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## Appeal Decision

Site visit made on 4 March 2025

**by J Bowyer BSc(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> April 2025

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**Appeal Ref: APP/X1545/W/24/3349786**

**Woodview Cottage, Green Lane, Althorne, Chelmsford CM3 6BH**

- 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 Adam McLatchie (FRONT. Architecture) against the decision of Maldon District Council.
  - The application Ref is FUL/MAL/24/00250.
  - The development proposed is 'removal of permanent caravan, existing garage and construction of a new dwelling'.
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### Decision

1. The appeal is allowed and planning permission is granted for 'removal of permanent caravan, existing garage and construction of a new dwelling' at Woodview Cottage, Green Lane, Althorne, Chelmsford CM3 6BH in accordance with the terms of the application, Ref FUL/MAL/24/00250, subject to the conditions in the attached schedule.

### Preliminary Matters

2. Slightly different versions of the site address have been given on the planning application form, the appeal form and the Council's decision notice. I have used the version entered on the appeal form which best reflects the postal address of the site.
3. The description of development stated on the Council's decision notice is 'removal of caravan and existing garage and construction of a new dwelling'. However, neither party has provided written confirmation that a revised description of development was agreed from that given on the planning application form. I have noted the Council's comments in respect of the nature of the existing caravan on the site and I return to this matter in my reasoning below, but the caravan would in any event be removed and I am satisfied that the description given on the application form adequately sets out what is proposed. I have therefore used this original description.
4. The main parties were given the opportunity to make representations on a revised version of the National Planning Policy Framework ('the Framework') which was published in December 2024. I have determined the appeal having regard to these comments and the revised Framework.

### Main Issues

5. The main issues are
  - (i) whether or not the development would be in a suitable location having regard to relevant development plan policies and future occupiers' access to services, facilities and sustainable transport modes; and
  - (ii) the effect of the proposal on the character and appearance of the area.

## Reasons

### *Location*

6. The appeal site is outside of any defined settlement boundary and is within the countryside in planning policy terms. In such locations, Policy S8 of the Maldon Local Development Plan 2017 ('the LDP') sets out that permission will only be granted for development where the intrinsic character and beauty of the countryside is not adversely impacted upon and the development is for specified purposes in accordance with other policies of the development plan or local planning guidance. The appellant has not argued that the proposed dwelling would be for any of the specified purposes, and the development would therefore conflict with Policy S8.
7. Furthermore, the closest settlements to the site are Latchingdon, Althorne and Mayland. Policy S8 of the LDP classifies Mayland as a 'larger village', but Latchingdon and Althorne are 'smaller villages' and even taken together, it is unclear from the information before me that these settlements would offer a full range of day to day services for occupiers of the development.
8. In any event, accessing these settlements as well as the closest bus stops would also involve journeys along sections of fairly narrow roads which lack lighting and separate footways or cycleways and where I saw vehicles travelling at or around the national speed limit. Footpaths may offer an alternative route for part of some journeys but these would also lack lighting or formal surfacing. Given these conditions, I share the Council's concerns that occupiers of the site would be unlikely to consider walking a safe or attractive option, particularly in darkness or poor weather. Cycling would also be likely to be discouraged for all but the most confident and able. Moreover, the appellant indicates that even Althorne, which is closest to the site, is around 4km away.
9. Taking these factors in combination, I consider that occupiers of the site would be unlikely to regularly walk, cycle or use bus services in order to meet day to day needs and they are likely to be largely reliant on private vehicles. Although electric vehicle charging points could be provided at the site, I can not be sure that occupiers would choose to use electric vehicles such that these journeys would not add to overall emission levels. In addition, advances in remote working and online services are unlikely to realistically meet all needs and obviate requirements for travel from the site.
10. That said, the Framework comments that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and journey distances from the site to reach larger settlements with a wider range of services would not be excessive, helping to moderate the effect of travel. The impact of travel associated with a single dwelling would further be likely to be very limited.
11. Drawing these matters together, I conclude that the location of the development would result in conflict with Policy S8 of the LDP and with Policy S1 of the LDP insofar as it includes provision seeking generally to direct housing growth to the most sustainable locations. The limited accessibility of the site means that future occupiers would also be dependent on private vehicles contrary to Policies S1, D1, T1 and T2 of the LDP insofar as they include requirements broadly seeking good connectivity, to minimise the need to travel and to promote and prioritise sustainable modes of travel, albeit that the harm in this regard would be limited.

### *Character and Appearance*

12. There are some scattered individual properties and small, irregular ribbons of buildings along Green Lane. The buildings vary in use, form, scale and appearance, but are of typically traditional materials and set on fairly generous plots. As a result, there is a loose informality to the development and together with the surrounding open fields marked by belts of trees which line much of the lane, this provides for an open and distinctly rural character to the area.
13. Woodview Cottages is a two-storey dwelling which is positioned close to the road on a shallow but wide plot. The neighbouring dwelling to the east, Larretts, is also set close to the road on a wide plot of similar depth to the appeal site and together with 1 and 2 Farm Cottages to the east, these dwellings form part of a small loose ribbon of dwellings with associated outbuildings. The site therefore reflects the general pattern of the area and together with the available views through the site towards surrounding open fields, it contributes to the rural character and appearance of this part of the countryside.
14. The proposed dwelling would sit between Woodview Cottages and Larretts on part of the appeal site where I saw an existing static caravan. The Council notes that there are no details to show that the caravan has been used for purposes other than those incidental to the existing dwelling. Nevertheless, it appeared to have been in place for some time and while the structure itself may be moveable, it has a physical presence on the site which is appreciable from the surrounding area.
15. The dwelling would be of greater height and larger overall scale than the caravan, but the proposal also includes the removal of an existing garage which would help to moderate the cumulative loss of openness on the site. Even if I were to disregard the caravan as an existing feature, the dwelling would be of modest footprint and single-storey height. It would also maintain generous spacing to the adjacent buildings and I consider its resulting effect on openness would be very modest.
16. Moreover, the effect of the additional built form and any associated paraphernalia would be perceived within the context of an existing ribbon of development, extending no deeper than neighbouring plots. It would also occupy part of a site which I saw was already domestic in appearance as part of the grounds of Woodview Cottages, irrespective of the caravan. The proposal would not therefore result in 'new' domestication of the site, and while the Council's reason for refusal refers to the provision of a vehicular access, the dwelling would share the existing access for Woodview Cottages. This would be resurfaced, but the proposal would not therefore create a new access along Green Lane which might be conspicuous.
17. In addition, the Council has not identified any specific concerns with the detailed design, materials, scale or layout of the proposal or clearly explained how there would be conflict with guidance in the Maldon District Design Guide 2017 which is cited in the reason for refusal. I am satisfied that the dwelling and its plot would sit comfortably within the mixed development nearby. Indeed, the dwelling would in my view be more sympathetic to the traditional materials and character of its surroundings than the existing caravan.
18. The development may be visible from the surrounding area, but having regard to all of the above factors, I find that the dwelling would assimilate unobtrusively within the existing ribbon on this part of Green Lane. In my judgement, the proposal would not lead to an unwelcome impression of urbanisation or encroachment to the

countryside so as to detract from the rural character and appearance of the area, nor from the intrinsic character or beauty of the countryside here.

19. I therefore conclude that the proposal would not cause tangible harm to the character or appearance of the area. In that respect, I find no conflict with Policies S1, S8, D1 or H4 of the LDP insofar as they include requirements broadly seeking development that respects and enhances local character and that maintains the intrinsic character and beauty of the countryside and the rural character of the District. Nor would there be conflict with requirements in the Framework seeking well-designed places and recognition for the intrinsic character and beauty of the countryside.

### **Other Matters**

20. In circumstances where a proposal is likely to have a significant effect on a European Site designated under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations'), there is a duty on the competent authority to consider implications for the conservation objectives of the Site within the framework of an Appropriate Assessment ('AA'). In accordance with the Framework, Ramsar sites should be given the same protection.
21. The information before me indicates that the appeal site is within the Zone of Influence of European Sites and Ramsar sites which are scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy ('RAMS') and which are vulnerable to the effects of recreation. Given that the appeal proposes an additional dwelling within an area that could contribute visitors to the RAMS sites, it could increase recreational pressure with a likely significant effect on the designated sites.
22. In order to mitigate potential recreational effects of development, the RAMS outlines a strategic mitigation solution endorsed by Natural England. The appellant has provided a Unilateral Undertaking dated 30 March 2024 ('the UU') which includes a financial contribution in accordance with the RAMS towards the identified mitigation strategy. Natural England have commented that the stated contribution amount should be updated to reflect the current financial year, but the UU provides that the contribution is 'index linked' which would ensure the appropriate amount at time of payment. Natural England is otherwise satisfied that the UU would secure appropriate mitigation, as is the Council, and I have no firm reason to take a different view.
23. Given that adequate mitigation for recreational effects would be appropriately secured, I find within the framework of an AA that the proposal would not adversely affect the integrity of the relevant SPA, SAC and Ramsar sites included within the Essex Coast RAMS, either alone or in combination with other plans and projects. Accordingly, there would be no conflict with the Habitats Regulations.

### **Planning Balance**

24. Following the revisions to the Framework, the Council confirms that it is unable to demonstrate a 5-year supply of deliverable housing sites, with a current supply position of 2.7 years.
25. As a consequence, the presumption in favour of sustainable development outlined at paragraph 11 d) of the Framework would be engaged. There are no Framework

policies that protect areas or assets of particular importance which would provide a strong reason for refusing the development. The presumption therefore provides 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 in 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.

26. Although I have found no tangible harm to the character and appearance of the area, the location of the development within the countryside outside of a designated settlement boundary and future occupiers' likely dependency on private vehicles would result in conflict with Policies S1, S8, D1, T1 and T2 of the LDP.
27. The proposal would also be contrary to the Framework insofar as it emphasises that the planning system should be genuinely plan led and support a move to a low carbon future. I have additionally had particular regard to policies in the Framework directing development to sustainable locations including requirements seeking to limit the need to travel and prioritise sustainable transport modes.
28. However, the effects of travel associated with a single dwelling would not be significant and I have found that the ensuing harm would be limited. Moreover, the absence of a 5 year housing supply indicates that housing requirements are not currently being met within settlement boundaries. Taking these factors together, I afford limited weight to the harm arising from the location of the site and the resulting conflict with the development plan.
29. On the other hand, the proposal would make effective use of the site to provide an additional dwelling. The greatest need may be for three-bedroom dwellings, but the Council indicates that there is still a need for one-bedroom properties as proposed. The contribution to the supply and mix of housing and thus the extent of the benefit would be small, but would nevertheless advance the Government's objective outlined within the Framework to boost significantly the supply of housing. In this context and given the current housing supply shortfall, which is in my view significant, the delivery of housing on the site would be an important benefit attracting significant weight.
30. Furthermore, the site may be set apart from the closest settlements, but future occupiers would still be likely to offer support for local services in the rural area that could help to sustain their viability, even if travel to reach them was by private vehicle. The small scale of the development means that the effect would be likely to be very modest. Nevertheless, it would accord with the Framework which outlines that housing should be located where it will enhance or maintain the vitality of rural communities and I afford the resulting benefit moderate weight.
31. The appellant has also suggested biodiversity enhancement measures which would accord with objectives in the Framework for enhancement of the natural environment and biodiversity and which could be secured by planning condition, albeit that the extent of the benefit would be likely to be limited given the small scale of the site.
32. Taking account of all of the above, I find that the proposal would conflict with the development plan when it is read as a whole. Nevertheless, the modest adverse impacts of the development would not in my judgement significantly and demonstrably outweigh the cumulative benefits when assessed against the policies



in the Framework taken as a whole. The presumption in favour of sustainable development set out in paragraph 11 d) of the Framework therefore indicates that permission should be granted and I find that material considerations would outweigh the conflict with the development plan.

### **Conditions**

33. I have considered suggested conditions against the tests set out in the National Planning Policy Framework. I have made amendments where necessary to ensure compliance with these tests or for clarity, brevity or consistency, including to omit unnecessary prescription of details that would be a matter for the Council to consider as part of the assessment of future submissions. I have also combined some conditions in the interests of succinctness.
34. Condition 1 is the standard time limit condition, and I have imposed condition 2 for the avoidance of doubt and in the interest of certainty.
35. Condition 3 is necessary in the interests of highway safety and convenience and neighbouring occupiers' living conditions, although I have omitted specific references to matters that would be subject to other regulatory regimes. It requires details to be approved before development commences as measures would need to be in place to address effects arising during construction, and the appellant has agreed to this pre-commencement condition.
36. Conditions 4 and 7 are necessary to secure adequate provision and to ensure that flood risk would not be increased in accordance with Policy D5 of the LDP. Conditions 5, 12 and 13 are necessary in the interests of biodiversity. Condition 6 is necessary in the interests of the character and appearance of the area.
37. Conditions 8, 9 and 10 are necessary in the interests of highway safety and to support use of sustainable transport modes. This includes the closure of the existing access closest to the boundary with Larretts which I consider is necessary to reduce potential for conflict given that the proposal would result in an increase in vehicle movements to and from the site associated with the additional dwelling. In addition, I have also imposed condition 11 which I consider would be necessary to ensure that the indicated parking for the existing and proposed dwellings is provided and retained in the interests of highway safety.
38. Finally, I am mindful that the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. Given the relationship of the proposed dwelling with its plot and neighbouring buildings and to maintain the rural character of the area, I am satisfied that condition 14 to prevent the construction of extensions or outbuildings and laying of hardstanding is necessary and justified in this case in the interests of the character and appearance of the area. However, I have combined the Council's suggested conditions to avoid duplication.
39. The Council additionally suggested a condition in respect of foul drainage provision, but the submission indicates that the development would be connected to the mains sewer and I am unclear why further control would be necessary noting also that foul water drainage is a matter covered by building regulations. I have not therefore imposed this condition.

## Conclusion

40. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, but there are material considerations which indicate that planning permission should in this case be granted other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

*J Bowyer*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 001 Rev P1, 002 Rev P2, 003 Rev P1, 200 Rev P1 and 201 Rev P2.
- 3) No development, including any works of demolition, shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
  - i) delivery and storage of plant and materials used in constructing the development;
  - ii) measures to control the emission of dust and noise during construction; and
  - iii) hours of working.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 4) No development above proposed ground level shall take place until a detailed Surface Water Drainage Scheme has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall include, but is not limited to:
  - i. Details of discharge rates/location;
  - ii. Details of storage volumes;
  - iii. Details of treatment requirement(s);
  - iv. A detailed drainage plan;
  - v. Details to demonstrate an appropriate point of discharge for the site, and, if the discharge point is outside the development site, that necessary permissions and/or agreements to achieve connection are possible;
  - vi. Where the surface water drainage strategy proposes the use of soakaways, details of the design including the details of the area to be drained, infiltration rate (as determined by BRE Digest 365 2016 or equivalent if replaced), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled; and the results of a series of percolation tests carried out upon the subsoil in accordance with BRE Digest 365 2016 (or equivalent if replaced);

- vii. Where the surface water drainage strategy proposes discharge to a watercourse, the proposed scheme shall include details of the destination and discharge rates equivalent to 'greenfield runoff' up to and including a 1 in 100 year rainfall event, inclusive of climate change. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s). If the land is designated as a Brownfield Site it should aim to limit run-off for a storm event that has a 100% chance of occurring each year (1 in 1 year event), or, demonstrate 50% betterment of the current rates;
- viii. Where the Local Planning Authority accepts discharge to an adopted sewer network, written confirmation from the statutory undertaker that the discharge will be accepted; and
- ix. A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The approved Surface Water Drainage Scheme shall be implemented in accordance with the approved details before the development is first occupied.

- 5) No development above slab level shall take place until a Biodiversity Enhancement Strategy for protected and Priority species has been submitted to and approved in writing by the Local Planning Authority. The Biodiversity Enhancement Strategy shall include:
- i. Detailed designs or product descriptions to achieve stated objectives;
  - ii. Locations, orientations, and heights of proposed enhancement measures by reference to maps and plans;
  - iii. A timetable for implementation;
  - iv. Persons responsible for implementing the enhancement measures; and
  - v. Details of initial aftercare and long-term maintenance (where relevant).

The development shall be implemented in accordance with the approved Biodiversity Enhancement Strategy before the development is first occupied and shall be permanently retained as such thereafter

- 6) No development above slab level shall take place until details of the materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) The development hereby permitted shall not be first occupied until a scheme of maintenance arrangements for the Surface Water Drainage Scheme pursuant to condition 4 has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the body(ies) responsible for different elements of the surface water drainage system and the maintenance activities/frequencies. The Surface Water Drainage Scheme shall be managed and maintained in accordance with the approved maintenance scheme.
- 8) The development hereby permitted shall not be first occupied until the existing access from Green Lane has been altered to become a shared access in accordance with drawing no. 003 Rev P1. No unbound material shall be used in the surface treatment of the access within 6m of the highway boundary.
- 9) The development hereby permitted shall not be first occupied until the vehicular access from Green Lane to the east of the proposed dwelling has been



permanently closed in accordance with details which have first been submitted to, and approved in writing by, the Local Planning Authority.

- 10) The development hereby permitted shall not be first occupied until cycle parking has been provided in accordance with details which have first been submitted to, and approved in writing by, the Local Planning Authority and the cycle parking shall be permanently retained as such thereafter.
- 11) The development hereby permitted shall not be first occupied until vehicle parking has been provided for Woodview Cottages and the dwelling hereby permitted in accordance with drawing no. 003 Rev P1, and the parking shall be permanently retained as such thereafter.
- 12) External lighting shall only be installed in accordance with a lighting design scheme for biodiversity which has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. External lighting shall only be installed in accordance with the specifications and locations set out in the scheme and shall be permanently retained as such thereafter.
- 13) The development shall be carried out and thereafter retained in accordance with the details and mitigation measures contained in the Preliminary Ecological Assessment (March 2024, by ACJ Ecology).
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no extensions, outbuildings or other structures shall be constructed and no hardstanding shall be laid at the site other than where expressly authorised by this permission.

### **End of Schedule**