
Appeal Decision

Site visit made on 12 October 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/A1530/W/20/3259616

Beckton House Farm, Barnhall Road, Salcott, Colchester CM9 8HF

- 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 Grace Bevan against the decision of Colchester Borough Council.
 - The application Ref 200098, dated 16 January 2020, was refused by notice dated 18 March 2020.
 - The development proposed is described as 'Proposed retention of two bedroom additional living accommodation as stand alone.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal proposal would allow the use of an existing domestic building as an independent dwelling. The building is fitted out with a kitchen and bathroom as well as bedrooms and a living room. No external works are proposed. The appellant's statement refers extensively to the history of the building. For the avoidance of doubt, my decision is based on the planning merits of the proposal having regard to the development plan and material considerations. It does not convey any opinion or conclusion on whether or not the use is immune from enforcement action.
3. The National Planning Policy Framework (the Framework) has been revised since the parties submitted their statements. Both parties were given the opportunity to comment on the relevance of the changes. Where necessary, I have referred to appropriate paragraph numbers of the revised Framework and these are generally consistent with the earlier paragraph numbers cited by the Council.

Main Issues

4. The main issues are whether the proposal would:
 - be likely to have a significant effect or an adverse effect, alone or in combination, on a number of Essex Coast Special Protection Areas or, if necessary, provide satisfactory mitigation;
 - be suitably and sustainably located having regard to national and development plan policies;
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- make adequate provision for community facilities.

Reasons

Special Protection Areas

5. The appeal site falls within the Zones of Influence for the Colne and Blackwater Estuaries and Dengie Special Protection Areas (SPAs) and Ramsar sites as defined in the draft Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Published Habitats Regulations Assessments have identified recreational disturbance as an 'in-combination' effect resulting from planned and un-planned growth including a net increase in dwelling numbers. Natural England therefore recommends a strategic approach to mitigation along the Essex coast. The RAMS seeks to deliver this mitigation through the payment of a financial contribution.
6. These matters are not disputed by the appellant, although a Planning Obligation to secure the contribution has not been submitted. Rather it is suggested that a condition could be used to require the planning obligation. However, the Planning Practice Guidance (PPG) is clear that conditions requiring an appellant to enter into an obligation are unlikely to be appropriate. The appeal proposal is not a 'particularly complex development' of the sort cited in the PPG as an example of an exceptional circumstance where a negatively worded condition may be appropriate.
7. No other mitigation proposals have been put forward. In the absence of a completed planning obligation therefore, the proposal would be likely, in combination with other development, to significantly affect the SPAs. As such it would not accord with the Conservation of Habitats and Species Regulations 2017. It would also be contrary to Policy ENV1 of the Borough's Core Strategy (Revised 2014) (CS) and Policy DP21 of its Development Policies (DP) which seek to conserve and enhance the coastline and safeguard the Borough's biodiversity.

Whether suitably and sustainably located?

8. Policies SD1 and H1 of the CS seek to direct growth to the most accessible and sustainable locations in accordance with a settlement hierarchy and a spatial distribution which do not refer to locations outside of settlement boundaries. Policy ENV2 of the CS supports rural housing development within settlement boundaries.
9. The Council has expressed concern that the appeal building is not located within a settlement boundary and not well located for local facilities and services. It considers that future occupiers would need to rely on the use of a private car, contrary to the principles of sustainable travel. However, the appeal building is fully equipped and has independent access. As such, even in its current use, its occupiers do not need to rely on its relationship with the main house in order to access local services and facilities. Consequently, there is no reason to expect that allowing the building to be used as an independent dwelling would lead to a significant number of additional trips by private car.
10. Policy SD1 also seeks the efficient use of land and gives priority to previously developed land and minimising pressure on the natural and built environments and infrastructure. The appeal building is an established structure within the curtilage of an existing dwelling and therefore, amounts to previously

developed land. It is flanked by other dwellings such that, although it does not form part of a settlement, the appeal building is not isolated and does not encroach on the countryside. There is no substantive evidence to show that the appeal proposal would put pressure on the natural or built environments or infrastructure.

11. Consequently, although the broad thrust of the policies cited by the Council and Framework paragraph 80 seek to promote development within settlement boundaries, the particular characteristics of the appeal proposal means that it is not at odds with their underlying aims. Therefore, I conclude that the proposal does not conflict with CS Policies SD1, H1 and ENV2 or Framework paragraph 80.

Community facilities

12. Policy SD2 of the CS requires development to provide the necessary community facilities, open space, transport infrastructure and other requirements to meet the community needs arising from the proposal. The policy anticipates that this will be delivered through a planning obligation. The Council's Supplementary Planning Documents on the Provision of Community Facilities and Provision of Open Space, Sport and Recreation set out formulas for making financial contributions through planning obligations.
13. However, as the Council's statement makes clear, no projects suitable to receive financial contributions from the proposal have been identified. Nor has it been adequately demonstrated that the proposal would put pressure on community facilities. Notwithstanding that this may be a consequence of the site's location, a contribution in these circumstances would not meet the tests at Regulation 122(2) of the Community Infrastructure Regulations 2010 and Framework paragraph 57. These require obligations to be necessary to make the development acceptable in planning terms and directly related to the development. Therefore, the proposal would not conflict with CS Policy SD2.

Conclusion

14. I have found that the proposal would be suitably and sustainably located and that it is not necessary to make provision for community facilities. Nevertheless, neither these matters, nor the very modest contribution that the proposal would make to the supply of housing, would outweigh its unmitigated effect on the Essex Coast Special Protection Areas. For this reason, the appeal should be dismissed.

Simon Warder

INSPECTOR