



Appeal Decision

Site visit made on 16 January 2023

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/W1525/W/22/3297035

The Barn, White Elm Road, Bicknacre, Chelmsford CM3 4LR

- 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 C Clark against the decision of Chelmsford City Council.
 - The application Ref 21/01865/FUL, dated 8 September 2021, was refused by notice dated 8 November 2021.
 - The development proposed is demolition of existing outbuildings and creation of one new detached chalet bungalow including new access.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuildings and creation of one new detached chalet bungalow including new access at The Barn, White Elm Road, Bicknacre, Chelmsford CM3 4LR in accordance with the terms of the application, Ref 21/01865/FUL, dated 8 September 2021, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by the Council against Mr C Clark, which is the subject of a separate decision.

Preliminary Matters

3. In an attempt to address the Council's first refusal reason, a technical note including automatic traffic counter survey results and a drawing showing visibility splays¹ has been provided with the appeal. Additionally, in relation to the second refusal reason, proof has been provided that a payment has been made to the Council, which is intended to be for use in mitigating the potential impacts of the development on the integrity of 'habitats sites', as described in the glossary to the National Planning Policy Framework (Framework).
4. These matters do not have the effect of changing the development on the ground and the Council has been able to comment on them. In addition, the Highway Authority has responded to the technical note and Natural England's views have been sought in relation to habitat sites. Moreover, no objections were made by individual local neighbours to the planning application and interested parties have had an opportunity to consider the matters as a result of the appeal notification process. I have therefore taken the technical note and payment into account, as prejudice does not arise in doing so.

¹ Drawing Ref: 2179/01 Rev A

5. The Council has confirmed that its refusal reasons are addressed by the technical note and the payment. Nevertheless, I must be convinced that the proposal is satisfactory in respect of the matters identified in the refusal reasons. The main issues set out below are framed accordingly.

Main Issues

6. The main issues are: (i) the effect of the proposed access arrangement on highway safety, with particular regard to visibility; and (ii) the effect of the proposal on the integrity of habitats sites.

Reasons

Access arrangement

7. The site features a pedestrian and vehicular access from the B1418. The carriageway bends relatively sharply near the southern side of the access. A wide grass highway verge is present on the inside of the bend in that direction. The carriageway is comparatively much straighter on the northern side of the access and features a narrow verge with trees and vegetation alongside it. A junction with Slough Road is offset from the access on the opposite side of the B1418. Near the site the B1418 is unlit, has no footway and has a 40 miles per hour speed limit.
8. The existing access would serve only the proposed property. In 2021 a scheme² was approved that would enable both the existing property and an additional one to be served by the existing access without significant alterations. As the scheme before me only proposes that the existing access would be served by one dwelling, the use of the access would have lesser effects on the highway in comparison. Moreover, use of the existing access in association with the proposed one cannot be objectionable given that it serves a dwelling currently.
9. Slightly to the north a new access is proposed to serve the existing property and the surrounding fields. The new access would be further from Slough Road than the existing one and there is no objective evidence indicating that there would be highway safety issues from conflicts with that road.
10. Visibility on the northern side of the new access would be satisfactory due to the speed limit and the relatively straight alignment of the carriageway. A sufficiently large visibility splay would be provided in that direction. It was clear from my visit that vehicles slow down around the carriageway's bend to the south. Furthermore, the appellant's survey results indicate that the 85th percentile vehicle speed from that direction towards the access is 28.5 miles per hour. A visibility splay would be achieved to the south of the new access that would exceed the Manual for Streets standard of 2.4 metres by 40 metres for the surveyed vehicle speeds. There is nothing before me which indicates that the visibility splays would become obstructed. Accordingly, in the interests of highway safety, a condition could be used to ensure that the visibility splays for the new access would be retained unobstructed, and thus satisfactory intervisibility for pedestrians and vehicle users would be achieved.
11. A pre-commencement condition to ensure that construction processes would be appropriately managed would also be needed for highway safety purposes.

² Council reference: 20/01816/OUT

Likewise, further conditions would be needed to require the provision of the access, parking and manoeuvring areas and that no unbound materials would be used for the surfacing of the new access. The Council and the Highway Authority have recommended that the accesses are not less than 5.5 metres wide, but such widths are not proposed. Based on the evidence before me including the aforementioned approved scheme, and having regard to the widths and uses of the accesses, the size of the visibility splays, and the characteristics of the existing access, such a condition would be unnecessary.

12. The proposed access arrangement would not be harmful to highway safety. It accords with paragraphs 110 and 111 of the Framework, which state that safe and suitable accesses to sites should be achieved for all users and that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Habitats sites

13. Natural England has confirmed that the site is within the zones of influence of the Blackwater Estuary Special Protection Area and Ramsar site, and the Essex Estuaries Special Area of Conservation, which provide coastal and estuarine habitats and support fauna and flora including breeding and non-breeding birds, invertebrates, and scarce plant species.
14. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (RAMS) provides details in relation to the abovementioned and other habitats sites and sets out a programme of strategic measures that are intended to mitigate the effects of residential development across Essex. Without mitigation, the proposal would adversely affect the integrity of the habitats sites by means of increased visitors and therefore recreational activity, in combination with other plans and projects.
15. Natural England advises that it can be concluded that the proposal would not harm the integrity of the habitats sites, subject to a contribution of £137.71 being secured to provide mitigation in line with the RAMS. The evidence leads me to conclude the same. The payment made was for the amount identified and I see no reason to doubt that the Council would use it in accordance with the RAMS mitigation measures prior to the occupation of the dwelling.
16. Therefore, the proposal would not adversely affect the integrity of habitats sites. It accords with Policy DM16 of the Chelmsford Local Plan (LP), which seeks to conserve and enhance the network of habitats, species and sites at all scales of importance and supports contributions in line with the RAMS. It also accords with Chapter 15 of the Framework, which aims to conserve and enhance the natural environment.

Other Matters

17. The drawings indicate that a pond within the site would be reduced in size. Concerns are raised that this would harm biodiversity and reduce water supply to an adjacent willow tree. However, the pond is considered in the appellant's Preliminary Ecological Appraisal. Subject to a condition to require the recommendations of the appraisal to be carried out to mitigate any impacts on protected habitats and species and provide biodiversity enhancements, the proposal would be acceptable in terms of ecological considerations.

Additionally, the pond would remain close to the willow tree, and there is nothing compelling before me which indicates that it would be significantly harmed either directly or indirectly by the development.

Conditions

18. I have considered whether the conditions recommended by the Council and other parties satisfy the tests for conditions identified at paragraph 56 of the Framework. In order to satisfy those tests, minor editing of some of the conditions is necessary. In addition to the ones already identified, the standard time limit condition is required for certainty. Additionally, as the surfacing materials for the proposed dwelling are specified on the drawings, a plans condition is needed for both clarity and to ensure the development integrates successfully into its surroundings.
19. In the interests of human health, a condition is needed to ensure that any contaminated land is dealt with appropriately before construction begins. Additionally, so that the proposal integrates successfully into its surroundings, conditions are needed to require the approval of details relating to any landscaping to be retained and provided and the boundary treatments to be installed. A further two are needed to limit water usage for environmental sustainability purposes and provide cycle parking to promote sustainable transport use. In addition, a ditch is located alongside the carriageway and so a condition is needed to ensure that it is appropriately piped or bridged beneath the proposed access in the interests of managing flood risk.
20. The Council has also recommended a condition to require that the existing stable buildings and garage on site are removed for the proposal to comply with LP Policy DM8, which sets out the types of development permissible in rural areas. The proposed dwelling is located in a similar position to the garage and thus it would not be possible for the garage to be retained in any event, but the appellant has indicated that the removal of the stable buildings is intended to be 'traded off' against the provision of the dwelling. I see no reason to disagree with the main parties on this point and thus a condition to require the removal of the stable buildings prior to the construction of any above ground work is necessary.
21. A condition to require that provisions are made for electric vehicle charging has also been recommended, but it is unnecessary as such matters are addressed by Approved Document S of the Building Regulations. The Council has recommended that permitted development rights are restricted in respect of future enlargements of the dwelling to ensure that adequate amenity space would be retained. However, paragraph 54 of the Framework states that permitted development rights should not be restricted by conditions unless there is clear justification to do so. Compelling evidence indicating that extensions would be harmful to the living conditions of the occupiers of the property has not been provided and thus the condition is unnecessary.

Conclusion

22. For the reasons given, the appeal is allowed.

Mark Philpott

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: 03; 07; 08.
- 3) No development shall take place, including any ground works or demolition, until a scheme to assess and deal with any contamination of the site has been submitted to and approved in writing by the local planning authority. Prior to the first occupation of the dwelling hereby permitted any necessary remediation shall be carried out in accordance with the approved scheme and a validation report to confirm this shall be submitted to the local planning authority for written approval.
- 4) No development shall take place, including any ground works or 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, and wheel and underbody washing facilities. The approved statement shall be adhered to throughout the construction period.
- 5) Prior to the construction of any works above slab level, the existing stable buildings on the site shall be demolished as shown on drawing Ref 08 and the resultant material cleared from the site.
- 6) Prior to the construction of the new access hereby permitted to the existing dwelling identified as The Barn, details of a scheme to enable water flow along the ditch present alongside the carriageway of the B1418 shall be submitted to and approved in writing by the local planning authority. The scheme shall be provided in accordance with the approved details and retained in that form thereafter.
- 7) Prior to the first occupation of the dwelling hereby permitted or the new access hereby permitted to the existing dwelling identified as The Barn coming into first use, the vehicular access, manoeuvring and parking areas shall be provided in accordance with drawing Ref 08 and retained in that form thereafter.
- 8) Prior to the new access hereby permitted to the existing dwelling identified as The Barn coming into first use, clear to ground visibility splays shall be provided in accordance with drawing Ref 2179/01 Rev A and thereafter be retained free of obstruction at all times.
- 9) Prior to the first occupation of the dwelling hereby permitted, cycle parking shall be provided in accordance with the local planning authority's Parking Standards. The cycle parking shall be secure, convenient, covered and retained at all times.
- 10) Prior to the first occupation of the dwelling hereby permitted, details of boundary treatments, including drawings of any gates, fences, walls, railings or piers shall be submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the boundary treatments have been provided in accordance with the approved details.

- 11) Prior to the first occupation of the dwelling hereby permitted, details of both hard and soft landscape works, including details of existing trees and vegetation to be retained and proposed planting, shall be submitted to and approved in writing by the local planning authority. The works shall be carried out as approved prior to the first occupation of the dwelling or in the first available planting season following such occupation.
- 12) No unbound material shall be used in the surface treatment of the new access hereby permitted to the existing dwelling identified as The Barn within 6 metres of the highway boundary.
- 13) The development hereby permitted shall be carried out in accordance with the recommendations stated at Section 5.2 of the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection, dated May 2021.
- 14) The dwelling hereby permitted shall be constructed to achieve water efficiency to a standard of no more than 110 litres of water per person per day.