
Appeal Decision

Hearing held on 6 November 2024

Site visits made on 5 and 6 November 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/X1545/W/24/3347605

Land adjacent to Eastholm, Latchingdon Road, Purleigh, Essex, CM3 6HR

- 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 S Jacob against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/24/00235.
 - The development proposed is erection of 2no. dwellings with associated landscaping and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the application form the site location is described as "*Land to the North of Latchingdon Road (Opposite existing Londis supermarket)*". The Council amended the site address to "*Land Adjacent Eastholm, Latchingdon Road, Purleigh, Essex*". It was agreed verbally by the parties that as the Council's description is more detailed and better reflects that of previous planning decisions on the site, this should be used to avoid confusion. The post code of neighbouring properties has been added for completeness. It was also clarified by the main parties at the hearing that although the site is located between the settlements of Cold Norton and Latchingdon, it falls within the Parish of Purleigh.
3. The main parties agree that Policies T1, N1, H1 and I1 of the Maldon District Local Development Plan 2014-2019 (2017) (the LP) are not relevant to the proposed development despite being mentioned in the decision notice and statement of common ground.
4. The site lies within the Zone of Influence (ZoI) of one or more European designated habitat sites. A planning obligation was submitted with the appeal that would secure appropriate mitigation, in accordance with the Essex Coast Recreational Avoidance and Mitigation Strategy (RAMS), to ensure that the proposed development would not result in adverse effects to any designated sites. As a result of this, the Council's third reason for refusal was withdrawn.

Main Issues

5. The main issues are i) whether the proposal would be in a suitable location having regard to planning policies and the accessibility of services and facilities, and ii) the effect of the development on the character and appearance of the area.

Reasons

Location

6. Policy S1 of the LP seeks amongst other things to deliver homes in the most sustainable locations and to minimise the need to travel. Policy S2 of the LP states that the majority of new growth will be delivered through sustainable extensions to Maldon, Heybridge and Burnham-on-Crouch. However, it also states that a proportion of new development will be directed to rural villages to support rural housing needs, local services and facilities, and the rural economy. It goes on to state that such development should reflect the size, function and capacity of the settlement and not result in unsustainable spatial patterns to the detriment of the wider area.
7. Policy S8 supports sustainable development within defined settlement boundaries. It also sets out a settlement hierarchy within which the nearest settlement of Cold Norton is defined as a smaller village. The Council confirmed at the hearing that the erection of two dwellings within the settlement boundaries of smaller villages, such as Cold Norton, would normally be considered to constitute sustainable development and would be acceptable in principle. However, in this case the appeal site is located approximately 600 metres outside of the defined settlement boundary, in the countryside. Policy S8 seeks to protect the countryside and it is undisputed that the proposal does not fall within any of the development types listed by that policy as being acceptable.
8. Despite being defined as a smaller village, Cold Norton does have a reasonable range of services and facilities. In addition to a large convenience store, which is directly across the road from the site, there is a public house that also serves food, a village hall that also serves as a pre-school and has a public outdoor playing field and play area, a primary school, a golf club with a restaurant, golf shop and gym, allotments, and a church. Although the local shop no longer appears to provide a post office service, it stocks a wide variety of food and non-food goods and has an ATM, post box, parcel lockers, and a collect plus service.
9. At the hearing I was advised that despite there being no bus stop sign present outside the site or the Londis Store opposite it, buses do stop on demand to drop off and pick up passengers from here. I acknowledge that the Dial and Ride Transport (DaRT) bus service operated by Arrow Taxis has recently ceased and that to date no replacement service has been put in place. I also note that although school bus services are available and can be used by the general public, these only operate on school days. In addition to the Ford Coaches services the Council submitted details of, the Appellant advised that there were other bus services, including the D1 and D2 services, that make approximately 12 or 13 stops in Cold Norton on weekdays and 9 stops on Saturdays. This corresponds with the bus stop sign I observed in Cold Norton during my site visit.
10. North Fambridge train station is approximately 2 miles from the site offering an hourly train service between Southminster and Wickford and onto central London. Whilst this would not be safely accessible on foot and there are no known bus services currently operating on a regular basis between the train station and the site, it is within reasonable cycling distance or a short drive. Car and cycle parking is available at the train station. Accordingly, longer

journeys to larger destinations providing access to a greater range of shopping, healthcare and employment could be made by sustainable transport, following a short car journey or cycle ride.

11. The main built-up area of Cold Norton is a 10-minute walk from the site, along a footpath that runs adjacent to a fairly busy 40mph road. The path is of varying widths, in part due to poor maintenance, and is unlit. There is also no street lighting within the settlement boundary. However, facilities such as the pre-school and primary school would only usually be accessed within daylight hours, as would buses to secondary schools. The shop is directly opposite the appeal site and appears to have a flood light directed over the car park area to the front of it, and buses can stop outside the site. Policy T2 of the LP refers to safe and direct walking and cycling routes to nearby services, facilities and public transport, but does not explain or define what this is. I was advised verbally at the hearing by the appellant that Essex County Council guidance considers a 10-minute walk to be acceptable. This was not disputed by the Council.
12. As the only food shop in the area is the Londis store, which is located opposite the appeal site, outside of the settlement boundary, residents of any existing or new dwellings located within the settlement boundary of Cold Norton would need to walk the same distance, along the same unlit section of footpath, to access this facility, as future occupiers of the proposed development would do to access other services and facilities such as the public house and school. The shop is arguably the facility which would benefit the most residents, the most often, and not just those with young children or that enjoy occasionally visiting the public house or taking part in activities at the village hall, church or golf club.
13. I therefore conclude that although the location of the development outside of any settlement boundary would be contrary to Policy S8 of the LP, in the context of the rural district of Maldon, future occupiers would have reasonable access to day-to-day services and facilities, including public transport, without undue reliance on private cars for long distance journeys. Furthermore, any trips generated by two dwellings would be minimal.
14. I find no conflict with Policies S1, S2, D2, H4 or T2 of the LP, which seek amongst other things to deliver new homes in sustainable locations, including rural villages, to minimise the need to travel, particularly by private motor vehicles, and to have regard to accessibility to local services, facilities and public transport. I also find no conflict with the National Planning Policy Framework (the Framework), which supports opportunities for rural villages to grow and thrive, especially where this will support local services and assist in maintaining the vitality of rural communities. It also encourages significant (not all) development to be located in sustainable locations whilst recognising that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

Character and appearance

15. The appeal site comprises a small area of grass and scrubland bound by high hedges to the front and side. It sits roughly in the centre of a long row of frontage development consisting of seven dwellings and a barn. There is also a long row of dwellings and a shop on the opposite side of the road. Although the undeveloped open nature of the site provides some limited glimpsed views

through to the wider countryside landscape beyond, its contribution to the rural character of the area is somewhat limited and is distinctly different to the larger fields, paddocks and wooded areas to the west of the site, between No.71 Latchingdon Road and The Brambles.

16. Except for the converted buildings between the site and Pale Pit Farm, and some in depth development on the southern side of Latchingdon Road, housing in the area generally consists of ribbon development set back behind parking and front gardens in generous plots. Dwellings vary in terms of age, design and materials, and range in height from single to two-storey, with many having smaller detached outbuildings.
17. The proposal would utilise the existing vehicular access, which would be widened and extended to serve both new dwellings and the field at the rear of the site. The retention of the field access would result in a generous gap between Eastholm and plot 1, which would be consistent with the adjacent row of dwellings. A large gap would also be retained between plot 2 and the adjacent farm building.
18. Although the proposed dwellings would be sited slightly further forward than those known as Eastholm and White Thorns, this would not detract from the existing staggered building line with the siting being similar to that of Homestead and The Brambles. The dwellings, garages and associated hardstanding to the front of them would be sufficiently set back from the footway to ensure the existing front boundary hedge could be retained, together with additional soft landscaping. The proposed buildings and gardens would not encroach any further into the countryside at the rear than existing built development and gardens surrounding the site. Subject to appropriate boundary treatment and landscaping that could be controlled by conditions, the gardens would not be visually prominent and accordingly some domestic paraphernalia within these would not result in any harm to the countryside.
19. However, the space between the proposed dwellings and garages would be limited to a narrow footway. This together with the height of the garage, which would be almost as high as the dwellings and only slightly stepped back, and the uniformed siting and design of the two dwellings, would appear more estate like than the looser grain, spacious and organic form and pattern of development and mix of dwelling designs found in the immediate surrounding area. For this reason, I agree with the Council that the proposal would appear incongruous in its setting and would urbanise the rural character and appearance of the area.
20. I therefore conclude that although some sensitive infilling resulting in the loss of a small frontage gap would not erode the intrinsic character and beauty of the open countryside, the design and layout of the proposed scheme before me would urbanise the appearance of the site, contrary to Policies D1 and H4 of the LP. These policies require amongst other things that development contributes to and enhances local distinctiveness, having regard to the existing character and density of the surrounding area. The proposal is also contrary to the Framework in so far as it requires new development to be sympathetic to local character and the surrounding built environment and landscape setting. Whilst I acknowledge increased densities and effective use of land is encouraged, the same density could be achieved with smaller or semi-

detached buildings of non-uniformed design and siting, in more spacious surroundings, that better reflect the pattern of development in the area.

Other Matters

21. The site is within the ZoI of one or more European designated habitats sites covered by the Essex Coast RAMS. As I am not allowing the appeal it is not necessary for me to undertake an appropriate assessment to establish whether the proposal would have any likely adverse effect on any designated habitats sites.
22. I acknowledge that a similar proposal for two chalet bungalows on the same site was refused planning permission in 2008 and was dismissed on appeal in 2009. Although little has changed on the ground since that time, national planning policy now takes a less restrictive approach to new housing in rural areas. I therefore afford the previous appeal decision little weight.
23. The proposal would deliver two large 4 bed family market houses. In the context of the Council having a five-year supply of housing land, and 4+ bedroom family houses not being the greatest identified need according to the latest local housing need assessment (2021), I afford this benefit only moderate weight. The economic benefits derived from the short-term construction period of two dwellings, which the appellant states could be delivered very quickly, and the local spending increase generated by future occupiers would also be very modest but would nevertheless benefit local services. As such I also afford this moderate weight.
24. It has been suggested that the most important policies for determining this appeal should be considered out-of-date for the purposes of paragraph 11d of the Framework. It is undisputed that the Council can demonstrate a five-year supply of deliverable housing sites and therefore paragraph 11d is not automatically engaged on that basis. I have no reason to doubt that part of that five-year supply of land is made up of greenfield windfall sites, but the fact is a five-year supply currently exists. However, this does not mean that further acceptable housing development should be resisted.
25. Although the Framework has been updated since the adoption of the LP and there is a legal requirement to review local plans at least every five years to assess whether they need updating, paragraph 219 of the Framework confirms that policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
26. I have been provided with a copy of a report by the Director of Strategy, Performance and Governance, which was presented to elected members of the Council on 3 November 2022. This report, entitled Maldon District Local Development Plan Review (DPR), together with its associated appendices, sets out in detail how and why current LP policies, including those most important to this proposal, fail to conform with the Framework and need to be reviewed. Whilst the DPR does not conclude that all policies are entirely inconsistent with the general aims of the Framework, it acknowledges that many policies are based upon out-of-date evidence, are negatively worded and contain elements of unnecessary repetition and ambiguity. It also recognises the need to introduce new policies to reflect recent changes to the Framework regarding

matters such as self-build housing and small housing sites. Having regard to the Council's own recognised inconsistencies between its LP policies and the Framework, I have reduced the weight that I afford to them accordingly.

27. Although I have not found any conflict with Policy S2 of the LP, the DPR report notes that this policy supports strategic (major) growth in rural villages and refers to a hierarchy but fails to explain what scale or type of development should be supported in each level of it. The DPR report concludes that this policy is not in conformity with the Framework and advises that the principal of housing development in any area outside of Maldon, Heybridge and Burnham-on-Crouch should be determined having regard only to national policy.
28. With regard to Policy S8, the DPR report acknowledges that the settlement hierarchy was based on evidence dating from 2011, with no site visits being undertaken to assess its accuracy. As a result, villages with more services and facilities are mixed into the same category as hamlets and villages with less services and facilities. It is noted in the DPR report that Policy S8 could be preventing many of the LP key objectives from being delivered by restricting development to within settlement boundaries.
29. Whilst the evidence before me suggests that some individual LP policies do not fully conform with the Framework, the basket of policies that are most important for determining this development proposal are not, when taken collectively, so inconsistent with the Framework as to render them out of date. Consequently, I do not consider that paragraph 11d is engaged. Even if this was the case, the adverse effect of the development on the character and appearance of the site would in my view significantly and demonstrably outweigh the moderate benefits of the proposal when assessed against the policies in the Framework taken as a whole.
30. My attention has also been drawn to the Maldon District Rural Facilities Survey and Settlement Pattern May 2023, which forms part of the evidence base to the emerging local plan (the eLP). This document, like the DPR report, also acknowledges that the settlement hierarchy in the current LP was not based upon thorough and accurate research into the services and facilities on offer in each village. Based upon the more robust surveys recently undertaken, it is proposed that Cold Norton should be defined as a medium village in the future, rather than a smaller village. However, until such time as the eLP and its evidence base have been subject to consultation and examination, I afford this limited weight. I am also mindful that recent changes to the local bus service could affect the eventual categorisation. I have therefore determined the appeal based upon the services and facilities that I consider to be reasonably accessible from the site at the time of making my decision.
31. Both parties have referred me to multiple decisions elsewhere within the district. I have considered each of those and have had regard to any similarities within them. However, as each case is very different in terms of its scale, location, access to services and facilities and in terms of its harms and benefits, I do not consider that the Council's decision is inconsistent with others that were granted permission for a variety of different reasons. Likewise, I have considered this appeal based upon its own merits.

Planning Balance and Conclusion

32. Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. In this case the proposal would conflict with Policy S8 of the LP, due to the site being located outside of any defined settlement boundary. However, the Council's own report concludes that this policy is unduly restrictive and not entirely consistent with the Framework. Furthermore, I have not been provided with evidence of any harm that would arise from the conflict with this policy, in relation to the location of the proposed development. I am satisfied that future occupiers of the development would have the same level of access to services, facilities and public transport as those living within the settlement boundary. Accordingly, I afford the conflict with this policy very limited weight.
33. The development of the site would not result in harm to the intrinsic character and beauty of the countryside or the wider landscape from the loss of a small open gap. However, the form and pattern of the development on the site together with the uniformed house types would be incongruous with the varied house types on spacious surrounding plots and would urbanise the appearance of the area contrary to policies D1 and H4 of the LP. As I consider these policies to be broadly consistent with the Framework, I afford this harm significant weight.
34. Having had regard to all of the evidence before me, I conclude that the proposal would conflict with the development plan and the moderate benefits of the scheme, although material considerations, would not clearly outweigh the harm to the character and appearance of the site. Consequently, for the reasons given above, I conclude that the appeal should be dismissed.

R Bartlett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Leigh BA (Hons) MRTPI – Q Square - Agent

Blaine McMahon - Scene Architects Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Fiona Bradley MRTPI - Principal Planning Officer

Michael Johnson - Head of Service Development Management and Building Control