
Appeal Decision

Site visit made on 1 July 2025

by **V Goldberg BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/X1545/W/25/3362093

Land adjacent The Owls, Woodham Road, Stow Maries CM3 6SA

- 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 & Mrs Willmott against the decision of Maldon District Council.
 - The application Ref is OUT/MAL/23/00977.
 - The development proposed is outline planning application with all matters reserved apart from access for the erection of two residential dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for outline planning application with all matters reserved apart from access for the erection of two residential dwellings at Land adjacent The Owls, Stow Maries CM3 6SA in accordance with the terms of the application, Ref OUT/MAL/23/00977 subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline form with the means of access to be determined at this stage. Therefore, I have treated the drawings showing two dwellings and landscaping on site as indicative only.
3. The fourth reason for refusal is no longer pursued by the Council as prior to the submission of the appeal, the appellant made a payment to the Council towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy.
4. A proposed hedge plan was submitted as part of the appeal, this does not alter the position of the proposed access but does change the position of the hedgerow either side of the access. Interested parties have not been given the opportunity to make representations on these changes, giving rise to procedural unfairness. For that reason, I will not accept this plan.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area including the partial loss of the hedgerow to form the proposed access; and,
 - whether the proposal would be a suitable location for housing, having regard to the Council's spatial strategy.

Reasons

Character and Appearance

6. The appeal site is a corner plot comprising a paddock that is enclosed by an ancient hedgerow along Woodham Road and Church Lane. The site is surrounded by built form. Dwellings are located on the opposite sides of Woodham Road and Church Lane, a large barn is located between the site and The Owls, and Smythe Hall is in the adjoining plot to the south. As a result, the site appears as an undeveloped parcel of land within a built up area and close to the central built up part of the village of Stow Maries.
7. This section of Woodham Road has a residential appearance, with dwellings lining the road. Beyond The Owls, the character of the road changes and either side of the road is lined with hedgerows giving a verdant rural appearance and the feeling that you are exiting the village.
8. Whilst the site is open, rural and undeveloped, given that it is surrounded by built form and the settlement boundary wraps around it, the site appears as part of the settlement rather than the wider rural landscape. In addition, due to residential development extending significantly beyond the appeal site, the proposed modest addition of two dwellings would not appear out of place, despite being beyond the settlement boundary.
9. The hedgerow around the site, and particularly the section running along Woodham Road positively contributes to the verdant character of the area and is protected by a Hedgerow Retention Notice (HRN). Whilst the proposal would result in the loss of part of the hedgerow, the section along Woodham Road and the southern site boundary would be retained. Replacement hedgerows could also be secured at reserved matters stage that could offset the partial loss. In addition, the evidence before me suggests that the section to be removed does not contain trees or species of particular quality or merit.
10. Reference is made to the proposed dwellings being visible from the road and them not reflecting the linear form of development in the area. Given that the drawings showing two dwellings and landscaping on site are indicative only, the layout of the dwellings is not known at this stage.
11. The Council refer to an appeal decision¹ relating to outline permission for residential development on the site that was considered over 20 years ago. The Council consider the comments made in this decision to remain relevant, however, the context of the appeal site has significantly changed since this appeal was determined. This is because dwellings have been built along Woodham Road, extending built form beyond the settlement and a large barn has been erected between the Owls and the appeal site. In addition, this scheme would have been assessed against a different development plan. As a result, the decision is not sufficiently similar to be comparable to the appeal scheme and this limits the weight that I can ascribe to it in determining this appeal.
12. For the reasons above, the proposed development would have an acceptable effect on the character and appearance of the area. It would therefore be compliant with policies S8 and D1 of the Maldon District Local Development Plan

¹ APPX1545/A/01/1063209

2014-2029 (LDP)². Amongst other things these policies seek to protect the intrinsic character and beauty of the countryside and respect and enhance character and local context.

Suitable Location

13. The appeal site is located outside of the settlement boundary of Stow Maries and is therefore in the countryside as defined in the LDP. The settlement boundary wraps around the appeal site.
14. Policy S8 of the LDP advises that outside of defined settlement boundaries, planning permission will only be granted where the intrinsic character and beauty of the countryside is not adversely impacted and proposals comply with policies within the LDP, neighbourhood plans and other local planning guidance.
15. The Council allege that the proposal is contrary to policies S1, S8, D1, H4, T1 and T2 of the LDP. As set out above, I do not find conflict with policies S8 and D1. Policy S1 refers to sustainable development and requires proposals to minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport. Policy T1 refers to sustainable transport and Policy T2 relating to accessibility both align with this principle and require safe and direct walking and cycling routes to nearby services, facilities and public transport where appropriate.
16. Stow Maries is a small village that has limited services, but it is connected to the neighbouring village of Cold Norton by footpath. Cold Norton has services including a convenience store, primary school, pub, and golf/country club, and these are all accessible on foot from the appeal site. Whilst the nearby bus stop has a limited service, a sustainable mode of transport is available and given that services at Cold Norton are available on foot, future occupiers would not need to be reliant on a bus service. Whilst the pavement to Cold Norton is unlit, future occupiers would be able to safely use the footpath during daylight hours. This would comply with the aims of policies S1, T1 and T2 of the LDP.
17. The Council consider that future occupiers would be reliant on vehicles due to limited sustainable travel options. For the reasons set out above, I do not agree. In addition, locationally, the site is closer to the facilities on Woodham Road and the services in Cold Norton, than the dwellings in the southern part of the settlement.
18. Policy H4 of the LDP refers to effective uses of land. The provision of two dwellings on site, considering the Council's inability to demonstrate a five year housing land supply, would comply with the aims of this policy to optimise the use of the land.
19. Appeal decisions are referred to by the Council to illustrate the importance of locational sustainability³. These examples are not wholly comparable to the development before me and therefore do not justify dismissing the appeal. This is because unlike the appeal scheme, these examples either failed to comply with other policies in the LDP, there was no footpath between the appeal site and village, the appeal site was not directly adjacent to a settlement, or it was some distance from services.

² Adopted in July 2017

³ APP/X1545/W/24/3343115, APP/X1545/W/24/3348762, APP/X1545/W/24/3341856, APP/X1545/W/24/3346303, APP/X1545/W/24/3347722 and APP/X1545/W/24/3351088.

20. For the reasons above, the proposed development would be a suitable location for housing, having regard to the Council's spatial strategy. It would therefore be compliant with policies S1, H4, T1 and T2 of the LDP insofar as they seek development to use sustainable transport and have a good level of accessibility to local services and facilities.

Other Matters

21. To the north-west of the appeal site, on the opposite of Woodham Road is Stow Hall, a grade II listed building. To the south-east is Smythe Hall, a locally listed building. The significance of Stow Hall derives from its architectural interest as a 17th-century timber-framed house, and its presence in the street scene and landscape. Whilst the undeveloped nature of the appeal site allows distant views of Stow Hall from the south, the scale and layout of the proposed dwellings can be controlled at reserved matters stage so that views of the listed building would not be obscured by the proposal. Likewise, the scale and arrangement of the proposed dwellings could be controlled to preserve the setting of Smythe Hall.
22. Concern has been raised regarding the access to the site being dangerous due to its proximity to a hazardous road junction and there being a lack of pedestrian accessibility. However, the Highway Authority has not objected to the safety of the access and given that the proposal is for two dwellings it would not be unreasonable for there not to be separate pedestrian access.

Conditions

23. The Council has provided a list of conditions which I have had regard to with respect to the tests for conditions set out within the Framework. I have undertaken some editing of the conditions proposed in the interests of brevity, precision and clarity. I have imposed standard conditions relating to the submission and timing of the reserved matters application and the commencement of development. I have also specified the approved plans for the avoidance of doubt and in the interests of proper planning.
24. Conditions requiring details of car parking on site, access arrangements, visibility splays and off-site highway works are required to ensure safe and appropriate layout and access is provided.
25. A condition has been imposed to ensure that the reserved matters provide full details of hedgerow removal and replacement and specifications of hard and soft landscape works. In addition, a condition requiring details of all boundary treatments is imposed. This is to ensure that the partial loss of the hedgerow protected by the HRN will be offset and that the development preserves the character and appearance of the area.
26. To conserve and protect priority species, conditions are imposed requiring mitigation measures contained in the submitted Ecological Assessment, and a Construction Environmental Management Plan and Biodiversity Enhancement Strategy for protected and priority species is submitted.
27. Conditions are imposed requiring details of a surface water drainage scheme, a scheme to minimise surface water runoff and details of the foul drainage to serve the development. These are required to prevent flooding by ensuring the

satisfactory storage and disposal of surface water from the site and to ensure adequate disposal of foul drainage.

28. A condition requiring the submission of a Construction Management Plan is necessary to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. In addition, conditions requiring cycle parking and the provision of superfast broadband are required to encourage sustainable travel and ensure that appropriate infrastructure is provided for the new development.
29. The Council has suggested a condition requiring tree protection and maintenance. Given the arboricultural report identifies that 6 out of 10 trees are dead, and the layout of dwellings is unknown, it has not been demonstrated that the proposal would negatively affect retained trees, therefore this condition is unnecessary.
30. Conditions are suggested in respect of contaminated land and archaeology. Given the site is an undeveloped paddock and the evidence before me does not suggest that the site contains contaminated land or archaeological remains, these conditions would be unreasonable.
31. A condition to request a maintenance log of the surface water drainage system is suggested, this is now covered by the reworded condition that requires maintenance of the system.
32. A condition to control lighting is suggested, but this would be dealt with under appearance as a reserved matter. The Council has also suggested a condition requiring the developer to provide, implement and distribute a Residential Travel Information Pack for sustainable transport, approved by Essex County Council. Given that this condition is suggested to reduce car reliance when the bus stop near to the appeal site has a limited service and the site is within walking distance of facilities, this condition would neither be reasonable nor necessary.

Conclusion

33. For the reasons given above the appeal should be allowed.

V Goldberg

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping, layout and scale (hereinafter called “the Reserved Matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Application(s) for approval of the Reserved Matters shall be made to the Local Planning Authority no later than three years from the date of this permission. The development hereby permitted shall begin no later than two years from the date of approval of the last of the Reserved Matters to be approved.
3. The development hereby permitted shall be carried out in accordance with drawing nos 2201-P00-01, 2201-P20-01, 2201-P20-02 and 010- Access Appraisal.
4. Prior to first occupation of the development, details of the access arrangements, visibility splays and off-site highway works, shall be submitted to, approved in writing by the local authority and be fully implemented, and maintained as such for the life of the development.
5. As part of the Reserved Matters details of car parking to be provided on site in accordance with the Council’s adopted parking standards shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the development the parking areas shall be constructed and made available in accordance with the approved scheme and retained as such thereafter.
6. The landscaping details referred to in Condition1 shall provide full details of the hedgerow removal and replacement and specifications of both hard and soft landscape works.
7. As part of the Reserved Matters details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers shall be submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and be retained in perpetuity as such thereafter.
8. Prior to the determination of the Reserved Matters application, all mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Assessment (Ecology Solutions, June 2023). This may include the appointment of an appropriately competent person e.g. an Ecological Clerk of Works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

9. Prior to the determination of the Reserved Matters application(s), a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the Local Planning Authority.
10. A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall be submitted concurrent with the Reserved Matters.
11. No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to occupation and subsequently maintained.
12. No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented as approved.
13. Prior to the commencement of the development details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.
14. Prior to the commencement of the development the applicant shall submit in writing a Construction Management Plan to the Local Planning Authority for approval. The approved Plan shall be adhered to throughout the construction period.
15. A strategy to facilitate superfast broadband for the future occupants of the dwellings hereby approved, either through below ground infrastructure or other means should be submitted to the Local Planning Authority for approval in writing as part of the Reserved Matter application(s). The method to facilitate superfast broadband shall be implemented in accordance with the approved strategy prior to the occupation of the appropriate building.
16. A scheme in accordance with Maldon District Council's adopted standards for cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking, as approved, shall be provided prior to the occupation of the development hereby approved. The approved facilities shall be used for no other purposes and retained in perpetuity.