its low boundary hedge and being positioned relatively close to the road. The appeal development is positioned off-centre in its plot with large areas of garden to the rear and eastern side of the property.
15. Due to the plot size and resulting ratio of built form to garden, the development, sits comfortably within its plot with large separation distances to adjacent dwellings; these open gaps contribute positively to the spacious appearance of the area. Accordingly, I do not find that the development results in an overtly sprawling built form when considered together with the dwelling approved by planning permission Ref FUL/MAL/14/00622. Nor do I find that the design and appearance of the development is unduly harmful of itself given the variety of building styles that exist. I also acknowledge that the property has been in situ for many years during which time has formed part of the character of the area.
16. However, the retention of residential development on a site that should have been returned to open countryside by now has also undoubtedly resulted in an increase in urbanisation contrary to what was intended to take place on the land when planning permission Ref FUL/MAL/14/00622 was approved. That said, this impact as it exists today is tempered by the fact that the development has assimilated with its related a small linear run of dwellings within its own proportionately spacious plot. As such it does not appear as overtly incongruous with its nearby built surrounds and how it is viewed within this part of the road. Overall, therefore, and considering all relevant matters, I find the development's urbanising effect has resulted in only a limited level of harm to the rural character of the countryside.
17. I do agree, however, that this harm could be further exacerbated should the plot be proliferated with excessive domestic paraphernalia in the future. There is evidence of existing domestic activity at the site, in addition to the dwelling, with the

driveway, garage and garden furniture; this reaffirms my view that the development has an urbanising effect that harms rural character to a limited degree. I note that this matter could be partially controlled by imposing a condition to remove permitted development rights that might be available under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This matter would need to be considered further before the appeal could be allowed.

18. To conclude, the development as it exists today has an urbanising impact that results in a limited level of harm to the rural character of the area. Accordingly, the appeal development is contrary to Policies S1, S8 and D1 of the LDP all of which seek to protect the intrinsic character and beauty of the countryside and respect and enhance local character and context.

Habitats sites

19. There are several Special Protection Areas (SPAs) and Special Areas of Conservation Areas (SACs) on the Essex Coast that collectively are afforded statutory protection under the Conservation of Habitats and Species Regulations 2017; these designations are referred to as 'habitats sites' in the Framework. There are also Ramsar sites on the Essex Coast¹. The Council has identified that the appeal site is located within a recreational zone of influence for habitats sites in its Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).
20. The RAMS indicates that residential development in this location will likely have a significant effect on habitats and Ramsar sites along the Essex coast through increased recreational disturbance. As there is a reasonable prospect of these sites being accessed by occupants of the dwelling subject of this appeal, in combination with other developments, likely significant effects cannot be ruled out.
21. The appellant identifies that this can be resolved through making the appropriate mitigation payment to the Council in accordance with the approach set out in the RAMS. However, the RAMS financial contribution has not been paid or secured through completion of a legal agreement or unilateral undertaking.
22. As such, in the absence of sufficient mitigation being secured, I am unable to conclude that the development does not adversely affect the integrity of habitats and Ramsar sites. Therefore, following appropriate assessment and as competent authority I conclude that the development, in combination with other development, would lead to an adverse impact on the integrity of habitats and Ramsar sites in conflict with Policies S1, D1, N1 and N2 of the LDP.

Other matters

23. As the site is in the setting of the Grade II listed Godfreys Farmhouse, I have had special regard to Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Given the separation distance and presence of mature boundary vegetation there is no perceptible harm from the appeal development on the special architectural interest of Godfreys Farmhouse and its retention thereby is acceptable in heritage terms in accordance with the requirements of Policy D3 of the LDP and Chapter 16 of the Framework.

¹ Paragraph 194 of the Framework confirms that Ramsar sites should be afforded the same protection as habitats sites.

Planning Balance

24. The Council can only demonstrate 2.7 years of housing supply, which is a significant shortfall against the requirement to demonstrate a five-year supply as set out in Paragraph 78 of the Framework. In these circumstances, the Framework's presumption in favour of sustainable development set out in Paragraph 11 (d) is engaged, which requires any adverse impacts of granting planning permission to be significantly and demonstrably outweighed by the benefits when assessed against the Framework taken as a whole.
25. I have identified that the proposal would not accord with Policies S1, S8, D1, D2, H4, T1 and T2, by not being in a suitable location for new housing in terms of accessibility to sustainable transport and services and resulting in limited harm to the character and appearance of the countryside. These policies are largely consistent with the Framework in terms of securing well designed places that are sympathetic to local character, supporting sustainable development in rural areas and promoting use of sustainable transport modes.
26. In terms of benefits, the proposal would add a dwelling on a previously developed small site in a context where there is a serious housing land supply deficit. Whilst the development provides a relatively small contribution, the need for new housing is acute at present and would be consistent with the Framework's objective to significantly boost housing supply. I also note that there does not appear to be a plan or strategy in place that seeks to redress the current housing supply issue. The development would make an immediate contribution to housing supply as well as helping to provide a choice of housing to meet needs for both families and elderly residents. It would also offer moderate economic benefits by helping to maintain services in the nearby settlements and limited environmental benefits by avoiding demolition waste. Taken together these benefits are compelling. Considering that the sustainability impact of this development is relatively minor and the effect on the rural character of the countryside limited, ordinarily the adverse impacts would not significantly and demonstrably outweigh the benefits.
27. However, Paragraph 193 of the Framework states that if significant harm to biodiversity cannot be avoided or adequately mitigated then planning permission should be refused. Paragraph 195 of the Framework confirms that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects). Having carried out an appropriate assessment as competent authority and in the absence of the required mitigation being secured, I am unable to conclude that the development will not result in a significant adverse effect on the integrity of habitats sites.
28. Accordingly, my conclusions in respect of the harm identified to habitats sites are determinative in this case and result in the development having an unacceptable conflict with the development plan when read as a whole.

Conclusion

29. For the reasons given, I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR