



Appeal Decision

Site visit made on 18 January 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 FEBRUARY 2022

Appeal Ref: APP/P1560/W/21/3277434

Site adjacent no. 1 Hereford Court, CLACTON-ON-SEA, CO15 5PB

- 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 & Mrs Panrucker against the decision of Tendring District Council.
 - The application Ref 21/00089/FUL, dated 5 January 2021, was refused by notice dated 16 April 2021.
 - The development proposed is detached bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for detached bungalow at Site adjacent no. 1 Hereford Court, CLACTON-ON-SEA, CO15 5PB in accordance with the terms of the application, Ref 21/00089/FUL, dated 5 January 2021, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.
3. Since the Council issued its decision, it has adopted Section 2 of the 2013-33 and Beyond Local Plan on 25 January 2022. Therefore, the 'development plan' for Tendring District Council now comprises the adopted Section 1 and Section 2 of the Tendring District Council 2013-33 and Beyond Local Plan (LP).
4. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The policies in the LP supersede some of those referred to in the Council's delegated report. The appellant had an opportunity to address these changes in policy.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. Hereford Court comprises a group of distinct dwellings, originally built as holiday accommodation in the style of Swiss chalets. The dwellings were laid out with their gardens located to the front. Information provided by the Council indicates that originally, they were grouped around a tennis court, which no longer exists.
7. The site is accessed off Hereford Road and on entering Hereford Court the area is dominated by boundary fencing, car parking and hard surfacing. The garden of 1 Hereford Court is partly visible but as a result of its enclosure with boundary fencing is not open and does not contribute to or provide a well-preserved character of the original development. From within Hereford Court glimpsed views are possible of some of the other dwellings, through gaps provided between parked cars.
8. Whilst it is possible to gain a sense of how the front garden areas would have functioned together when originally planned and that open landscaping would have been a feature of the original development. This has been eroded as a result of the subdivision of the existing front gardens, presumably to offer privacy to the existing occupiers, and the need for parking to be accommodated.
9. Therefore, whilst the loss of the well-established garden is regrettable, the introduction of a single storey bungalow, which would front onto Hereford Road by virtue of its modest size and scale would not result in harm to the character and appearance of the area. The proposed development would not be incongruous or out of character when viewed from Hereford Road and would not be detrimental to the appreciation of the development in Hereford Court with glimpsed views of the existing dwellings remaining possible.
10. Having regard to the overall size of the plot, there remains a good level of spacing between both 1 Hereford Court and the access to Hereford Court. The proposed dwelling is set back slightly from the road to enable landscaping to be provided to soften the overall appearance of the frontage. Having considered the general character of development within the locality, the overall spacing would not be dissimilar to other examples along Hereford Road.
11. I therefore conclude that the proposed development would not harm the character and appearance of the area. The development would comply with policies SPL3 and SP7 of the LP which together require development to meet high standards of sustainable and urban design and to respond positively to local character and context.
12. The development would also accord with policies SPL1 and SPL2 which seek to encourage sustainable patterns of growth and that within settlement boundaries there will be a general presumption in favour of development.

Other Matters

13. I have also taken into account the matters raised in the representations received including issues such as noise and disturbance, inadequate parking, potential damage to a private road during construction and light pollution.

14. However, the development would not cause a material increase in noise and disturbance or light pollution in comparison to the existing situation. The site has adequate space for parking, and this would be similar to that which exists for the other dwellings along the access road.
15. In respect of concerns regarding the potential disruption during construction, this is adequately controlled by condition. Concern has also been raised relating to the impact on nature, however there is no evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council.
16. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Hamford Water RAMSAR, Special Area of Conservation and Special Protection Area

17. The appeal scheme proposes a dwelling on a site that lies within the Zone of Influence of the Hamford Water RAMSAR, Special Area of Conservation and Special Protection Area. (HW)
18. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the HW. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
19. Since the development is for a single dwelling, the number of additional recreational visitors would be limited and the likely effects on HW from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
20. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
21. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned site. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
22. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on HW.

23. The appellants have submitted a Unilateral Undertaking for the per dwelling contribution of £127.30 to fund the Essex Coast RAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
24. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

Conditions

25. The Council has suggested 17 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.
26. Given the proximity to other dwellings I have imposed a condition requiring the submission of a Construction Method Statement.
27. In order to ensure an appropriate level of on-site parking provision for vehicles, I have imposed a condition requiring the parking area to be provided prior to occupation of the dwelling and retained for the life of the development. Furthermore, in order to support the government's objective of increasing sustainable transport I have imposed a condition to ensure an electric charging point for vehicles is provided.
28. In order to ensure appropriate standards of highway safety, the access to be constructed in accordance with the approved plans, including appropriate visibility splays and implemented prior to the occupation of the dwelling. For the same reason I have also imposed conditions to prevent any obstruction of the approved visibility splays.
29. I have not found it necessary to impose a condition requiring the submission of a travel pack as I have not been provided with any detailed justification for this requirement.
30. I have not imposed a condition removing permitted development rights as the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights "will rarely pass the test of necessity and should only be used in exceptional circumstances". I have not been provided with adequate justification to suggest that there are exceptional circumstances for such a restriction and therefore do not consider it is necessary in this instance.

Conclusion

31. For the reasons given above I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1/HCH/1; 1/HCH/2
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - delivery, demolition and construction working hours;
 - a scheme to control noise and vibration during the construction phase, including any piling operations.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development above slab level shall take place until details of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The dwelling shall not be occupied until a means of access for vehicles shall have been constructed in accordance with the approved plans, including 1.5m x 1.5m pedestrian visibility splays. The access shall be retained thereafter.

- 8) The dwelling shall not be occupied until the area shown on drawing no. 1/HCH/2 for parking has been drained and surfaced and provided with electric charging infrastructure, in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall thereafter be kept available at all times for those purposes.
- 9) No structure or erection shall be placed within a 2.4m wide parallel band visibility splay as measure from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the road junction/access is first used by vehicular traffic and retained free of obstruction at all times.
- 10) No shrubs, trees or other vegetation shall be allowed to grow within 1 metre of the sight lines referred to in condition 9 or the highway boundary.

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