



Appeal Decision

Site visit made on 9 January 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/P1560/W/23/3323015

Land rear of 8A Holland Road, Little Clacton, CO16 9RS

- 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 Penny Investments Ltd against the decision of Tendring District Council.
 - The application Ref 22/01869/FUL, dated 3 November 2022, was refused by notice dated 25 January 2023.
 - The development proposed is detached dwelling and detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for detached dwelling and detached garage at Land rear of 8A Holland Road, Little Clacton, CO16 9RS in accordance with the terms of the application, Ref 22/01869/FUL, dated 3 November 2022, and the plans submitted with it subject to the following 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 1:1250; Drawing no MP-301 Rev A – Floor Plan & Elevations.
 - 3) No development shall commence above slab level 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 fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.
 - 4) Prior to first occupation a Residential Travel Information Pack (travel pack) shall be provided to the dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

Applications for costs

2. An application for costs was made by Penney Investments Ltd against Tendring District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised in December 2023. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views of the main parties in this instance.

Main Issues

4. The Council's notice of decision cited three reasons for refusal. The appellant has submitted a duly executed unilateral undertaking in order to overcome the third reason for refusal which I have taken into account. It provides for a contribution towards ecological mitigation and I have contemplated this further later in my decision.
5. Therefore, the main issues are framed in the context of the Council's first and second reason for refusal:
 - whether the site represents an appropriate location for the proposed dwelling, with reference to the spatial strategy in the development plan; and
 - the effect of the development on the character and appearance of the area.

Reasons

Appropriate Location

6. The development plan comprises the North Essex Authorities Shared Strategic Section 1 Plan (SSS1), adopted on 26 January 2021 and Section 2 of the Tendring District Local Plan 2013-2033 and Beyond (SSS2).
7. Policy SP3 of SSS1 sets out the spatial strategy for North Essex and directs growth towards existing settlements with development accommodated within or adjoining settlements according to their scale. Policy SPL1 of SSS2 identifies Little Clacton as a Rural Service Centre. The supporting text to this policy identifies that some of these villages will accommodate a modest increase in housing stock, where appropriate, within the plan period.
8. It goes on to state that developments will be of a scale proportionate, achievable and sustainable for each of the settlements concerned having regard to the existing size and character of each settlement and that these developments will make a meaningful contribution toward addressing local housing needs, supporting the village economy and assisting with the overall housing growth proposed for the District.
9. Policy SPL2 of the SSS2 states that outside of settlement development boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the settlement hierarchy.
10. The policies that I have set out are intended to ensure housing is located in areas which are accessible and sustainable. However, these policies do not prevent the development of land outside of settlement boundaries.

11. The site lies outside of the defined settlement boundary for Little Clacton, but abuts it on three sides with land either side of the site being within the settlement boundary. The Council, within their appeal statement, acknowledge that Policy SP3 of SSS1 allows for development within or adjoining settlements and accepts that the site does adjoin the settlement boundary.
12. Having regard to the designation of Little Clacton as a Rural Service Centre, where modest increases in housing stock are permitted, the erection of an additional dwelling, in the form of an infill between existing development is proportionate and sustainable.
13. Furthermore, it would contribute toward addressing local housing needs, supporting the economy and assisting with the overall housing growth proposed for the District.
14. In conclusion, the introduction of the proposed development into the appeal site, would accord with the relevant policies relating to housing in rural areas. It would comply with policy SP3 of the SSS1 which seeks to direct development to the most appropriate locations. The development would also accord with policies SPL1 and SPL2 of SSS2 which sets out the settlement strategy for Tendring.

Character and appearance

15. The site is located off Holland Road Gardens, comprising an area to the rear of dwellings fronting Holland Road, a predominately residential area. The area is characterised by a range of dwelling types, including to the rear of the appeal site a caravan park. The appeal site is between two recently constructed dwellings and at the time of my visit appeared to be used for the storage of construction materials and containers.
16. The size of the plot is reasonable given the scale of the dwelling proposed and would include a detached garage. The proposed dwelling would have its frontage and vehicular access onto the access road which runs along the side boundary of 8 Holland Road and also provides access to the other development located to the rear of Holland Road.
17. The plot is of sufficient size to provide an appropriate level of parking and amenity space and the proposed dwelling would not appear cramped within the plot with spacing available to the side and rear. The development would continue the built form along Holland Road Gardens and infill the gap which currently exists between the existing dwellings. The proposed dwelling, by virtue of its size and scale, reflects the dwellings within the locality and would contribute positively to the character and appearance of the area.
18. It has been put to me that the site provides a spacious gap which contributes to the character of the area, however the site is located within an existing row of development, which continues beyond the appeal site. In addition, the site is located within a compact residential area, where large gaps between dwellings are not generally evident, or characteristic of the wider area. This, in combination, with the siting of the appeal site within the middle of housing, does not lead me to conclude that the development of this gap would lead to the area having a cramped appearance.

19. The development of Holland Road Gardens is generally devoid of soft landscaping and has an urban character. However, the appeal site is not an area of planned open space between the development and I have nothing before me to suggest that it was ever intended as such. The proposed layout would continue the use of block paving to the front of the site, which provides a degree of visual interest, contrasting with the tarmac road. As such the development would not be unduly harsh in its appearance, noting its similarities to the existing layout of Holland Road Gardens.
20. The proposal whilst increasing the density of development within the locality, would have a similar plot size to the neighbouring development adjacent to the appeal site. The introduction of the proposed dwelling into the site would be appropriate within this built up setting, having regard to the development adjoining the site and the modest scale of the development proposed.
21. The development would be appropriate to the landscape character and quality of the area and result in a small infill between the existing built development which is proportionate to the scale of the existing settlement.
22. The proposal would therefore accord with policy SP7 of SSS1 and SPL3 and LP4 of SSS2 which together seek to ensure high standards of design, with a well-considered site layout that relates well to its site and surroundings.

Other Matters

23. I have also taken into account the matters raised in the representations received including issues such as highway safety. However, there is no evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council.
24. In respect of the concerns regarding noise and disturbance during the construction process, including problems that have previously arisen from delivery vehicles accessing the site during the construction of neighbouring properties. The Council have not raised any concerns in respect of construction management, nor suggested the need for a condition to control the development. On this basis, I have concluded that the development would not cause a material increase in noise and disturbance in comparison to the existing situation.
25. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Planning Obligations

26. The appellant has provided a unilateral undertaking under section 106 of the Town and Country Planning Act 1990, which includes an obligation which would come into effect if planning permission were to be granted. I have considered the obligations in light of the Framework, Planning Practice Guidance (PPG) and the Community Infrastructure Levy Regulations (the CIL Regulations).

Colne Estuary RAMSAR

27. The appeal scheme proposes dwellings on a site that lies within the Zone of Influence of the Colne Estuary RAMSAR. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the Colne Estuary RAMSAR. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
28. Since the development is for only one dwelling, the number of additional recreational visitors would be limited and the likely effects on the Colne Estuary RAMSAR from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on the designated site.
29. Given my findings, the Regulations place a duty on the competent authority to undertake an appropriate assessment of the implications of the appeal scheme in view of the site's conservation objectives.
30. The site is within the zone of influence where new residential development is likely to result in recreational pressure, which would, both alone and in combination with other development within the zone of influence, have a likely significant effect on the interest features of the aforementioned site. Therefore, I consider that the development would have an adverse effect on the integrity of the site, but regard can be had to whether these adverse effects can be mitigated.
31. 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 the Colne Estuary RAMSAR.
32. The appellants have submitted a Unilateral Undertaking for the per dwelling contribution of £156.76 to fund the Essex Coast RAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
33. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

Conditions

34. The Council has suggested conditions which I have considered against the advice in the Framework and Planning Practice Guidance. In addition to the standard implementation condition, it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.

35. Furthermore, in order to support the government's objective of increasing sustainable development I have imposed a condition to ensure that details of decentralised, renewable or low-carbon sources of energy are provided for the development and that measures for water efficiency are provided within each dwelling, although I have not included the list of items suggested by the Council as there is insufficient evidence to demonstrate these would be required and this leaves scope for measures relevant to the proposed development to be secured. I have also imposed a condition requiring the submission of a resident's travel pack to encourage sustainable modes of travel.

Conclusion

36. For the reasons given I conclude that the appeal should succeed.

G Pannell

INSPECTOR