



Appeal Decision

Site visit made on 3 October 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2023

Appeal Ref: APP/P1560/W/22/3310057

Land east of Bradfield Road, Wix, Manningtree CO11 2SH

- 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 Malcome Payne against the decision of Tendring District Council.
 - The application Ref 22/00659/FUL, dated 13 April 2022, was refused by notice dated 19 August 2022.
 - The development proposed is erection of a bungalow and garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a bungalow and garage at land to the east of Bradfield Road, Wix, Manningtree CO11 2SH in accordance with the terms of the application, Ref 22/00659/FUL, dated 13 April 2022, subject to the conditions contained within the attached Schedule.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development would be in a suitable location having regard to the local development strategy;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the integrity of the Stour and Orwell Estuaries SPA and Ramsar.

Reasons

Whether the proposed development would be in a suitable location

3. The appeal site is a broadly rectangular plot situated adjacent to existing development. To the immediate west of the site is a row of semi-detached dwellings and, at time of my site visit, two detached dwellings were under construction to the east. To the south of the site are dwellings which front onto Harwich Road. Beyond the site's northern boundary is an access road serving two dwellings and the A120 road which provides a clear physical boundary between the settlement and wider countryside. The appeal site is therefore located within the built area of Wix village. However, the appeal site lies outside the Settlement Development Boundary, as defined by Policy SPL2 of the Tendring District Local Plan Section 2 2022 (LP2).
4. Policy SPL2 indicates that outside of Settlement Development Boundaries, development proposals will be considered in relation to the pattern and scales

of growth promoted through the Settlement Hierarchy. The Settlement Hierarchy at LP2 Policy SPL1 identifies Wix as a Smaller Rural Settlement.

5. Smaller Rural Settlements are described as the least sustainable locations for growth in the district as development in these areas will generally be car dependent. However, Policy SPL1 recognises the role of sympathetic small-scale development in Smaller Rural Settlements in meeting the area's housing needs and in sustaining local services and indicates particular attention must be given to school travel.
6. Bradfield Road is served by a pedestrian footway along one side and the appeal site is within walking distance of the village centre which includes a post office and shop, public house, village hall, children's play area, and bus stops providing services to the city of Colchester and towns of Harwich and Manningtree. Notably, the village's primary school and pre-school are within a five-minute walking distance of the appeal site.
7. The site would contribute housing within the built area of the village. Due to the site's accessibility to the village centre, future occupants would be able to access local services without reliance on a private car and would contribute to sustaining those services. Having regard to the local development strategy, the proposed development would therefore be in a suitable location.
8. For these reasons, the proposal would comply with Policy SP3 of the Tendring District Local Plan North Essex Authorities' Shared Strategic Section 1 Plan 2021 (LP1) which focusses growth within or adjoining existing settlements, and with LP1 Policy SP7 which requires development to create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.

Character and appearance

9. The appeal site is a large plot accessed from an existing private driveway serving a row of semi-detached houses. As discussed above, existing dwellings are located on three sides of the site.
10. I note that the two dwellings east of the site were granted planning permission at a time when the Council did not have an adopted Local Plan or demonstrable housing land supply. At this adjoining site, I found one dwelling was substantially complete and the other partially constructed. The presence of such development nonetheless influences the character and appearance of the area. I have assessed the site within the context of the area's character as experienced at time of my site visit.
11. Bradfield Road comprises both two-storey and single-storey dwellings. The dwelling to the east of the site is of 1.5 storey form and height. The proposed dwelling would be single-storey and modest in size and scale and constructed of materials to match the adjacent semi-detached dwellings. Therefore, the form and appearance of the proposed dwelling would not be out of context with surrounding development.
12. The plot is enclosed by a tall close-boarded fence. To the north, a dense tree belt runs along the A120 road which limits views of the site from the wider landscape, and trees and hedges provide separation from rear gardens of houses at Harwich Road. The proposal would be of limited visibility from

publicly accessible places, such as the public highway and therefore would not appear incongruous within the street scene.

13. The plot is generous in size and the proposal would provide adequate amenity space. The proposed dwelling and garage would be set in from site's boundaries. The proposed development would not therefore appear contrived within the site.
14. The proposed development would be located behind the row of semi-detached dwellings at Bradfield Road and therefore would not have a frontage to the highway. The appeal site is a 'backland' site insofar that it is behind the line of existing frontage development, has no frontage to the public highway, and would constitute piecemeal development since it does not form part of a large area allocated for development.
15. However, the dwellings at the adjacent development site are also behind the row of frontage dwellings, set back from the public highway by a long access driveway and thus do not face the highway. Therefore, the proposed siting and layout of the development would not appear out of keeping with surrounding development. The site does not encroach into areas of countryside which surround the village and therefore development in this location would not set a precedent for further residential development.
16. For these reasons, the proposal would not harm the character and appearance of the area. The proposal would comply with LP2 Policy LP8(f) which requires that proposals for the residential development of backland sites not be out of character with the area or set a precedent for similar development.

Integrity of European sites

17. The appeal site lies within the Zone of Influence (ZoI) of the Stour and Orwell Estuaries Special Protection Area and Ramsar (SPA). The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive.
18. The qualifying features of the SPA include species of dark-bellied brent goose, northern pintail, pied avocet, grey plover, red knot, dunlin, black-tailed godwit, common redshank, and its waterbird assemblage.
19. Population growth associated with the development has the potential to increase recreational pressure on the SPA. Due to its type and location, the proposed development would therefore have a likely significant adverse effect on the qualifying features of the SPA.
20. 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 relevant designated habitats.
21. The appellant has provided a Unilateral Undertaking to secure an index-linked financial contribution of £156.76 in accordance with the RAMS to be paid to the

Council prior to commencement of development. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, the evidence before me indicates that as a responsible public body it will transfer the funds to the organisation responsible for administering the mitigation strategy. Therefore, I am satisfied that mitigation measures have been secured and would be used for their intended purpose, and the financial contribution is necessary to make the development acceptable in planning terms.

22. The proposal would not have significant effects on European sites and therefore would not conflict with LP2 Policy PPL4 which protects habitats of international and national importance from the adverse effects of development.
23. For these reasons, the proposed development would comply with Regulation 63 of the Conservation of Habitat and Species Regulations 2017 which allows permission to be granted only after having ascertained that it will not adversely affect the integrity of the European site.

Conditions

24. The Council has suggested conditions which I have considered against the advice in the National Planning Policy Framework and Planning Practice Guidance. In addition to the standard time limit of the planning permission granted, in the interests of certainty I have attached a condition specifying the approved plans.
25. For the purposes of reducing the need to travel by car and promoting sustainable development and transport, as advocated by the local development strategy, I have attached the Council's suggested condition requiring provision of a travel information pack.
26. LP2 Policy PPL10 requires development proposals for new dwellings provide a 'Renewable Energy Generation Plan' (REGP). The condition requiring submission of the REGP is necessary to enhance the sustainability of the development and reduce environmental harm.
27. I have attached a condition setting out procedures for the management of contaminated land to ensure risks to the environment and future users are minimised.
28. The development would utilise the existing highway access serving the adjacent semi-detached dwellings. This established access comprises an area of hardstanding and a gravel drive. The proposal is not therefore expected to affect the existing access or involve works close to the highway edge. Therefore, the suggested conditions regarding surface materials within 6m of the highway and planting within 1m of the highway are not necessary.

Conclusion

29. For the reasons given above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be allowed.

E Dade

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: 1298/03B Location Plan; 1298/401A Site Layout Plan; 1298/402 Plans and Elevations; Planning Statement.
- 3) Prior to occupation of the proposed dwelling hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.
- 4) No development above slab level shall commence until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and approved, in writing, by the local planning authority. The scheme shall be implemented prior to the first occupancy of the development. The scheme shall be constructed and the measures provided and made available for use as may be agreed and retained thereafter.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

End of Schedule