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# Appeal Decision

Inquiry sat 21 – 23 and 28 June 2022

Site visit made on 23 June 2022.

**by Jonathan Price BA(Hons) DipTP MRTPI DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 October 2022**

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**Appeal Ref: APP/X1545/W/21/3280176**

**The Warren Golf Club, The Warren, Woodham Walter, Essex CM9 6RW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Warren Golf and Country Club against the decision of Maldon District Council.
  - The application Ref FUL/MAL/20/00519, dated 14 May 2020, was refused by notice dated 12 February 2021.
  - The development proposed is additional tourism and interrelated leisure development, comprising 70 holiday lodges with associated change of use of the land within two areas of the site, alterations to existing Bunsay clubhouse, extension to Bunsay car park and new golf academy.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council refused planning permission for five reasons. The fifth was over the absence of a means to secure payment of a Travel Plan monitoring fee. This is now addressed by a Unilateral Undertaking (UU) completed on 13 May 2022 under Section 106 of the Town and Country Planning Act 1990. The UU secures the fee for monitoring a Travel Plan, required by a condition suggested by the Council to satisfy policies S1 and T2 of the Maldon District Local Development Plan (LDP) by reducing private car travel and prioritising sustainable modes.
3. Prior to the Inquiry, the main parties submitted a Statement of Common Ground<sup>1</sup> (SoCG) over noise and disturbance from the Bunsay clubhouse redevelopment and the 50 holiday lodges to its south. As a result, the Council no longer sought to defend its third refusal reason. This was over the potential harm to the amenity of the area through noise, specifically that currently enjoyed by the nearest residential occupiers of Apple Cottage and Nos. 1 and 2 Hawkins Farm Cottages. Subject to conditions, the Council found no conflict with LDP policies E5, D1 and D2 in this regard. A main SoCG<sup>2</sup> had already confirmed that, subject to conditions, the alterations to Bunsay clubhouse, as well as the extension to its car park and the new golf academy, would be acceptable in design and landscape terms.
4. At the Inquiry, I requested further information to enable me to assess the proposal under the Conservation of Habitats and Species Regulations 2017 (as

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<sup>1</sup> Statement of Common Ground relating to Inspector's Issue 3: Noise and Disturbance – dated 16 June 2022.

<sup>2</sup> Core Document 92, signed up to by the main parties on 6 April 2022.

amended) (the Habitats Regulations). A revised UU, dated 8 September 2022, was subsequently provided. This commits a financial contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), should this prove necessary. The UU was an alternative to that provided originally, in the event I differed from advice given in the appellant's shadow Habitats Regulations Assessment<sup>3</sup> (sHRA) and found the RAMS contribution necessary. Once satisfied that the sHRA and alternative UU provided me the further information required, I closed the Inquiry in writing on 3 October 2022.

### **Main Issues**

5. Based on the Council's unresolved refusal reasons, the main issues in the appeal are
  - the effects of the holiday lodge proposal on the character and appearance of the area, including those of the 20 units east of 'Wayside' on its setting and significance as a non-designated heritage asset, and
  - whether there is an identified need for the 70 holiday lodges to support the proposal in an overall planning balance.

### **The proposal**

6. The proposal relates to part of a rural estate occupying gently undulating, wooded countryside west of Woodham Walter village. To the north, the proposals concern part of the Bunsay Golf club. Here the existing clubhouse is to be refurbished with extended food and drink facilities and redeveloped to provide indoor leisure activities. These would be in association with a holiday park containing 50 lodges within the fairways adjacent to the clubhouse, south of Little Baddow Road.
7. The lodges would be faced in black timber weatherboarding with steel roofing and accessed from Little Baddow Road via grasscrete drives running from the existing golf club entrance and extended car park. Aimed at short stay family holidays, these units would be within existing wooded sections of the golf course, to be reinforced with further tree planting. The fairway areas adjacent to Little Baddow Road and Common Road would be left open to provide space for informal recreation, enhanced biodiversity and landscaping. This would help screen the lodge accommodation in views from the public highway.
8. The other parts of the proposal are south of the Bunsay Golf course, beyond an intervening tree belt, at Warren Golf and Country Club. At this site, an existing complex of former estate buildings accommodates a golf clubhouse as well as holiday lets and wedding event space. Access to this is from Herbage Park Road to the south. This also serves an existing estate of around 100 holiday lodges, with on-site fitness centre, that occupies a former quarry. The further 20 lodges proposed in this southern part of the estate would be similar to those at Bunsay Golf club, only aimed at adult short breaks. These would occupy an open clearing within the central tree belt situated between the Golf and Country Club and the existing holiday lodge estate.

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<sup>3</sup> Shadow Habitats Regulations Assessment pursuant to Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) Ecology Solutions September 2022 Ref:10970.sHRA.vf.

9. The 20 lodges would be accessed from the track leading east from the Golf and Country Club complex, just beyond the outlying holiday dwelling at Wayside. The golf academy building would be on the other side of this track, closer to the main complex. This would accommodate a golf training centre, teaching and custom fit studios, floodlit practice bays, new short games areas, classroom and indoor putting studio.

## Reasons

### *The proposal's effects on the character and appearance of the area, including the setting and significance of Wayside*

10. The Warren Estate is within an area of wooded hills which straddles the local authority boundaries of Chelmsford and Maldon and contains the settlements of Little Baddow and Danbury. This landscape is defined as Little Baddow and Danbury Wooded Farmland in the local Character Area Assessments<sup>4</sup>. Taking this into account, the appellant has addressed the effects of the proposal through a Landscape and Visual Impact Assessment<sup>5</sup> (LVIA), prepared under relevant institute guidelines<sup>6</sup>. A SoCG<sup>7</sup> on landscape effects helps narrow down the differences between the main parties in respect of character and appearance.
11. The proposal lies within wider countryside agreed to be of high value and sensitivity to change. However, the wooded nature of the immediate landscape screens views from the surrounding open farmland. Both the proposed lodge parks would be sited adjacent to thick tree belts, such that they would cause only moderate harm to the value of this wider countryside.
12. This sparsely developed part of the Little Baddow and Danbury Wooded Farmland Area contains tracts of forest, open clearings and a network of often tree-lined lanes. As a landscape, this evokes a feeling of intimacy and tranquility and has a relatively high sensitivity to change. Part of the mosaic of open areas, which includes commons, pasture and heaths, have subsequently lent themselves to use as the fairways within the two golf courses. The golf courses have altered this landscape but in a relatively low-key manner, largely preserving the original patchwork of woodland and open land.
13. The 50 lodges would replace three fairways, including their more manicured elements, whereas the 20 lodges proposal would occupy a grassed clearing not part of the adjacent golf course. The 50 lodges would be arranged along sinuous drives and the 20 around a loop road, each in wooded surroundings. At the Inquiry, reference was made to these comparing positively with the 'serried ranks' of caravans normally encountered on more open coastal sites.
14. Although timber cladding provides a more subdued, rusticated exterior, the proposed units would, in my view, still be of a rather standard, static caravan appearance. There might be some similarity with the existing holiday lodge estate. Otherwise, in the context of this rather sparsely developed rural area, the numbers of lodges, their appearance and rather uniform, quite tightly packed arrangement would be alien to the predominantly rural character of this

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<sup>4</sup> Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments – Chris Blandford Associates September 2006.

<sup>5</sup> Greenlight Environmental Consultancy 13 November 2019

<sup>6</sup> Guidelines for Landscape and Visual Impact Assessment' (GLVIA3) – Landscape Institute and the Institute of Environmental Management and Assessment 2013

<sup>7</sup> Statement of Common Ground on Landscape Issues - June 2022

- area. Set beyond any established settlement and reflecting rather suburban housing layouts, neither lodge scheme would be of a form which reflected the historic rural settlement pattern. Accounting for the presence of the existing holiday lodge estate, the two further sites would comprise additional incursions of an incongruous character extending further into the heart of this partially wooded, rural landscape.
15. The sparsely developed character of this area provides relative tranquility. This enhances the peaceful appreciation of the rural surroundings and its natural history. The managed golf courses and associated development have no doubt already had some degree of impact on this peaceful, natural environment. However, the introduction of 70 lodges, with the activities and vehicular movements associated with holiday occupation, would inevitably create a significantly greater degree of harm, further disrupting the tranquil rural atmosphere. In all, I differ from the conclusions reached in the LVIA and consider that the 70 units would cause significant harm to the landscape character of this area.
  16. In relation to visual effects, the LVIA had assessed a suitably representative range of viewpoints around the site. In designing the scheme, care was taken to site the proposed lodges as unobtrusively as possible. The 50 lodges would be set back from the public highway towards the back of the golf course, where the site topography and adjacent tree belt provides screening. The lodges would be intermittently seen from Baddow Road to the north and Common Lane to the west and by users of the public right of way (PRoW) running along the eastern site boundary.
  17. There would be greater visibility during winter months, compared to the date of my site visit when vegetation was in full leaf. Screen planting would further enclose this area, diminishing a degree of interplay between the open and more enclosed wooded sections which forms part of the recognised landscape character. The 50 lodges and reinforced planting, in place of the open fairways, would detract from the satisfying views of open spaces, glimpsed between roadside trees and set against a backdrop of denser woodland.
  18. The 20 lodges would occupy a field set into a tree belt with dense woodland on three sides. They would remain highly visible to users of the PRoW running through an avenue of lime trees along the southern boundary of the site. There would be a significant visual impact of locating the 20 lodges on this meadow and foreshortening the sustained open views along this section of PRoW with screen planting.
  19. People using these various routes around the lodge proposals experience quite tranquil, undeveloped surroundings and would be generally highly susceptible to any visual change. In all, this proposal would have a significantly adverse visual impact upon the rural environment.
  20. The harm found to this sensitive rural landscape would conflict with LDP policies S1, S8, E5 and D1. This is insofar as these seek to protect the intrinsic character and appearance of the countryside by resisting tourism related development that would have a detrimental impact. This area is not a valued landscape by virtue of any statutory status or identified quality in the LDP. Nevertheless, these protective policies remain consistent with paragraph 174 b) of the National Planning Policy Framework (the Framework), in recognising

the intrinsic character and beauty of the countryside, and so I find no reason to give them reduced weight in this decision.

21. The detached house at Wayside is an outlier to the Warren Golf and Country Club complex. It fronts onto the PRoW next to the site for 20 holiday lodges. The Council's third refusal reason relates to the moderately adverse effect of these lodges upon its rural setting and significance as a non-designated heritage asset. Such harm would conflict with relevant parts of LDP policies S1, E5, D1 and D3. Framework Paragraph 203 requires I take account of the effects on the significance of this non-designated heritage asset in determining the appeal, making a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset. In a separate and very brief SoCG relating to these effects, the main parties agreed that the proposal's only heritage harm was to the significance of Wayside, where the pasture proposed to accommodate the 20 lodges was considered part of its wider setting, and this was now agreed to be limited.
22. In terms of its significance, Wayside falls considerably short of listable quality and the degree of harm caused by the 20 lodges to its setting would be limited. As a factor in this decision, this adds little further weight to the significant degree of harm already found to the character and appearance of the area from the total of 70 lodges proposed.

*Whether there is an identified need for the 70 holiday lodges to support the proposal in an overall planning balance*

23. The scheme would have a predicted net impact of £3.9 million and 97 full time equivalent jobs across three districts of Essex<sup>8</sup>. This was not disputed by the Council and offers some empirical substance to an assessment of need. Furthermore, the appellant had garnered evidence from a range of specialist advisors to the effect that this scheme would enhance Maldon's tourism offer. It would meet a particular demand for high quality, rural holiday lodge accommodation that would perform well during low season months, due to the availability of leisure opportunities, such as golf courses and activities like cycling and walking.
24. Currently, the evidence shows that most of the holiday parks in Essex are coastal, often more tightly packed, with occupancy skewed towards the summer season and without the associated rural leisure offer proposed at the Warren Estate sites. In this context, given the potential range of leisure activities on offer, this rural holiday park proposal would help attract further overnight and short-stay visitors throughout the year, particularly during the shoulder seasons.
25. The expert evidence provides reasonable substantiation over a gap in the market for the type of high-end holiday accommodation proposed. I am satisfied that this proposal would help to rebalance the current tourism offer in Maldon more towards provision of a less weather dependent, more all year round, short stay destination and away from the more commonly prevailing coastal static caravan park format.
26. I am satisfied that, on this basis, the appellant has demonstrated an identified need for the 70 holiday lodges proposed. However, to weigh the benefits of

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<sup>8</sup> Findings of Destination Research – undated.

- meeting this need in an overall planning balance requires me first to assess whether the proposal would accord with the development plan when considered as a whole.
27. The LDP recognises tourism to be a significant part of Maldon's economy and supports sustainable growth in this area. This is envisaged to help offset declines in other employment sectors and provide other benefits, such as supporting the rural economy. Policy E1 would provide general support for this proposal, insofar as it encourages employment generating developments and investment in the District. However, this policy is mainly concerned with directing employment to existing sites and allocating new space for jobs. It is less relevant to this proposal than Policy E5, which is specific to tourism.
  28. By demonstrating an identified need, the proposal meets one criterion upon which the support of LDP Policy E5 depends. However, because this is at the expense of a significant detrimental impact on the character and appearance of the area, there remains conflict with the terms of Policy E5, all criteria of which have to be satisfied. This is pertinent, given that Policy S8 restricts tourism development outside defined settlement boundaries to that supported by Policy E5, and only where the intrinsic character and beauty of the countryside is not adversely affected.
  29. Policy S1 commits to a positive approach to proposals, reflecting the Framework's presumption in favour of sustainable development. The proposal would gain support from its key principle to ensure a healthy and competitive local economy, including by providing sufficient flexibility for existing businesses in line with Maldon's needs and aspirations. However, Policy S1 embraces the social and environmental limbs to sustainable development, where a balance of factors comes into play and conflict is found, particularly with the principle to maintain the rural character of the District.
  30. LDP Policy D1 sets out the criteria for assessing design quality. The proposal meets those relating to amenity space, green infrastructure, noise, parking, pedestrian/cycle connectivity and the provision of physical activity. However, it gives rise to varying degrees of conflict with the criteria relating to character and local context, landscape setting, non-designated heritage assets and local distinctiveness, which bring about conflict with Policy D1. Insofar as there would be a limited degree of harm from the 20 lodges to the setting of the non-designated heritage asset at Wayside, this gives rise to a specific conflict with Policy D3.
  31. These policies broadly accord with those of the Framework and all can be afforded a significant degree of weight. The environmental harm from a conflict with protective countryside policies outweighs the economic and social benefits that gain some support. Assessed against Policy S1, the principle of sustainable development would not be achieved and this proposal would conflict with the LDP as a whole.
  32. The planning balance rests, therefore, on whether material considerations indicate the appeal be determined otherwise than in accordance with the development plan. There would be quite significant benefits to the local economy from this scheme, through enhancing the local tourism offer with an improved choice of accommodation and addressing a gap in the market for this kind of high-quality, year-round rural experience.

33. However, the 70 lodges would further erode the tranquil, rural character of this sparsely developed landscape, with its characteristic patchwork of open and wooded areas. This significant environmental harm would outweigh the economic and social benefits arising from this proposal. The material considerations would thus not indicate the appeal should succeed, given the decisive conflict with both development plan and Framework policies.

### **Habitats Regulations**

34. The proposal is sufficiently close to the Blackwater Estuary Special Protection Area and Ramsar site for there to be a pathway for the likelihood of indirect disturbance to their qualifying species as a result of increased recreational pressure. To allow the appeal would depend on my concluding that, in combination with other plans or projects, the 70 holiday lodges would have no adverse effect on the integrity of these protected sites. However, given the decision reached on the appeal for other reasons, there is no necessity for me to proceed further with a finding on this particular matter.

### **Conclusion**

35. For the reasons given, the appeal is dismissed.

*Jonathan Price*

INSPECTOR

### **DOCUMENTS SUBMITTED TO THE INQUIRY**

1. Opening Statement by Tom Cosgrove KC on behalf of the appellant.
2. Opening Statement by Matthew Fraser on behalf of Maldon District Council (MDC).
3. VOWEL Group Inquiry statement.
4. Inquiry statement Woodham Walter Parish Council.
5. Certified copy of Unilateral Undertaking of 13 May 2022 by appellants to MDC and ECC for transportation payments.
6. Tourism Need Assessment for holiday lodges at The Mill Beach Public House and adjacent land, Goldhanger Road, Heybridge, Essex CM9 4RA – Avison Young July 2020.
7. Closing Statement by Councillor James Rushton on behalf of Woodham Walter Parish Council.
8. Closing Statement by Matthew Fraser on behalf of MDC.
9. Closing Statement by Tom Cosgrove KC on behalf of the appellant.

10. Email from Natural England dated 11 August 2022, providing advice as to whether the proposal is likely to have significant effects on the European Sites at the Essex Coast.
11. Unilateral Undertaking relating to a financial contribution for transportation measures and a RAMS Contribution relating to the appeal proposal.
12. Shadow Habitats Regulations Assessment pursuant to Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), by Ecology Solutions, September 2022, Ref:10970.sHRA.vf.

## **APPEARANCES**

### *FOR THE APPELLANT:*

Mr Tom Cosgrove of King's Counsel

He called

Clive Simpson BA (Hons) MRTPI - Clive Simpson Planning Limited

Jo Wild BA (Hons), MA (Landscape Architecture) - Greenlight Environmental Consultancy

Gail Stoten BA(Hons) MIfA FSA - Executive Director (Heritage) Pegasus Group

Steve Skingle BSc, Diploma in Acoustics & Noise Control - SLR Consulting

Adele Devonshire BSc(Hons) MSc MCIEEM - EECOS (the ecological consultancy of the Essex Wildlife Trust)

Steven James Williamson BEng MICE MIHT - Associate at Intermodal Transportation

### *FOR THE LOCAL PLANNING AUTHORITY:*

Mr Matthew Fraser of Counsel

He called

Matthew Leigh BA(Hons) MA MRTPI - Lead Specialist Place, MDC

Tim Howson BA(Hons) Dip Bldg Cons(AA) IHBC - Specialist, Conservation and Heritage MDC

### *INTERESTED PARTIES:*

Councillor James Rushton                      Chairman of Woodham Walter Parish Council

Councillor John Tompkins                      Woodham Walter Parish Council

Robert Jones                                      Villagers Opposing Warren Estate Lodges (VOWEL)