



Appeal Decision

Hearing held on 9 September 2025

Site visit made on 9 September 2025

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2025

Appeal Ref: APP/X1545/W/25/3367409

Glebe Meadow, Land east of Vicarage Court, Southminster, Essex

- 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 Benferri Developments Limited against the decision of Maldon District Council.
 - The application Ref is FULM/MAL/24/00017.
 - The development proposed is described as 'Application for planning permission to create 36 no. one, two, three and four bedroom houses and maisonettes, associated landscaping, roads, parking and drainage infrastructure, plus a new area of public open space and the addition of a footway to the east side of Vicarage Court'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the hearing there were discussions relating to the ownership of the land along which the proposed pavement would be routed. It was apparent from these discussions that this is a point in dispute between local residents and the appellant. However, this is not a matter that I can resolve through a planning appeal. Instead, I have considered the effects of what is proposed. The addendum Statement of Common Ground is not signed and dated, but both the appellant and Council confirmed at the beginning of the hearing that it was an agreed document and should be read as such.

Main Issues

3. Before the hearing was closed the appellant submitted a planning obligation pursuant to s106 of the Town and Country Planning Act (the 'Act'). This was in the form of a legal agreement with the Council and Essex County Council. The obligation made provision for the infrastructure and contributions outlined in the Council's 'CIL Compliance Statement'. On this basis, the Council is satisfied that its sixth reason for refusal has been addressed as no conflict with Policy I1 of the Local Plan would occur. That said, the appellant has made a case that a financial contribution towards early years education is unnecessary, would therefore fail to meet the tests in the Community Infrastructure Levy Regulations and should not be taken into account. This is a matter to which I will return.
4. Within its Statement of Case, the Council confirmed that it did not wish to pursue the second and third reasons for refusal. This is because the Council is now of the view that the design of the proposed dwellings would not be discordant or jarring

with existing properties and that the parking areas would not result in excessive noise and disturbance to the existing residents in Vicarage Court. As such, these matters when not identified as main issues during the hearing.

5. Although not reasons for refusal, the spatial strategy in the development plan and the effect on biodiversity (reptiles) and the privacy of the occupants of Plot 6 are main issues. These were identified as topics in my prehearing note and discussed during the event. Consequently, there has been an adequate opportunity to address these matters and therefore no unfairness has occurred.
6. Given the foregoing, the main issues in this appeal are:
 - Whether the appeal site is an appropriate location for the proposed development, with reference to the spatial strategy in the Local Plan¹ (LDP);
 - The effect of the proposed footway on i) the character and appearance of the area and ii) the living conditions of existing residents;
 - Whether the proposed development would provide appropriate living conditions for future occupants, with reference to noise, disturbance and privacy;
 - Whether the proposed development would provide an adequate housing mix;
 - Whether the proposed development would adequately mitigate the effect on reptiles; and
 - The effect of the proposed development on early years education.

Reasons

The appropriateness of the location with reference to the spatial strategy

7. Policy S1 of the LDP seeks to secure sustainable development by applying several key principles. These include delivering sustainable levels of housing growth, maintaining the rural character of the district and minimising the need to travel. The Council seeks to balance these aims by delivering strategic growth through sustainable extensions at its largest settlements whilst also adopting a settlement hierarchy to inform the assessment of other schemes elsewhere.
8. Policy S8 of the LDP sets out the settlement hierarchy and outlines the Council's approach to development within the countryside. It explains that the countryside will be protected for its landscape, natural resource and ecological value as well as its intrinsic character and beauty. Accordingly, development within the defined settlement boundaries is supported, whereas outside these areas it will only be supported where the intrinsic character and beauty of the countryside is not adversely impacted upon *and* the proposal would be one of the types of development outlined in a closed list.
9. The appeal site is a green field site located outside the settlement boundary of Southminster. It is therefore located in the countryside. The appeal site is flanked by housing, a school and a municipal park but otherwise has a rural character on account of being rough grassland broadly enclosed by hedges and mature trees. The evidence before me also demonstrates that the site is of biodiversity value.

¹ Maldon Local Development Plan 2014-2029 (LDP)

10. It would not be credible to suggest the proposal's urbanising effect on the rural character of the appeal site would not have at least a limited adverse impact upon the intrinsic character and beauty of the countryside. Moreover, the Council and appellant agreed at the hearing that the appeal scheme would not be any of the types of development permitted in the countryside by Policy S8. The proposal would therefore be at odds with the spatial strategy in Policy S8.
11. In conclusion, the appeal site is not a suitable location for the appeal scheme when applying the spatial strategy in the development plan. This would be harmful given the public interest in having a planning system that provides consistency and direction on account of being genuinely plan led.

The effect of constructing a pavement on the character and appearance of the area

12. Vicarage Court is a quiet suburban cul-de-sac. It encompasses The Old Vicarage and a cluster of large, detached houses constructed in recent years. The houses are accessed from a narrow, shared surface flanked by generous levels of landscaping. This results in an intimate and verdant character as well as a pleasant street scene. The way the hedging follows the curvature of the road is a particularly pleasant feature.
13. When the development was approved, the local standard for shared surfaces was that no more than 25 homes should be accessed in this way. I understand that the standard has been reduced to 15 homes. Neither the Council nor the appellant were able to conclusively say at the hearing what the rationale for reducing the standard was. It may have related to the Local Highway Authority's standards for adoption or could have been driven by safety, or both. Either way, the appeal scheme would result in the standards being exceeded by some way.
14. In any event, the construction of 36 homes would result in an increase in traffic throughout the day. The Transport Statement suggests around 133 vehicle movements would occur in a typical 12-hour daytime period. In the absence of substantive evidence to the contrary, I share the view of the Local Highway Authority that this level of traffic is not conducive to a shared surface. This is because the frequency of traffic would likely make walking in the carriageway undesirable even though traffic would be moving slowly. Indeed, vehicles would pass close to pedestrians and would also reduce the space available for walkers if two motorists were to meet. Moreover, all pedestrians from the development would have to walk along Vicarage Court as it is the only route into and out of the development. There have been no pedestrian accidents in Vicarage Court to date, but that does not demonstrate the proposal would maintain this situation.
15. Accordingly, I share the expert view of the Local Highway Authority, which I afford significant weight, that a pavement along Vicarage Court would be necessary if the appeal scheme were to be developed for the number of homes proposed.
16. There is a small section of pavement at the entrance to Vicarage Court. If this was extended up to the entrance to the field, as is proposed, then the soft landscaping along one side of Vicarage Court would be notably weakened. This would severely erode the verdant character of the cul-de-sac. In particular, the curved hedge in front of 7 Vicarage Court and the generous landscaping outside The Old Vicarage would be lost or diminished. There would also be an unbalancing impact on the street scene with more soft landscaping on one side than the other. The overall

composition of Vicarage Court would be significantly harmed if the proposed pavement was retrospectively inserted into the street scene.

17. Pavements are a feature of the wider area. Indeed, Vicarage Meadow has pavements on both sides, and this affords it a conventional suburban appearance. However, Vicarage Court has a different and more verdant character. This was an original design aspiration that the appeal scheme would harmfully erode. Accordingly, the presence of pavements elsewhere does not justify the harmful impact on the street scene and character of Vicarage Court.
18. In conclusion, the provision of the proposed pavement would result in significant harm to the character and appearance of Vicarage Court. This would be at odds with Policies S1, D1 and H4 of the LDP, which seek to secure high quality design which respects the character of the area and local context.

The effect of constructing a pavement on living conditions

19. The proposed pavement would pass in front of 7 and 8 Vicarage Court. In general, this relationship would not be unusual. Indeed, it is good urban design for pavements to be overlooked by residential properties to provide natural surveillance. However, it is also good practice to provide some form of defensible space², normally in the form of a front garden, to provide some sense of privacy to occupants of a property and separation from the public realm.
20. The proposed pavement would be far enough away from the front elevation of 7 Vicarage Court to allow for a defensible space. However, the pavement would pass very close to the living room window of 8 Vicarage Court, which is likely to be a well-used part of the house. Indeed, the proximity would be very uncomfortable for future occupants of that property as pedestrians would be able to see in at very close range. There would be insufficient space to mitigate this impact. Instead, to achieve privacy the occupants would probably need to rely on curtains or blinds.
21. There would not be any harmful impact from noise and disturbance because the window is double glazed, and pedestrians are unlikely to stop outside the property. Nevertheless, there would be some limited harm to the living conditions of the occupants of 8 Vicarage Court. This would be at odds with Policies S1 and D1 of the LDP, which seek to secure high quality design which protects the amenity of surrounding areas by taking into account privacy.

The adequacy of the living conditions of future occupants

22. Immediately to the east of the appeal site is the King George V Memorial Playing Fields. This incorporates several facilities including flood lit tennis courts, a bowls club, an equipped play area, playing fields, a flood lit multi use games area (MUGA) and a large car park. Adjacent to the appeal boundary there is also a preschool, changing rooms used by sports teams, a shipping container used for storage and a building occupied by a local club offering martial arts training. I also understand that several local football teams play and train here, and this can draw large crowds on match days. Accordingly, the playing fields are a large, well-used facility of importance to the local community which new development should not hamper. Given the activities involved and the location of the appeal site, there is the potential for noise and disturbance to the future occupants of the appeal scheme.

² See the National Design Guide and Building for a Healthy Life

23. Some of the facilities, such as the bowls club and tennis court, are probably sufficiently far away from the appeal site not to cause any harmful impact on the living conditions of future occupants. However, the car park and some of the buildings adjoining the eastern boundary of the appeal site would be very close to Plots 7-10 and 11-13. Indeed, the rear gardens of Plots 7-10 would face the eastern boundary. The comings and goings of sports teams, including training sessions and matches, could result in significant noise impacts given the number of people involved. This would be compounded by the frequent movement of cars, with doors slamming, engines idling and headlights aimed towards the appeal site. I am especially concerned about the MUGA, because there are no details before me relating to the flood lights, which are elevated. As such, I cannot rule out the risk of significant light pollution. Balls hitting the low brick wall and fencing surrounding it could also create loud, unpredictable and significant noise impacts.
24. Housing has previously been approved on the appeal site despite the activity at the Memorial Field. However, most of the dwellings in that instance would have been located along the western boundary of the appeal site leaving a partial buffer between them and the facilities identified above. Four houses were approved in the north-east corner of the site, but the Council's assessment relating to the living conditions of the future occupants is not before me. I have come to my own findings for the reasons given.
25. There is housing in Tattersalls Chase and this is close to facilities such as the tennis courts, and there is no evidence, such as recorded complaints, before me that the occupants of these properties have suffered from harmful noise and disturbance. However, they are further away from the MUGA, car park and changing rooms and therefore subject to a different impact.
26. The comments from the Council's Environmental Health Officer (EHO) submitted during the Council's assessment of the application did not mention the potential effect on the living conditions of future occupants and nor did the committee report. The EHO has since suggested in comments contained within the addendum Statement of Common Ground (SOCG) that the effect was considered. However, there is no substantive evidence of this, and the Council are pursuing the point despite what the EHO said in any event. Indeed, it was initially suggested at the hearing that this may have been a matter that 'slipped through the net'. Consequently, the Officers' approach to this matter appears incomplete and muddled and does not alter my findings.
27. Paragraph 200 of the National Planning Policy Framework (the Framework) states that where the operation of an existing community facility could have a significant adverse effect on new development in its vicinity, as is the case here, the applicant (or 'agent of change'), should be required to provide suitable mitigation before the development has been completed. This is to ensure new development does not hamper the ability of existing facilities to function. As the agent of change, the appellant has not provided any specialist assessment that has robustly considered the potential effects. Accordingly, there is no scheme of mitigation before me.
28. Instead, the appellant submits that mitigation, if required, could be secured through a negatively worded planning condition which prevents development from commencing until an assessment of impacts is undertaken and a scheme of mitigation approved. This may work for matters such as the glazing specification, insulation and boundary treatment. However, I cannot be certain, in the absence of

any meaningful assessment, that the likely impacts of the scheme would be mitigated by these details alone. Indeed, the impacts could require the internal configuration of properties to be redesigned, or the layout of the development altered to provide a buffer. It is entirely unclear how light pollution could be mitigated if the flood lights are found to be harmful. It would be unreasonable to impose a condition if its terms could only be met by significantly altering the approved scheme. It would also be imprecise to require mitigation when there is little indication what it would involve and its prospect of success.

29. The addendum SOCG extraordinarily suggests that an application under s73 of the Act could be made to amend the scheme if the relationship with the playing fields is later found to be harmful. However, I am not prepared to permit a scheme that is likely to result in significant negative impacts on the living conditions of future occupants in the hope that the developer will benevolently make a fresh application in the future to undo the permitted harm.
30. There is an extant planning permission to demolish the MUGA and the adjacent buildings and replace them with a new multipurpose building. The permission expires in November this year, but the Parish Council has submitted applications to discharge the pre commencement conditions and has amassed sufficient funds to make a start. I was advised during the hearing that this is their intention. Consequently, there is a reasonable prospect of the development occurring.
31. If implemented, the approved scheme would remove some of the sources of noise and disturbance such as the flood lights, the MUGA and the changing rooms. The permission is also subject to conditions that prohibit amplified music and external illumination, controls the hours of operation and requires a scheme of noise insulation. That said, the EHO has raised concerns through the addendum SOCG that the new community leisure building could significantly impact the living conditions of the occupants of Plots 7-11 and 24-26 due to noise and disturbance. For example, unamplified noise could occur on the terrace, and I understand the approved building would have a capacity for up to 200 people, which could result in significant levels of activity.
32. I am also concerned that the approved car park would see a long bank of vehicles parked directly along the shared boundary. It is also unclear whether the package of mitigation required by conditions attached to the permission for the multipurpose building would be sufficient to safeguard the amenity of future occupants of the appeal scheme. This is because I was advised at the hearing that they are aimed at addressing the effects on the occupants of Vicarage Court, who are further away than the proposed residential receptors would be. Accordingly, if implemented, the approved facility may have a lesser impact than what currently exists, but it does not follow that it would have no adverse impacts, or that any adverse impacts can be mitigated without making amendments to the layout of the appeal scheme.
33. To summarise, both the existing and proposed facilities to the immediate east of the appeal site are likely to have a significant impact on the living conditions of some of the future occupants of the appeal scheme. As the agent of change, the appellant should have investigated this further and incorporated any necessary mitigation. In the absence of this, the appellant has failed to demonstrate that the living conditions of future occupants would be acceptable and that the appeal scheme would not prejudice the ability of the community facilities to operate.

34. Plot 6 would be located to the rear of Plots 4 and 5. Plot 4 would have a shallow garden of around 10m in depth and several first-floor rear windows. As such, the occupants of Plot 4 would be able to look directly into the garden of Plot 6 at close range. Indeed, the entire garden at Plot 6 would be overlooked. Shoe-horning Plot 6 into the proposed development in this way would result in harmfully poor living conditions for the future occupants of this property due to a lack of privacy.
35. In conclusion, the appeal scheme would not provide adequate living conditions for some of the future occupants of the appeal scheme. These properties predominantly being those in the northeast corner of the site as well as Plots 24-26. This would be contrary to the design principles in the Maldon District Design Guide (MDDG), such as principle C17, which seeks to prevent noise being a significant source of aggravation for residents. The proposal would therefore be at odds with Policies S1 and D1 of the LDP, which seek to secure development which would be of high-quality design and has regard to the design principles in the MDDG.

Whether the proposed development would provide an adequate housing mix

36. Policy H2 of the LDP states that all development will be expected to provide a suitable mix and range of housing to reflect local housing need and demand. This is not the same as a requirement, but it is nevertheless a strong expression that something should happen. The evidence base for this policy was a Strategic Housing Market Assessment that has since been superseded by a Local Housing Needs Assessment prepared in 2021 (LHNA). However, I share the view of the Council that Policy H2 is drafted to be 'future proofed', as it refers to local housing need and demand without mentioning a specific document. This allows the flexibility to consider matters with regards to the most recent evidence. There is nothing of substance before me to demonstrate there is no longer a need for housing to reflect local need and demand.
37. The LHNA outlines a need for smaller properties to aid downsizing and address housing affordability in the district. It also explains that the district has a relatively high proportion of 4-bedroom properties compared with other locations. The LHNA therefore sets out an indicative mix with a recommendation that the majority of houses are 2-3 bedrooms (the number of bedrooms being an indication of the size and affordability of the homes). Indeed, it suggests that 25-35% of homes are 2-bedroom properties, 40-50% are 3-bedroom homes and only 15-25% should be 4-bedroom dwellings.
38. The proposed mix of homes would not reflect this, as only 16% would be 2-bedroom properties and 28% 3-bedroom properties. Around 56% of the homes would be four-bedroom properties. The LHNA does allow for flexibility by expressing the suggested mix for each property type within a percentage range. It also explains that the mix should be considered on a case-by-case basis. For example, an inner urban site might be better suited to a higher proportion of 1-2-bedroom properties given the opportunity for higher densities. A greenfield site on the edge of a settlement may be more appropriate for larger family accommodation when considering the character of the area. Therefore, in such development the proportion of four-bedroom properties could be closer to 25% than 15%.
39. In this instance, the appeal site is an edge of settlement site adjacent to existing low density suburban development. As such, there is a rationale for providing a higher proportion of four-bedroom homes. However, the appeal scheme would

disproportionately provide more than double the upper level. It would therefore frustrate attempts to address housing affordability and downsizing. Accordingly, the expectations of Policy H2 would not be achieved and I considered this to be an adverse effect of the scheme.

The effect of the appeal scheme on reptiles

40. There is agreement between the Council and appellant that the appeal site is suitable habitat for protected reptiles. They also agree that translocation to an off-site receptor location would be necessary to ensure the urbanisation and site clearance caused by the appeal scheme would not have a net adverse impact on these protected species
41. A possible receptor site has been identified but there are no concrete proposals to use it. As such, the Council has recommended a negatively worded condition that would prevent development from taking place until the translocation of reptiles has occurred in accordance with approved details. The details would include confirmation of the receptor site along with a management plan for it. Indeed, the appellant's Ecologists suggest the management plan for the receptor site should cover a period of between 10-20 years.
42. A negatively worded condition can be used to prevent development occurring until another action has taken place. This is because wording the condition in this way places a prohibition on the act of development within the appeal site, which would be under the control of the developer. However, the receptor site is not within the appeal site. As it has not been identified there is nothing to confirm it would be within the control of the developer. Therefore, the Council would not be able to enforce the management plan. As such, there is no way of ensuring the receptor site would remain as suitable reptile habitat.
43. The Council suggested at the hearing that a condition could be imposed that requires the developer to identify a receptor site, secure it and then transfer ownership/control to the occupants of the appeal scheme. The idea being that the Council could then enforce against the occupants of the appeal scheme if the management plan was not being adhered to. I have serious doubts about the practicality of taking collective enforcement action against the future residents of a housing scheme. I am also not satisfied that such a condition would be reasonable given the uncertainty. During the hearing I asked the Council to put their proposal in writing to provide greater clarity, but nothing has been forthcoming³.
44. Notwithstanding these reservations, such a condition would require the developer in the first instance to enter into a legal agreement with the owner of the receptor site. This is because a legal agreement would be required to ensure the owner of the receptor site allows reptiles to be translocated to it and for the site to be managed as suitable habitat. This is confirmed by the appellant's Ecologist in a letter submitted as part of the application. The Planning Practice Guide (PPG) explains that a negatively worded condition limiting the commencement of development until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. However, this may be appropriate in exceptional circumstances, such as particularly complex schemes.

³ And the deadline I set has expired.

45. During the hearing it was suggested that the agreement of the Council to this approach, and the willingness of the appellant to follow it, were exceptional circumstances. As a matter of judgement, I do not agree because simply agreeing to a course of action is not an exceptional circumstance. The project is not especially complex in any event. Indeed, the more conventional approach of identifying the receptor site and then the owner, appellant and Council entering into a planning obligation or other agreement would be a more certain (and thus enforceable), transparent and appropriate approach. The fact that a possible receptor site has already been identified adds weight to this finding.
46. Furthermore, the PPG also explains that when contemplating the use of this type of negatively worded condition, it is necessary in the interests of transparency to agree the heads of terms. This has not occurred because the parties were not intending to enter into a legal agreement. Furthermore, it would also be prudent to include the owner of the receptor site in such discussions, as their agreement would be crucial. This adds further weight against the suggested condition.
47. In conclusion, for the reasons given above, I am not satisfied the suggested condition would provide a reasonable and enforceable mechanism for securing suitable translocation. As such, it cannot be imposed and therefore the translocation would not be secured. The proposal would therefore harm protected species contrary to Policy S1 of the LDP, which seeks to secure development that conserves the natural environment by protecting and increasing local biodiversity.

The effect on early years education

48. The Council is seeking a financial contribution towards early years education of around £67,000. During the hearing I heard evidence from the appellant's team that the birth rate is falling locally and therefore the demand for early years places is reducing despite the increase in the funding entitlement for parents. The appellant therefore submits that an early year's education contribution is unnecessary as there is capacity to cover any demand from the appeal scheme.
49. The Council did not substantively contest this point during the hearing or adduce evidence of its own for me to weigh against what I heard. Essex County Council, as the education authority, were not in attendance. Moreover, I was advised by the appellant's team that the private sector, which accounts for around 92% of early years education in the area, could 'flex' to accommodate the modest demand that would arise from the appeal scheme. Thus, the balance of the evidence before me points more clearly towards the contribution being unnecessary.
50. The contribution is included in the planning obligation on a precautionary basis. However, as the contribution would fail to meet the tests in the CIL Regulations and Paragraph 58 of the Framework, I have not taken it into account in my decision.

Other Considerations

51. For the reasons set out above, the appeal scheme would be at odds with the development plan taken as a whole. An appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. The benefits of the scheme and the provisions of the Framework are important considerations in this instance.

52. The Council are currently unable to demonstrate a five-year housing land supply. In such circumstances Paragraph 11 of the Framework⁴ states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole. In doing so, the Framework states that particular regard is given to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
53. The appeal scheme would deliver 36 homes at a point in time when the housing land supply is only around 2.7 years. This is a serious and significant shortfall at odds with the Framework's aim of significantly boosting the supply of housing. The Council's track record on housing delivery has apparently been good in recent years. Nevertheless, due to recent changes in the way the housing requirement is calculated, the Council now has a serious deficit and needs to identify more land for homes. I was advised at the hearing that a new local plan would be required to proactively drive this. However, a new local plan is unlikely to be in place until 2028-29. In the prevailing context, the delivery of housing is a very important benefit of the scheme, especially as the scheme would be an efficient use of land and could be delivered quickly by a small to medium sized developer.
54. In addition, the proposal would deliver 11 affordable homes as secured by the necessary planning obligation. This is a significant benefit given the challenging local position with affordability. I have not given this matter substantial weight because 11 homes would be modest contribution.
55. The proposal would result in new homes adjacent to a 'larger village' as defined in the LDP. Accordingly, the homes would not be isolated and would be close to services and facilities, including a primary school, shop and rail station. Constructing the houses would result in some modest economic benefits as would the spending of the future occupants. Some of the homes would exceed recognised space standards resulting in a modest benefit. A small biodiversity net gain of around 13% would also be secured. There would also be a benefit from providing a public open space, but as it would be tucked away and lacking in connectivity with the adjacent playing field, it would mainly be used by future residents rather than the wider community and is a matter of little positive weight.
56. There is no substantive evidence before me to demonstrate that the financial contributions secured through the planning obligation would go beyond simply mitigating the impacts of the appeal scheme. Accordingly, they are a neutral matter in the balance in the same way providing parking to meet local standards or addressing flood risk would be. Details relating to low carbon and renewable energy are not before me. The appellant advised at the hearing that the intention is to meet building regulations. As this is a baseline requirement it is a neutral matter. In any event, the provision of low carbon and renewable energy features would probably only reduce the effect of building houses on carbon emissions rather than result in a net positive outcome. The appeal site is currently a pleasant greenfield site and does not harm the character and appearance of the area. In this respect the proposed houses, although complementary of existing properties, would not enhance the visual amenity of the area. This is also a neutral point in the balance.

⁴ In this instance none of the policies in the Framework that protect areas of assets of particular importance provide a strong reason for refusal

57. Alternatively, the appeal scheme would harmfully undermine the spatial strategy in the LDP. Officers afforded this matter little weight because of a previous appeal decision on the site granting permission for around 13 homes. However, this permission is no longer extant and was for a significantly lower number of homes than is now proposed. It is therefore of limited relevance. All the more so as the Inspector concluded that the spatial strategy in force at the time was inconsistent with the then Framework on account of being unduly obstructive. The current spatial strategy is more nuanced and is not inherently inconsistent with the Framework. That said, a rigorous application of Policy S8 would frustrate attempts to remedy the housing shortfall any time soon. Therefore, for this reason, and because the site is located on the edge of a relatively large settlement, the conflict with the spatial strategy is a matter of limited weight in this instance.
58. However, the Framework seeks to secure high quality design and a high standard of amenity. Indeed, it states that development which is not well designed should be refused. Thus, the harm to the character and appearance of Vicarage Court and the living conditions of the occupants of No 8, as well as the impact on future residents, are collectively notable matters weighing against the scheme. Added to this, the over provision of large homes would offend the Framework's aim to deliver the size and type of housing needed by a local community. The failure to secure the translocation of reptiles would be a further significant point against the scheme as it would be at odds with the Framework's requirement to conserve and enhance priority species.
59. Overall, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. It therefore follows that this is not a material consideration that indicates the proposal should be determined otherwise than in accordance with the development plan.

Other Matters

60. Various concerns have been raised by interested parties including reservations regarding the impact on drainage and highway safety from truncating driveways in lieu of the proposed pavement. However, given my findings it has not been necessary for me to address these matters further as the appeal has failed. Similarly, as I am not minded to allow the proposed plan or project, there is no need to undertake an appropriate assessment pursuant to the Habitat Regulations.

Conclusion

61. The appeal scheme would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

Graham Chamberlain
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Robert Pomeroy BA (Hons), Dip TP, MRTPI	Pomeroy Planning Consultancy
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Michael Smith	Pomeroy Planning Consultancy
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Alfredson York Associates Ltd

FOR THE LOCAL PLANNING AUTHORITY

Nick Grant,	Barrister, Landmark Chambers
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Saffron Loasby	Senior Planning Officer, MDC
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Micheal Johnson	Head of Service, MDC
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Cllr Tony Fittock	District Council Ward Member for Althorne Chairman of Latchingdon Parish Council, Chairman of The Dengie Hundred Group of Parishes.
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Cllr Adrian Fluker	District Council Ward Member for Southminster and Member of Southminster Parish Council
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INTERESTED PARTIES

John Langer	Local Resident
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Colin Stone	Local Resident
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Julie Saunders	Local Resident
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Partrick Cassidy	Local Resident
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Angela Cassidy	Local Resident
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Sharon Venneear	Local Resident
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Gordon Harrold	Chariman, Southminster Parish Council
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DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

- Certified copy of the Planning Obligation