
Appeal Decision

Site visit made on 9 September 2025

by **A Phillips MPlan BA CertHE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 October 2025

Appeal Ref: APP/X1545/W/25/3368545

Land East of Ferry Road, Ferry Road, Burnham on Crouch CM0 8PG

- 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 B and D Saffill against the decision of Maldon District Council.
 - The application Ref is 25/00112/OUT.
 - The development proposed is erection of 1no single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with all matters reserved.

Main Issues

3. The main issues are:
 - Relevant policies for the location of housing in line with the Council's spatial strategy and its accessibility to services and/or facilities.
 - Effect on the character and appearance of the local area.
 - Does the proposal provide Biodiversity Net Gain (BNG).

Reasons

Spatial strategy and accessibility to services and/or facilities

4. The site is located outside of the of the settlement boundary of Burnham on Crouch, which also includes the settlement of Ostend. It is accessed off Ferry Road which is a narrow road that does not benefit from footpaths or streetlights and has a 60mph speed limit. There are a limited number of dwellings in proximity along Ferry Road to the site.
5. It was noted to the north is the major residential scheme known as Burnham Waters accessed off Maldon Road. It is also accepted that this development is planned to connect to the footpath within the village, provide a bus stop near the junction of Ferry Road and make other highway improvements along Maldon Road to encourage sustainable travel.
6. However, Ferry Road as stated above does not benefit from any measures that would encourage future occupiers to access the services or facilities within Burnham on Crouch by sustainable means. On this basis even with limited traffic using this road, it would not overcome the fundamental problem of the lack of safe means for people to travel along Ferry Road between the site and the footpath on

Maldon Road leading into the village. Therefore, I see no material change to the previous appeal when the Inspector concluded ‘the appeal site is not a suitable location for housing in terms of access to services and sustainable transport’¹.

7. I have been presented with some other applications and appeals where it is argued that sites in similar circumstances have been allowed. However, I have not been presented with the full context or how the decisions were made in their entirety. Therefore, these previous decisions only have limited weight in favour of the proposal.
8. Policy S8 of Maldon Approved Local Development Plan 2007 (Local Plan) states that Burnham on Crouch is a Main Settlement in the District. However, outside settlement boundaries new development must not harm the character of the countryside and be for one of the listed specific development types. The proposal does not meet any of the listed development types.
9. In the previous appeal on this site the Inspector stated, ‘I am not convinced that the land is significantly underused’². I have not seen any evidence, which would materially change this position. On this basis the proposal would not meet the infill requirements of Policy H4 of the Local Plan.
10. I therefore conclude on this issue that the proposal does not comply with the spatial strategy and does not have sustainable accessibility to services and facilities. On this basis the proposal does not comply with Policies S1, S8, D1, H4, T1 and T2 of the Local Plan, which seek to prioritise sustainable methods of transport and controls the type of development within the countryside. The proposal also does not comply with the National Planning Policy Framework 2024 (Framework) Chapter 9 as it does not put pedestrians and cyclists first.

Character and appearance

11. The site is located on the east side of Ferry Road and between the properties of Mallards and Orsomewhere. Both adjacent dwellings are set within generous plots.
12. While the proposal would lead to the loss of some soft landscaping at the front of the site, unlike the previous appeal this proposal is now only for a single dwelling. While the plot would still be smaller than those of the adjacent residential properties, with the proposal being an outline consent it is considered possible to provide an acceptable sized dwelling that still provides substantial space for soft landscaping.
13. It was also noted during my site visit the built form of the Burnham Waters development. While the appeal site currently provides a positive addition to the rural character of the area, the most intrinsically beautiful rural countryside in the local area is to the south of Maldon Road and west of Ferry Lane.
14. I therefore conclude on this issue that the proposal could have an acceptable impact on character and appearance to the local area. On this basis the proposal complies on this issue with Policies S1, S8, D1 of the Local Plan, which seek to ensure high quality design, maintain rural character, protect the intrinsic character and beauty of the countryside.

¹ Appeal Reference: APP/X1545/W/24/3336280

² Appeal Reference: APP/X1545/W/24/3336280

BNG

15. The proposal would be subject to the biodiversity gain condition and the minimum information requirements as detailed under Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
16. From the evidence before me it appears the Council's ecologist consultant following review of the Preliminary Ecological Assessment April 2025 by ACJ Ecology questions why this document does not tie up with the BNG Matrix. It is also noted that ACJ Ecology report states: 'A Biodiversity Impact Assessment is required to provide a measurable calculation of the biodiversity units on the site before and after the proposed development using the latest Defra Biodiversity Metric'.
17. While BNG can usually be conditioned, this is based on the required information being provided upfront. With the appellant not providing any further ecology evidence during the appeal, it is considered that the BNG requirements have not been met.
18. The failure to provide the necessary information to satisfy the BNG requirement significantly weighs against the application.
19. I therefore conclude on this issue that the proposal does not meet the requirements of BNG. On this basis it does not comply with either National Legislation or Policies N2, S1 and D1 of the Local Plan that all seek an enhancement in biodiversity.
20. The proposal is not considered to go against Policy N1 of the Local Plan, as this policy seeks to protect biodiversity. There is no evidence before me to suggest that the harm of the development could not be mitigated.

Other Matters

21. The site is located within the Zone of Influence of one or more European Sites comprising the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The appellant has provided a signed unilateral undertaking securing a financial contribution to the RAMS, which seeks to mitigate the additional recreational pressure on the European Sites arising through the proposed development. If the appeal was to be allowed, it would be necessary to consider this matter within an appropriate assessment.

Planning Balance

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.
23. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 78 of the Framework. Consequently, paragraph 11 d) of the Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed 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 homes, individually or in combination.

24. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the Local Plan, with the harm due to the lack of dedicated footpaths in the local area to promote sustainable travel and due to the lack of biodiversity net gain. For these reasons, the proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
25. The Framework promotes residential development where it will enhance or maintain the vitality of rural communities and acknowledges that this might be in nearby settlements. The benefit of the single dwelling in supporting both services within the village and nearby settlements is limited. There is also likely limited economic benefits during the construction phase.
26. However, I have concluded that there would be significant harm based on lack of BNG. In addition, the lack of suitable access to footpaths for pedestrians to safely walk into the settlement and the heavy reliance on private motor vehicles significantly weighs against the application.
27. The adverse impacts would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Phillips

INSPECTOR