



Appeal Decision

Site visit made on 3 May 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/P1560/W/22/3301114

Land Off Reckitts Close, Clacton on Sea CO15 6PG

- 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 L Rendell against the decision of Tendring District Council.
 - The application Ref 21/01517/FUL, dated 23 August 2021, was refused by notice dated 4 February 2022.
 - The development proposed is Proposed 10 shepherds huts for holiday lodges, reception lodge, parking, bin and cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area
 - The effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to noise and disturbance
 - Whether sufficient information has been provided to determine that there would not be an adverse impact on protected species.
 - Whether the development would make sufficient and adequate provision for pedestrian access for future users.

Reasons

Character and Appearance

3. The appeal site is relatively narrow in comparison to the more spacious plot sizes of surrounding residential development. To the north west the appeal site comprises a grass verge which is directly adjacent to Reckitts Close and directly opposite various dwellings. This verge helps break up the urban grain of Reckitts Close. There are also two beech and one lime tree on this verge and they are the subject of a tree preservation order. They also make a positive contribution through providing a verdant character. The site narrows further south before opening up and forming a strip of grassland between the rear boundaries of residential dwellings to the north east and south west. The appeal site appears relatively overgrown and there are various trees within it, which help to provide a pleasant physical separation between the residential development either side.

4. The character of surrounding residential development is varied but typically comprises two storey development set within spacious plots. Whilst many of the dwellings are set back a significant distance from the appeal site, others are not. Indeed, views of proposed shepherds huts would be attainable from the rear windows of houses and flats, particularly towards the south east of the appeal site.
5. Even taking into account the prospect of additional planting along the boundaries, the proposed shepherds huts would be clearly visible from surrounding residential properties. A concentration of shepherds huts in an otherwise suburban residential location would be at odds with the prevailing two-storey and spacious character of the area. Whilst I accept that the use would be of a residential nature similar to the surrounding uses, the design of the shepherd huts would jar with the more traditional built forms of the surrounding area. This would be compounded by the relatively narrow nature of the appeal site resulting in an awkward relationship between the development and the more spacious character of development which surrounds the appeal site.
6. There would be further visual harm caused by the proposed use of the grass verge on Reckitts Close for vehicle parking and the reception hut which would stand out as a pronounced and awkward feature within the street scene.
7. Whilst the trees within and adjacent to the appeal site do make a positive contribution to local character, they need not be harmed or lost because I consider it likely that tree protection measures and a method statement would be sufficient to control this. Indeed, the nature of shepherds huts and their limited ground disturbance means that it is likely that any surfacing could be designed to have acceptable impacts on any root protection areas. As such, there would be no additional harm in this regard.
8. For these reasons the proposed development would be harmful to the character and appearance of the surrounding area. It would therefore conflict with Tendring District Local Plan Section 1(TDLP1)¹ Policy SP7 and TDLP Section 2 (TDLP2)² Policy SPL3, which require that new development responds positively and preserves local character. There would also be a conflict with Framework Paragraph 130 which broadly seeks to achieve the same aim.

Living Conditions

9. Ten shepherds huts and associated parking spaces are proposed within a relatively compact and narrow site in close proximity to surrounding dwellings. In the summer months in particular, there would likely be disturbance and noise associated with the comings and goings of visitors and their use of outdoor areas around the shepherds huts. Whilst no outdoor areas are indicated on the proposed layout plan, that does not mean that visitors would not utilise spaces between the huts. Indeed, given the small size of the huts I consider this to be very likely, particularly in the summer months. The appellant asserts that the use of outdoor areas would be synonymous with the use of surrounding residential gardens. However, given the cramped nature of the site and the high concentration of accommodation proposed in a small

¹ Tendring District Local Plan 2013-2033 and Beyond: Section 1 – Adopted January 2021

² Tendring District Local Plan 2013-2033 and Beyond: Section 2 – Adopted 25 January 2022

area, it is likely that noise and disturbance would be significantly greater than would be expected in a spacious residential area such as this.

10. The close proximity of the parking spaces and shepherds huts to surrounding residential development, particularly at the most north western and south eastern extents of the appeal site, would mean that the likely noise and disturbance associated with the proposal would be unacceptable. Within this context the burden is on the appellant to provide evidence to the contrary. I note that no technical evidence has been provided in this regard.
11. Whilst I accept that visitors would spend time away from the accommodation, visiting local attractions, the seaside and other local facilities, they would inevitably also spend time outside the shepherds huts in the summer months. As such, this consideration does not reduce the likely harm which would arise as a result of noise and disturbance. I note the appellant's suggestion of a condition to control the management of the units. However, other than the issue of information to visitors prior to their stay, no information has been provided on the likely detail of such management. As such, there is insufficient evidence to demonstrate that such a condition would mitigate the likely noise and disturbance associated with the development.
12. For the reasons given, the proposed development would be harmful to the living conditions of surrounding occupiers. It would therefore conflict with TDLP1 Policy SP7 and TDLP2 Policy SPL3, which seek to ensure that new development does not adversely impact on the living conditions of surrounding occupiers. There would also be a conflict with Framework Paragraph 130 which broadly seeks to achieve the same aim.

Protected Species

13. The site comprises various trees and relatively long grass. However, there are no features which indicate that the site has a reasonable likelihood of providing a habitat for protected species. Indeed, given its narrow nature and location between residential development to either side, in the absence of evidence to the contrary, I see no reason why a survey should be undertaken. For this reason the proposed development would comply with TDLP2 Policies SPL3 and PPL4 insofar as they relate to protected species.
14. TDLP2 Policy PP10 and PP11 are only relevant to this main issue insofar as they refer to Policy PPL4. Issues pertaining to requirements for European sites are addressed in 'other matters'.

Pedestrian Access

15. The Council has indicated that it is concerned that the proposed development does not incorporate adequate pedestrian connectivity between the proposed parking area and proposed accommodation, particularly for disabled people and those with mobility impairments. However, based on my site visit observations, Reckitts Close is a very lightly trafficked road where vehicular speeds are very likely to be low. Indeed, it is not a through-road. As such, I consider it unlikely that there would be any unacceptable risk to pedestrians having to traverse a small section of the aforementioned highway to access the proposed accommodation. In any case, a condition could be imposed to require the provision of a footway within the appeal site (as it appears that there is sufficient land to accommodate this). On this basis, the proposed development

would provide adequate and safe pedestrian access to future users. It would therefore comply with TDL P1 Policy SP7, which requires new development to prioritise the needs of pedestrians amongst other things.

16. The proposal would also comply with Framework Paragraphs 92 and 112. These paragraphs require development to be safe, accessible and to prioritise pedestrians, including those with disabilities or reduced mobility, respectively.

Other Matters

17. The Council also refused the planning application partly on the basis of the alleged increased recreational disturbance (resulting from the increase in visitors) upon European sites, which are protected under the Conservation of Habitats and Species Regulations 2017. Nonetheless, given that I am dismissing this appeal on other grounds it is not necessary for me to consider this matter further nor is it necessary to undertake an appropriate assessment.
18. Various objections have been received from interested parties in response to this appeal. However, given that I am dismissing the appeal it is not necessary to consider matters which go beyond the main issues addressed in this appeal decision.
19. There would be economic benefits associated with the proposed development as a result of the increase in the number of visitors and the likely trickle-down economic effects to the local economy. Nonetheless, only 10 units are proposed and as such, these benefits would not be substantial, and I afford them only moderate weight.
20. The appellant has referred to an appeal decision³ in a different district where the Inspector found that harm to character and appearance was outweighed by the economic benefits associated with a single holiday let. However, in that case, whilst the benefits would likely have been lower than in the case of this appeal (given that only one unit was proposed), the harm may also have been lower (for the same reason). As such, this is not a consideration which alters my findings.
21. The proposal would utilise an un-used area of land. However, the site is likely underutilised because of its narrow nature. Indeed, this is a contributing factor to the harmful impact that the proposal would have on the character and appearance of the area. As such, whilst the Framework encourages the development of underutilised land, in this case I afford this consideration only limited weight.

³ APP/Z1510/W/19/3239724

Conclusion

22. The proposal would provide sufficient and safe pedestrian access and there is no evidence to indicate that protected species are likely to be present and as such harmed by the development. Despite this the proposed development would have a significant harmful effect on the character and appearance of the area and would be harmful to the living conditions of neighbouring occupiers. It would therefore conflict with the development plan. I afford substantial weight to these conflicts given the scale of the harm which would occur. The benefits of the proposed development are moderate and they would not be sufficient to indicate a decision other than in accordance with the development plan.

Luke Simpson

INSPECTOR