
Appeal Decision

Site visit made on 29 October 2019 by Emma Worby BSc (Hons)

Decision by Andrew Owen BA (Hons) MA MRTPI

appointed by the Secretary of State

Decision date: 13 December 2019

Appeal Ref: APP/P1560/W/19/3234819

85 Salisbury Road, Holland On Sea CO15 5LS

- 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 Mr John Coley against the decision of Tendring District Council.
 - The application Ref 18/02072/FUL, dated 17 December 2018, was refused by notice dated 14 June 2019.
 - The development proposed is a three-bedroom bungalow.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeals Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Application for costs

3. An application for costs was made by Mr John Coley against Tendering District Council. This application is the subject of a separate Decision.

Main Issue

4. In addition to the reason for refusal identified by the Council within their decision notice, the parties accept that the appeal site is located within the Zone of Influence of the Hamford Water RAMSAR site and Special Protection Area, and the Essex Estuaries Special Area of Conservation and therefore the impact of the development on these European designated sites needs to be considered. In addition, during the appeal, the Council raised concerns in respect of the effect on the outlook from neighbouring properties, and concerns these were shared by local residents. Therefore, the main issues in the appeal are:
 - the effect of the proposed development on the European designated sites;
 - the effect of the proposed development on the character and appearance of the area; and
 - the effect of the proposed development on the living conditions of the occupants of the neighbouring properties with particular reference to outlook and light.

Reasons for the Recommendation

European designated sites

5. The appeal site lies within the Zone of Influence of Hamford Water RAMSAR site and Special Protection Area, and the Essex Estuaries Special Area of Conservation which are European designated habitat sites. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) requires a financial contribution to be made to mitigate against the significant harmful recreational impact from the occupiers of new dwellings on the integrity of these sites which seek to protect internationally important numbers of breeding and non-breeding birds, and their coastal habitats.
6. Although a unilateral undertaking has been provided which seeks to secure this financial contribution, the copy before me has not been signed, despite my request for a signed copy to be provided. Therefore the undertaking before me can have no legal effect and it cannot be taken into account. Consequently, there is no mechanism to secure the necessary mitigation for the effect of the proposed development on the European designated sites.
7. Accordingly, without the mitigation, I can only conclude that the proposal would be likely to have a significantly harmful impact upon the integrity of the European designated sites. As such it would be contrary to Policies EN6 and EN11a of the Tendring District Local Plan (2007), and Policy PPL4 of the emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) which all seek to protect existing biodiversity and resist development which would be likely to have an adverse effect on the integrity of sites designated for their international, European and national importance to nature conservation.

Character and Appearance

8. The appeal site forms part of the land currently associated with the existing dwelling at 85 Salisbury Road. It is currently occupied by a detached garage and a timber shed with parking to the front and garden to the rear. The proposal seeks to remove these existing outbuildings and to construct a single storey detached dwelling. The surrounding area is residential in nature with examples of bungalows, chalet bungalows and two storey dwellings within the locality.
9. The proposed bungalow would be situated between the rear of the existing properties along Princes Road and the adjacent dwelling on Salisbury Road with the dwelling being located at least 1 metre from the boundary on both sides. The proposal has been designed to fit within a relatively narrow site. However it is not considered that the proposed dwelling or the site itself would be overly narrow in appearance and the dwelling would not appear contrived within its setting or out of character within the streetscene, where there are a number of narrow bungalows. A sufficient amount of space has been provided either side of the proposed dwelling in accordance within the minimum requirements of Policy HG14 of the Tendering District Local Plan (2007) and it would be set back a good distance from the front boundary of the site, which would reduce its overall impact upon the streetscene.
10. Accordingly, I find that the proposal would not harm the character and appearance of the surrounding area. As such, it would not be in conflict with

Policy HG14 of the Tendring District Local Plan (2007) which seeks to ensure that new development is appropriate within its setting and does not create a cramped appearance, and the design objectives within the National Planning Policy Framework (the Framework).

Living Conditions

11. Concerns were raised that the proposed development would have an overbearing impact on the occupiers of the dwelling at 3 Princes Road and would result in a loss of sunlight to the property. The proposed dwelling would be single storey in nature and would have a hipped roof design which would slope away from the boundary with the properties along Princes Road. Furthermore, as the side boundary of the appeal site is also the rear boundary of the neighbouring property at 3 Princes Road, the proposed development would be some distance from the house at No 3. Due to these factors, it is not considered that the proposal would have an overbearing impact on, or result in a significant loss of light to, the occupiers of No3 or the other properties on Princes Road which would abut the boundary of the appeal site.
12. Therefore, I find that the proposal would not harm the living conditions of the occupiers of the neighbouring dwellings and would not be in conflict with Policy HG14 of the Tendring District Local Plan (2007) which seeks to safeguard the amenities and aspect of adjoining residents.

Other Matters

13. It is not disputed that the Council cannot demonstrate a five years supply of housing. The proposed dwelling would therefore contribute to this shortfall in housing supply whilst making efficient use of the land within a sustainable location in terms of distance to facilities. However, the proposal relates only to the addition of one dwelling and therefore would not make a significant contribution to the housing stock.

Planning Balance, Conclusions and Recommendation

14. Overall, although no harm has been found to the character and appearance of the area or the living conditions of the occupants of the neighbouring properties, and the proposal would provide an additional dwelling at a time when the Council cannot demonstrate a sufficient supply, the proposal would have a significant impact on the integrity of the nearby European designated Sites and no mitigation can be secured.
15. Paragraph 11 (d)(i) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 identifies that RAMSAR sites, SPAs and SACs are areas of particular importance and chapter 15 of the Framework seeks to protect these habitat sites. Indeed, chapter 15 explicitly states the presumption in favour of sustainable development does not apply when the proposal is likely to have a significant effect on habitat sites.
16. The application of those policies in chapter 15 provides a clear reason for refusing the proposal. Therefore, for the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR