
Appeal Decision

Site visit made on 18 August 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/X1545/W/20/3251010

Ivystone Cottage, Back Road, Tollesbury CM9 8TW

- 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 Mrs Helen Scott against the decision of Maldon District Council.
 - The application Ref FUL/MAL/19/01277, dated 5 December 2019, was refused by notice dated 17 February 2020.
 - The development proposed is the conversion of a hay barn and stables to a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted a Unilateral Undertaking (the UU) with the appeal. However, this was not dated, the mortgagee did not sign, and the site address was incorrect. The UU is therefore incomplete and has no weight.

Main Issues

3. The main issues are:
 - the effect of the proposal on the integrity of the relevant European Protected Sites;
 - whether or not the proposed development would provide a suitable site for a house, particularly in regard to the character and appearance of the area; and
 - the effect of the development on highway safety and the efficient operation of the highway network in the vicinity of the appeal site, particularly in regard to car parking.

Reasons

Habitats

4. The site falls within the Zone of Influence for the Blackwater Estuary Special Protection Area (SPA) and Ramsar, the Dengie SPA and Ramsar, and the Colne Estuary SPA and Ramsar (collectively 'the Sites'), as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS). These are European Designated Sites.
5. Natural England (NE) have stated that new residential development in this area is likely to have a significant effect on the sensitive interest features of the

Sites, through increased recreational pressure when considered in combination with other plans and projects. The proposed dwelling would therefore, both on its own and in combination with other development projects, be likely to have significant effects on the integrity of the Sites. As the Competent Authority, and in accordance with the Conservation of Habitats and Species Regulations 2017, I have therefore undertaken an Appropriate Assessment.

6. The Sites provide habitat for a large number of breeding and non-breeding birds. The conservation objectives include to maintain and restore the habitats and therefore the population and distribution of a number of wild birds. The mitigation measures proposed in the RAMS are to increase the resilience of the Sites to recreational pressure, including through education and awareness raising, fencing, waymarking and screening, controlling access, and greater enforcement of the rules and regulations.
7. I have considered the proposed measures to mitigate the potential for significant impacts, and I am satisfied that these would be effective in ensuring that the proposal would cause no adverse effect on the Sites. In order to fund and deliver the necessary mitigation a payment would be required. A payment has already been made by the appellant directly to the Council. The Council have confirmed that they are content that this payment meets the obligations of the appellant in relation to this issue and that the payment will be used in relation to the mitigation measures. However, the required payment is £125.58, as confirmed by NE, and the submitted payment was only £122.30. In the absence of a suitably worded and executed legal agreement, I also cannot be certain that the requisite mitigation would be secured.
8. Therefore, I am not satisfied that it has been demonstrated that there would be no adverse effect on the integrity of the Sites. The proposal consequently fails to comply with the relevant parts of Policies D1, S1, N1, and N2 of the Maldon District Approved Local Development Plan 2014-2029 (the LP) which, amongst other criteria, seek the protection of habitats and biodiversity. The proposal also fails to comply with the relevant parts of Paragraphs 175 and 176 the National Planning Policy Framework (the Framework) which, amongst other criteria, seeks to avoid harm from development to biodiversity without adequate mitigation.

Location, character and appearance

9. The site is a former hay barn and stables which are vacant and in a relatively poor state of repair, an area of mown grass to the rear enclosed by established hedgerows, and an entrance driveway shared with the adjacent Ivystone Cottage dwelling. The appeal building feels independent of the cottage to a degree, due to its location to the rear of the site and agricultural appearance and character. However, the barn is relatively small and shares an intimate setting with the cottage. The barn, dwelling, and an outbuilding associated with the cottage are located close to one another and are perceived as being part of the same group of buildings.
10. It is proposed to change the use of the barn into a 4-bed house, with associated new fenestration, predominantly to the south and west elevations although also with glazing to the north elevation and roof lights to the eastern slope of the roof. Car parking would be provided to the front of the property, and the mown grass area to the rear turned into a garden.

11. Policy S8 of the LP supports development outside settlement boundaries where the intrinsic character and beauty of the countryside would not be adversely impacted upon and in a set number of criteria, one of which is relevant to the appeal which is for the re-use of a redundant or disused building that would lead to an enhancement to the immediate setting.
12. The proposal would undeniably domesticate the barn and the garden area. However, the proposed works to the barn would be fairly limited and would use existing doors and openings where possible, reflecting the existing detailed design of the barn. The rooflights would be small and relatively inconspicuous. There would be a degree of change from a rural to a domestic character, but the well-considered detailing, respectful to the original design and character of the barn, would limit this. The character and appearance of the barn would only be subtly altered.
13. The proposed garden area would be in a relatively narrow and small, closely mown, grass area flanked by substantial and established hedgerows. This already feels separate from the surrounding fields in character and appearance. There would be some domestication and likely the introduction of residential paraphernalia, but this would only result in a marginal change in character. This area is also screened by the existing established hedgerow. I acknowledge that this is not a permanent feature, but a condition and landscaping plan could control the detail of this. Even if it became less substantial over time, any change in character to this area would be limited in any event.
14. The appeal site is perceived in the context of the existing Ivystone Cottage, as such that it already has a residential setting. The proposal would enhance this immediate setting through the refurbishment of the barn, with only subtle design alterations that would be respectful of its design and character.
15. The proposal would therefore be a suitable site for a house because the works are for the re-use of a disused building, would enhance their setting, and would not harm the intrinsic character and beauty of the countryside, and therefore the character and appearance of the area. The proposal therefore complies with the relevant parts of Policies S1, S8, D1, and H4 of the LP which, amongst other criteria, seek high quality design, and to optimise the use of land. The proposal also complies with Chapter 12 and Paragraph 79 of the Framework which, amongst other criteria, seek high quality design and reflect Policy S8 in relation to the re-use of disused buildings to enhance their immediate setting in the countryside.

Highway

16. Two car parking spaces are proposed, which falls short of the minimum standard of 3 spaces for a 4-bed dwelling, as set out in the Vehicle Parking Standards SPD 2018 and Policy T2 of the LP. However, there is space on the site for a third car to park, parallel to the end of the 2 proposed spaces. This would lead to a certain amount of double parking leading to the potential for slightly convoluted vehicle movements. However, because the spaces would all be serving one family dwelling it is not unreasonable to expect a certain degree of manoeuvring between cars in order to facilitate access and egress. The driveway and courtyard area in front of the barn would allow for such vehicle movements without affecting the highway. Back Road is a relatively narrow country lane and by its very nature would not allow for parking on the road or be likely to be used as such by future occupants.

17. Consequently, although the proposal does not meet the technical parking standards, it is not likely that the proposal would lead to on-street car parking and it would not therefore harm highway safety or the efficient operation of the highway network. Therefore, while there is conflict with the technical car parking standards, the proposal complies with the relevant parts of Policies S1, D1, and T2 of the LP which, amongst other criteria, require sufficient, safe, and secure car parking.

Planning Balance

18. The proposal is for the re-use of a disused building and would make efficient use of land. The design of the proposal would enhance its setting and the intrinsic character and beauty of the countryside would not be harmed. These factors weigh in favour of the proposal. The provision of a dwelling would provide temporary economic benefits from the construction works, and long-term benefits from the increased use of local services and facilities by the future occupants of the dwelling. It would also contribute to meeting the Council's housing land supply. These factors also weigh in favour of the development, although the benefits are limited because only one dwelling is proposed.
19. That the provision of car parking would be acceptable is neutral in the planning balance.
20. The site is not readily accessible to local services or facilities by foot or public transport, and the majority of the trips generated by the proposal would be by car. This weighs against the proposal. There is a risk of their being adverse effect on the integrity of the Sites that could lead to harm to biodiversity. Paragraph 175 of the Framework directs that planning permission should be refused in such circumstances. Because of this and because of the high level of significance of such sites, I give this factor substantial weight.
21. Overall, in the absence of a means of securing the necessary mitigation in relation to the potential effect on the integrity of the Sites, the negative aspects outweigh the positive factors that the scheme would bring.

Conclusion

22. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR