



Appeal Decision

Site visit made on 16 August 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/W1525/W/22/3309864

**Great Gibcracks, Great Gibcracks Chase, Sandon, Chelmsford, Essex
CM2 7TG**

- 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 Julian Burgess against the decision of Chelmsford City Council.
 - The application Ref 22/00658/FUL, dated 1 April 2022, was refused by notice dated 24 May 2022.
 - The development proposed is proposals include the extension of an existing private vehicular track to serve a Mobile Home Park located to the south of property known as Great Gibcracks, and the retention of the existing drive for sole use by occupiers of Great Gibcracks. Works comprise the laying of crushed concrete on an existing section of grass between the end of the existing private vehicular track and the road adjacent to the Mobile Home Park, at a length of 40 meters and at a width of 3 meters. Works also include the re-grassing of an area of shingle hardstanding, approximately 121sqm in size, as identified on drawings 22003_03b – Site/Block Plan. The area to be re-grassed is of an equivalent size to that of the proposed track extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the name of the appellant from the appeal form as the application form contained only a surname.

Main Issues

3. The main issues are the effect of the proposed development on:
 - protected species; and
 - the character and appearance of the area.

Reasons

Protected Species

4. A Preliminary Ecological Appraisal (PEA) dated September 2022 was submitted as part of the appeal documentation. This establishes that there is suitable habitat for great crested newts and reptiles in the vicinity of the site and that both species may travel across the route of the proposed access. Natural England produces standing advice in relation to both of these species.
5. This confirms that for great crested newts, a survey should be requested if distribution and historical records suggest they may be present or if there's a

suitable water body such as a pond or ditch within up to 500 metres of the development. The PEA confirmed there is suitable terrestrial habitat, including winter refugia, for great crested newts and potential, albeit of below average quality, breeding habitat at the ponds and identified it was feasible that great crested newts could occur at the site and that it was possible they could travel across the proposed track extension.

6. With respect to reptiles, the PEA notes there are no records of reptiles but that this is more likely to represent a lack of surveys. It also notes that the surrounding land provides ideal habitat and that it was possible they could travel across the proposed track extension. The standing advice sets out that if a proposed site could break apart suitable habitat for reptiles as a circumstance in which a survey should be requested.
7. While the Council has indicated it accepts the findings of the updated PEA, this is subject to an updated ecology report in light of acknowledged limitations to the PEA. I am mindful of the advice in Circular 06/2005¹ at paragraph 99 that, with regard to species protected by law, "It is essential that the presence or otherwise, and the extent that they may be affected by the proposed development, is established before the planning permission is granted....". With respect to both species, the criteria for requiring a survey as set out by the standing advice has been met. No such survey has been submitted for either.
8. I therefore cannot conclude that the proposed development would not have an adverse effect on protected species. The proposed development would therefore be contrary to Chelmsford Local Plan (2020) (LP) Policy DM16 and the policies of Section 15 of the National Planning Policy Framework (the Framework) which require, amongst other things, development proposals to conserve and enhance the network of species commensurate with their status.

Character and Appearance

9. The appeal site consists of a detached dwelling set in a substantial garden, with mobile homes set to the rear. Although there are neighbouring properties in proximity to the site, the surrounding area is rural in character. This rural character is strongly reinforced by the narrow access provided by Great Gibcracks Chase which is enclosed by mature vegetation for much of its length.
10. Remnants of a hardstanding at the junction of the site with Great Gibcracks Chase were clearly visible at my site visit and contrasted with the surrounding grassland. This did not extend for the full length of the proposed access, and became increasingly overgrown moving along the proposed route, until it was indistinguishable from the previously undeveloped area of land.
11. The site forms part of a small enclave of development. The maintained garden and fence adjacent to much of the proposed route of the track, along with the visible elements of the existing hardstanding, clearly distinguish the site from the surrounding rural countryside. The proposed route of the access from Great Gibcracks Chase was largely screened by the mature vegetation. Consequently, it would not be visually prominent. While it would be visible to users of the public right of way, this would only be for a limited period of time along Great Gibcracks Chase and in glimpses along the north and south tracks. This would be the case even in winter when the vegetation may not be in leaf.

¹ ODPM Circular 06/2005 Biodiversity and geological conservation – statutory obligations and their impact within the planning system

12. There would be an urbanising effect arising from the addition of the access and the activity associated with it. However, the access would be to serve existing properties which already generate vehicle movements in the immediate area. While the proposal would result in them moving from the current access, the proposed access remains in proximity to the cluster of development and would not be viewed in isolation of it. The effects would be purely localised and the key characteristics of the East Hanningfield Wooded Farmland character area would be unaffected.
13. Further landscaping could be secured by condition which would supplement the existing screening. While the existing screening could be removed, it would be a considerable task given its extent.
14. There is no substantive evidence before me as to any previous use of the hardstanding as an access. However, this would not be determinative given the lack of harm I have identified. While it would be possible for vehicles to park on the track, at 3m wide, this would serve to block the access and undermine its purpose. Any parking on the area of land that already has hardstanding could occur without the appeal proposal being carried out.
15. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the area. It would therefore be in accordance with LP Policies DM10 and S11 which, taken together and amongst other things, require engineering operations to avoid an adverse impact on the intrinsic character, appearance and beauty of the Rural Area. It would not conflict with the objectives of the National Planning Policy Framework which acknowledges that local circumstances should be taken into account.

Other Matters

16. I have been directed to another decision by the Council. However, from the information before me, this appears to be in a different context and would not alter my conclusion as to the effects of the proposed development which I have assessed on its own planning merits.
17. There is no substantive evidence before me that the existing access is inherently dangerous or is causing harm to biodiversity. It has been in use for a number of years and its relationship with other development in the area is well established.
18. There is also no substantive evidence before me to demonstrate that Great Gibcracks should be considered as a non-designated heritage asset, or if it were, that the existing access has an adverse effect on its significance. There is no substantive evidence before me to demonstrate the proposed landscaping would deliver a biodiversity net gain.
19. It is not determinative to this appeal whether the site forms part of any existing planning unit or would create separate planning units. Any concerns that further development of the access would be required at a later stage would be a matter to be considered should a further application be submitted. Any future application for a similar type of development elsewhere would be assessed on its own planning merits which are unlikely to be entirely identical to the circumstances here. I note there is public support for the development however this would not outweigh the harm I have identified above.

Conclusion

20. I have found the appeal proposal would have an adverse effect on protected species. While I have not found harm with respect to the character and appearance of the area, this would not outweigh the harm I have identified.
21. The proposed development would conflict with the development plan when read as a whole and there are no material considerations before me that would indicate the decision should be taken otherwise. The appeal should therefore be dismissed.

J Downs

INSPECTOR