
Appeal Decision

Site visit made on 16 January 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/A1530/W/23/3322115

Lovedowns Lodge, Barnhall Road, Salcott, Essex CM9 8HF

- 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 & Mrs John Bevan against the decision of Colchester City Council.
 - The application Ref 222407, dated 22 September 2022, was refused by notice dated 16 November 2022.
 - The development proposed is re-use of barn as single dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for re-use of barn as single dwellinghouse at Lovedowns Lodge, Barnhall Road, Salcott, Essex CM9 8HF in accordance with the terms of the application, Ref 222407, dated 22 September 2022, subject to the conditions contained in the attached Schedule.

Preliminary Matters

2. During the appeal, the National Planning Policy Framework (the Framework) was revised by government. Its content in respect of the main issues has not been materially altered. Therefore, in this instance it has not been necessary to consult the parties on the revisions to the Framework.
3. The appellant has made a financial contribution for the purpose of mitigating the effects of the proposal on certain European sites. The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) require mitigation measures be assessed within the framework of an appropriate assessment. Therefore, I have considered the effects of the proposal and the secured mitigation in my reasoning below.
4. In response to the Council's third reason for refusal, the appellant has provided an Ecological Survey and Assessment which I have considered in my reasoning. The Council's Decision Notice includes reference to superseded Development Plan Policy DP21. However, I have determined the proposal against extant Colchester Local Plan Section 2 Policy ENV1. Since both parties have submitted evidence in respect of this issue, no party would be prejudiced by my application of the policy.

Main Issues

5. The main issues in this appeal are:
 - The effects of the proposal on the character and appearance of the appeal property and area;

- The effects of the proposal on protected species and biodiversity;
- Whether the proposal would be in a suitable location for development, having regard to the local development strategy for the area; and
- The effects of the proposal on the integrity of European sites.

Reasons

Character and appearance

6. The appeal site lies within Colchester Borough Landscape Character Assessment Area E2, the 'Great & Little Wigborough Coastal Farmland'. The area surrounding the appeal site shares characteristics of this Character Area, including a regular square and rectilinear field pattern which is generally open and undeveloped arable farmland with intermittent patches of rough grassland and shrub, and small-scale settlements and isolated farmsteads dotted across the landscape.
7. To the rear of the site, the landscape comprises agricultural fields and is open in character. Any views of the proposed development from the wider landscape would be experienced over a long distance, and the existing tree belts along field boundaries would serve to reduce the barn's visual prominence.
8. The appeal site is situated behind a row of existing dwellings. The proposed development, including any domestic paraphernalia such as sheds and outbuildings, would be viewed within the context of nearby residential uses.
9. The barn is constructed from black timber weatherboarding over a brick plinth, with a pitched, tiled, terracotta roof, and timber doors along the front elevation. Despite its traditional appearance, the barn was constructed around 10 years ago and is therefore a modern building.
10. The conversion of the building would introduce additional windows, rooflights and bi-fold doors to provide natural light, access and means of escape. Whilst the domestic fenestration would be extensive across the front elevation, the placement of the glazed doors generally reflects that of the existing timber doors. In addition, there are existing rooflights across each roof plane. Therefore, the additional fenestration would not be out of keeping with the appearance of the existing building, and the character of the existing barn would be retained.
11. The barn is generally obscured from view from the public highway by the row of dwellings and the hedgerow along the highway edge. Therefore, the proposed chimney stack and western elevation fenestration would be of limited visual prominence and would not harm skyline views from Barnhall Road.
12. The proposal involves the conversion of the barn and would not increase the scale or mass of built development on the site. The site boundary is drawn relatively tightly around the existing building and access, incorporating areas presently used for open storage of materials, and does not encroach into the adjoining field. Therefore, the proposal would not result in the loss or fragmentation of the field.
13. The barn is served by an existing access track and hardstanding. Formation of the proposed parking area and driveway would represent only a modest change to the appearance of the site and would not amount to visual harm.

14. Amenity space and boundary treatments are not clearly indicated by the proposal. However, the appearance of the hard and soft landscaped areas can be controlled through a planning condition requiring the Council's approval of a landscaping scheme and could incorporate restoration of hedgerows.
15. As set out above, the proposal would retain the generally open and undeveloped character of the Coastal Protection Belt and would not have an urbanising effect on this countryside location. The scale of development proposed would not harm the character of settlements or result in their coalescence or appear out of keeping with the existing building. On this basis, the proposal would not harm the character and appearance of the appeal property or area.
16. The proposal would therefore comply with Policies ENV1 and ENV2 of the Colchester Local Plan Section 2 2022 (LPS2), which together seek to conserve and enhance Colchester's countryside and Coastal Protection Belt, and would accord with LPS2 Policies SP7, OV2 and DM15 which together require residential development in the countryside to respect and respond positively to local character and appearance of landscapes and built environment.

Protected species and biodiversity

17. The Ecological Survey and Assessment (ESA) was commissioned to determine whether the site had been occupied by protected species. The ESA found the site to be covered by short vegetation and gravel hardstanding, with no priority habitats and no suitable habitats for protected species. Therefore, the proposal is not expected to affect protected species and the ESA indicates no further surveys are required.
18. The ESA suggests priority species of hedgehog and common toad are likely to be present in the area and sets out recommendations for reasonable biodiversity enhancements, including providing means of escape from open trenches; retaining gaps along site boundaries to allow foraging; and provision of bird nesting boxes, hedgehog nesting box, and hives for solitary bees.
19. Subject to complying with the ESA's recommendations, the proposed development would not harm protected and priority species and would provide modest biodiversity enhancement.
20. Therefore, the proposal would comply with LPS2 Policy ENV1 which seeks to conserve and enhance biodiversity, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement, and connection of natural habitats.
21. For the same reasons, the proposal would satisfy section 40 of the Natural Environment and Rural Communities Act 2006 which places a duty on all public authorities in England and Wales to have regard to the purpose of conserving biodiversity.

Suitability of location

22. Policy SP3 of the North Essex Authorities' Shared Strategic Plan Section 1 2021 (SSP) identifies existing settlements as the principal focus for additional growth. LPS2 Policies SG1 and SG2 together distribute growth in accordance with the spatial strategy and spatial hierarchy, directing development toward

the most accessible locations to reduce the need to travel, and supporting development where a real travel choice is provided.

23. The site is outside of any settlement and is in the countryside. The 'other village' of Salcott is around 1km from the site, and bus stops providing services to the 'sustainable settlement' of Tiptree are situated around 650m from the site. However, the public highway at the site's frontage has no footpaths or street lighting, and fast-moving traffic passes the site at national speed limit. The site would therefore offer poor access to public transport and limited accessibility for pedestrians and cyclists, and thus future occupants would have limited choices of means of travel. For these reasons, the appeal site is not in a location prioritised for growth by Policies SP3, SG1 and SG2.
24. LPS2 Policy OV2 requires proposals for residential development in the countryside demonstrate the scheme respects the character and appearance of landscapes and preserves or enhances biodiversity. Therefore, whilst the development plan directs growth toward accessible locations, development in the countryside is supported in certain circumstances.
25. As set out above, I have found the proposal would not harm the character and appearance of the landscape and would provide modest enhancement to biodiversity. The proposal would therefore satisfy Policy OV2's criteria for residential development in the countryside. For these reasons, having regard to the local development strategy for the area, the proposed development would be in a suitable location.
26. The proposal would therefore comply with LPS2 Policy SG1 which supports development in the countryside where it accords with Policy OV2. In addition, the proposal would satisfy SSP1 Policy SP1 which seeks to secure development which improves the economic, social and environmental conditions in the area.

European sites

27. The appeal site is located within Colchester City Council's administrative area and is therefore functionally related to designated habitats, including Colne Estuary Special Protection Area (SPA) and Ramsar; Hamford Water Special Area of Conservation (SAC), SPA and Ramsar; the Blackwater Estuary SPA and Ramsar; and the Stour and Orwell Estuaries SPA and Ramsar.
28. The conservation objectives for those Essex coast habitats are to ensure that the integrity of the sites is maintained or restored as appropriate, and to ensure that the sites contribute to achieving the aims of the Wild Birds Directive.
29. The qualifying species for the Essex coast habitats are: Colne Estuary: dark-bellied brent goose, common pochard, hen harrier, ringed plover, common redshank, little tern, and its waterbird assemblage. Hamford Water: dark-bellied brent goose, common shelduck, Eurasian teal, pied avocet, ringed plover, grey plover, black-tailed godwit, common redshank, little tern. Blackwater Estuary: dark-bellied brent goose, common pochard, hen harrier, ringed plover, grey plover, dunlin, black-tailed godwit, little tern, waterbird assemblage. Stour and Orwell Estuaries: dark-bellied brent goose, northern pintail, pied avocet, grey plover, red knot, dunlin, black-tailed godwit, common redshank, and its waterbird assemblage.

30. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) supports sustainable residential growth in Essex while protecting Habitats sites and their wildlife from the increased disturbance from recreation associated with a growth in population. The RAMS identifies that housing and consequent population growth in Essex is likely to increase the number of visitors to sensitive coastal areas, creating the potential for impacts from increased recreational disturbance of birds and their habitats, unless adequately managed.
31. The population increase associated with the creation of one new dwelling would increase recreational pressure on Essex coast habitats. The proposal would therefore have a likely significant adverse effect on the qualifying features of the above European sites, due to the type and location of the development, alone and in combination with similar development.
32. The 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, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on relevant designated habitats. As such measures have been endorsed by Natural England, in this circumstance it is not necessary to consult this statutory body.
33. The appellant has provided confirmation of a financial contribution made in accordance with the RAMS. I therefore consider that appropriate mitigation has been secured and is necessary to make the development acceptable.
34. 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 the mitigation measures have been secured and would be used for their intended purpose.
35. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of European sites. On the basis of the mitigation provided, the proposal would not have significant effects on European sites at the Essex coast.
36. The proposal would therefore comply with SSP Policy SP2 and LPS2 Policy ENV1, which together seek to protect and enhance habitats of international importance and requires development proposals mitigate the effects of development in accordance with the RAMS.

Other Matters

37. The barn was originally constructed to store agricultural machinery associated with the adjacent agricultural land. Working of the adjacent land has now ceased. The main parties refer to the provisions of the Framework regarding the re-use of redundant or disused buildings for the development of homes in the countryside. However, as set out above, I have considered the proposal within the context of the policies of the development plan and found the scheme would comply with the local development strategy.

38. The Council's Environmental Health team requested provision of a charging point for an electric vehicle. However, this would be secured through Building Regulations.

Conditions

39. 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.
40. To ensure the appearance of the development complements the character of the area, I have attached a condition requiring external materials match those specified by the application.
41. In the interests of maintaining highway safety, I have attached conditions regarding the use of unbound materials, siting of gates, and provision of turning and parking areas. However, since the proposed development would utilise the existing access, I have not attached the suggested condition specifying the construction standard of the vehicular access. A condition requiring the approval and provision of secure cycle storage is included for the purpose of promoting the use of sustainable transport.
42. A condition specifying periods when construction may take place is attached to this decision to ensure that the construction phase of the development does not adversely affect the living conditions of nearby residents.
43. To ensure the appearance of the proposal does not adversely affect the character of the landscape, I have attached conditions requiring a scheme of landscaping works and specifying the period for its maintenance.
44. To ensure the proposed development does not harm protected and priority species, and achieve biodiversity enhancement, a condition is necessary to secure delivery of the recommendations of the ESA.

Conclusion

45. 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: *Location Plan* (dated 26 September 2021); 120721/001 A-01 *Lovedowns Barn Site Plan*; 120721/005 A-01 *Proposed: Lovedowns Barn Conversion*; 120721/006 A-01; *Existing: Lovedowns Barn*.
- 3) The external materials to be used shall be those specified on the submitted application form and drawings.
- 4) No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m of the highway boundary.
- 5) Any gates erected at the vehicular access shall be inward opening only and shall be recessed a minimum of 6m from the highway boundary.
- 6) Prior to occupation of the development hereby permitted, the turning area and off street parking shall be provided in accordance with the details shown in Drawing no 120721/001 A-01. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development thereafter.
- 7) Prior to occupation of the development hereby permitted, details of the provision for the storage of bicycles sufficient for all occupants of that development, of a design that shall be approved in writing by the local planning authority. The approved facility shall be secure, convenient, covered and provided prior to the first occupation of the proposed development hereby permitted within the site which shall be maintained free from obstruction and retained thereafter.
- 8) Demolition or construction works shall take place only between 08:00 and 18:00 on weekdays, 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) Prior to occupation of the development hereby permitted, the recommendations for biodiversity enhancement at Section 10 of the Ecological Survey and Assessment for Lovedowns Lodge Barn Salcott by Essex Mammal Surveys, dated October 2023, shall be implemented and maintained thereafter.

END OF SCHEDULE