



Appeal Decision

Site visit made on 1 November 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th January 2024

Appeal Ref: APP/P1560/W/23/3321142

Land adj Willowell, Spring Valley Lane, Ardleigh CO7 7SD

- 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 and Mrs Moorcroft against the decision of Tendring District Council.
 - The application Ref 22/01977/FUL, dated 22 November 2022, was refused by notice dated 12 April 2023.
 - The development proposed is the conversion of a stable block into two holiday units.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of a stable block into two holiday units at Land adj Willowell, Spring Valley Lane, Ardleigh CO7 7SD in accordance with the terms of the application, Ref 22/01977/FUL, dated 22 November 2022, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Moorcroft against the decision of Tendring District Council. This is the subject of a separate decision.

Preliminary Matters

3. The Council advises that the Tendring Colchester Borders Garden Community Development Plan Document (DPD) was submitted for examination to the Secretary of State in September 2023. The hearings have not yet started, and the Inspector has not yet made any findings, so it currently has limited weight. As it indicates the proposed future policy direction, I refer to the DPD below.
4. The site is within the Zone of Influence of the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar site. The appellants have provided a unilateral undertaking (UU) to contribute towards mitigation for the SPA and Ramsar site. Therefore, I have dealt with the matter as a main issue and return to it in the main body of my decision.
5. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

6. The main issues are:
 - whether the proposed use would be appropriate for an existing rural building, having regard to Local Plan policies;

- whether the appeal site would be an appropriate location for the proposed development, having regard to Local Plan policies; and
- the effect of the proposal on the integrity of the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area and Ramsar site.

Reasons

Use

7. The appeal site comprises a former stable building accessed from Spring Valley Lane. It is within the countryside where there is sporadic development. The host dwelling 'Willowell' and another house lie to the north, with previously used paddocks to the south and agricultural land to the east and west.
8. The Tendring District Local Plan 2013-2033 and Beyond comprises the North Essex Authorities/ Shared Strategic Section 1 Plan adopted 2021 and Section 2 adopted 2022 (the Local Plan). The site lies outside the defined Settlement Development Boundaries in the Local Plan.
9. Local Plan Policy PP8 supports economic growth in tourism and seeks to deliver a range of accommodation that meets visitor needs by assessing proposals based on the Local Plan policies. The policy preamble cites the Tourism Strategy priority to develop new products that will appeal to existing and new visitor markets including up-market hotels and self-catering accommodation.
10. The re-use of existing rural buildings for holiday lets is not explicitly specified in Local Plan Policy PP13. However, this policy supports growth in the rural economy and allows certain types of development in the countryside outside the defined Settlement Development Boundaries, including the conversion or re-use of rural buildings to tourism use.
11. The Council considers that the proposal would create two new dwellings within use class C3 and therefore does not qualify as an appropriate re-use of a building under Policy PP13. However, it is clear from the description of development that two holiday units are proposed. The appellants have indicated that they would be operated in conjunction with Willowell. A condition restricting occupancy of the units would ensure that they are used only as holiday lets and not mainstream housing. As the proposal would be for a tourism use and involve the conversion of an existing rural building in the countryside, I find no conflict with Policies PP8 and PP13.
12. There is reference to policies in the Ardleigh Draft Neighbourhood Plan, but I have limited information on how its policies would affect the appeal proposal. In any event, it has yet to be formally made so I accord it little weight.
13. Consequently, I conclude that the proposed use would be appropriate for an existing rural building, having regard to Local Plan policies. It would also comply with the Framework which supports economic growth, including sustainable rural tourism and the growth of rural businesses through conversion of existing buildings.

Location

14. Local Plan Policy SP3 includes the development of the Tendring / Colchester Borders Garden Community (GC) to provide a strategic location for homes and employment, including beyond the current Local Plan period. Policies SPL1 and

SPL2 of the Local Plan outline the settlement hierarchy, including the GC and Settlement Development Boundaries. Although the site lies outside the Settlement Development Boundaries, it is within the broad location of the proposed GC.

15. Local Plan Policy SP8 outlines the amount of development expected to be delivered in the GC and states that it will be holistically and comprehensively planned, with a Development Plan Document (DPD) to be prepared setting out how it will be designed, developed and delivered in phases. Policy SP6 includes the infrastructure required for this development.
16. A DPD for the proposed GC is currently being examined. Draft GC Policy 1 of the DPD shows the site within the northern part of the area, with the early phases of development expected to begin in the 'South Neighbourhood'. According to the Strategic Illustrative Framework Masterplan, the appeal site is on the edge of the proposed Crockleford Neighbourhood. However, the spatial layout and allocation of different areas of land has yet to be confirmed.
17. The GC is a long-term development project, dependent on the funding and approval of strategic transport infrastructure. There is no certainty whether or when its development would affect the appeal site. Although Local Plan policies seek comprehensive planning of the GC, there is limited information on how existing development will be integrated into the new community and how the policy should apply to other proposals in the broad location in the meantime. In this respect, I note that the Council recently approved a development unrelated to the proposed GC within the broad location (planning application ref 22/01782/FUL).
18. The development would lie in an area currently lacking facilities and infrastructure. However, I have found no conflict with Local Plan Policies PP8 and PP13 which allow provision for the type and location of the proposal.
19. The holiday units would be within the broad location of the proposed GC. However, the plans for the GC are at an early stage and there is insufficient clarity on the timescales, detailed location and phasing of this future development, how existing development would be incorporated and the application of policy to other unrelated proposals in the interim. The proposed development would be small scale and convert an existing redundant stable building. Given these factors, the proposal would not represent piecemeal development and I find no conflict with Policies SP3, SP6, SP8, SPL1 and SPL2, nor having regard to the provisions of paragraphs 49 and 50 of the Framework, would the application be premature.
20. Therefore, I conclude that the appeal site would be an appropriate location for the proposed development, having regard to Local Plan policies.

Special Protection Area and Ramsar Site

21. The appeal scheme proposes holiday accommodation on a site that lies within the Zone of Influence (ZoI) of the Colne Estuary (Mid-Essex Coast Phase 2) Special Protection Area (SPA) and Ramsar site. The Conservation of Habitats and Species Regulations 2017 require that, where a project is likely to have a significant effect on a European site¹, either alone or in combination with other projects, the competent authority must make an appropriate assessment of the

¹ as defined in regulation 8 of The Conservation of Habitats and Species Regulations 2017 (as amended)

- project's implications in view of the relevant site's conservation objectives. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
22. The SPA is noted for its estuaries and intertidal sand and silt flats, including several islands, shingle and shell beaches and extensive areas of saltmarsh. It supports important populations of breeding, wintering and migratory birds, including internationally important wintering waterfowl.
 23. The conservation objectives of the SPA generally seek 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.
 24. A threat to the integrity of the SPA is recreational activities associated with additional development. The appeal site is within the ZoI where new residential and tourist accommodation is likely to result in recreational pressure, which would likely have a significant effect on the protected site.
 25. The development is for two new holiday units. As such, the number of additional recreational visitors would be limited. However, in combination with other developments, it is likely that the proposal would have significant effects on the SPA. Given my findings, I must undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
 26. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out a strategic approach to mitigation adopted by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. These include a range of habitat-based measures such as education, communication, habitat creation and monitoring.
 27. The appellants have submitted a signed UU for the contribution of £137.71 per unit to fund the RAMS, which is index linked and payable before the commencement of the development. I have consulted Natural England who have confirmed their endorsement of this mitigation strategy and accepted that these measures would be sufficient to avoid an adverse effect on the integrity of the SPA.
 28. I am satisfied that the planning obligation secured pursuant to the Council's RAMS would enable the expedient delivery of mitigation sufficient to address the likely recreational effects of the development. The Framework indicates that Ramsar sites should be given the same protection as SPAs. Therefore, with this mitigation, the proposal would not result in an adverse effect on the integrity of the SPA and Ramsar site. As such, it would comply with Policies SP2 and PPL4 of the Local Plan where they require the protection of SPAs and Ramsar sites and contributions to be secured towards mitigation measures in accordance with the RAMS.

Other Matters

29. The Council has submitted various documents relating to open space, but this has not been identified as an issue in its Planning Officer's Report or appeal statement.

Conditions

30. I have had regard to the Council's suggested conditions and considered them against the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. I have made minor amendments, where necessary, to ensure that the conditions comply with these documents.
31. In addition to the standard time limit condition (1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (2). This is in the interest of certainty.
32. An occupancy condition (3) is necessary to ensure that the development remains in use for holiday purposes to accord with development plan policies.
33. Conditions on the provision of the parking (4) and turning spaces (5) are required in the interests of highway safety.
34. The Council's Planning Officer's Report refers to possible conditions relating to renewable energy measures, but I have not been directed to any evidence to indicate that these are necessary.

Conclusion

35. For the reasons given, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

A Wright

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: site location plan scale 1:1250; and MWW-01.
- 3) The development hereby permitted shall be used for holiday letting accommodation only and shall not be occupied as a person's sole or main place of residence, including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended.

The duration of occupation by any one person, or persons, of the holiday units hereby permitted shall not exceed a period of 100 days in total in any one calendar year.

The owners/operators of the holiday units hereby permitted shall maintain an up-to-date register of all lettings, which shall include the names and permanent home addresses of all those persons occupying the units during each individual letting. The said register shall be made available at all reasonable times for inspection by the Local Planning Authority.

- 4) The vehicular parking spaces shall each have a minimum dimension of 2.9 metres x 5.5 metres and shall be provided prior to the first occupation of the holiday units hereby permitted and the spaces shall thereafter be kept available at all times for that purpose.
- 5) Prior to the first occupation of any of the holiday units hereby permitted, the vehicle turning space shown on the approved plans shall be provided in its entirety and that space shall thereafter be kept available at all times for that purpose.