



Appeal Decision

Site visit made on 27 February 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2024

Appeal Ref: APP/W1525/W/23/3325540

Church Green Cottage, High Street, Stock, Ingatestone, Essex CM4 9BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Fenwick against the decision of Chelmsford City Council.
 - The application Ref is 22/02311/FUL.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for a new dwelling at Church Green Cottage, High Street, Stock, Ingatestone, Essex CM4 9BS in accordance with the terms of the application, Ref 22/02311/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the description of development as stated on the Council's decision notice, rather than that given on the application form, as this is more precise. The appellant raises no specific objection to that description, which they have subsequently used on the appeal form. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect but there are no material changes relevant to the substance of the appeal.

Background and Main Issue

3. There is one reason for refusal relating to the protection of trees that raises two matters. Firstly, that there would be an unacceptable effect on the root protection area (RPA) of tree T3 and secondly that the proposed layout would not create a harmonious relationship between the proposed dwelling and trees that can be maintained in the longer term. However, during the appeal the Council has confirmed that it accepts the incursion into the RPA of T3 is not likely to be unacceptable, subject to suitably worded conditions. I am content that in this regard, the proposal would accord with Policy DM17 of the Chelmsford Local Plan (2020) (LP).
4. Taking the above into account, the main issue is the effect of the proposal on the long-term health and vitality of protected trees, bearing in mind that it would be in the Stock Conservation Area (SCA).

Reasons

5. The appeal site falls within the SCA and in line with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special attention to the desirability of preserving or enhancing the

character or appearance of the conservation area. From my observations, the significance of the SCA, insofar as is relevant to this case, is primarily derived from its verdant character, created by buildings within a landscaped setting. Trees also form an important part of the character of the area. As a verdant plot of land accommodating a number of trees the appeal site makes a positive contribution to the SCA.

6. I note that the Council has no concerns regarding the effect of the design of the proposal on the significance of the SCA. Bearing in mind the nature and extent of the proposal, I consider that it would have a neutral effect on, and would therefore preserve, the character and appearance of the SCA as a whole, and not harm its significance as a designated heritage asset, in relation to design and appearance matters.
7. Notwithstanding this, the Council indicate that the siting of the proposed dwelling would create an oppressive relationship with two Corsican Pines at the roadside boundary (T6 and T7). T6 and T7 are identified in the Arboricultural Impact Assessment and Draft Arboricultural Method Statement (2022) (AIA) as category B specimens in generally good condition. I observed the trees to have a prominent position next to the road, making a positive contribution to the character of the SCA and to have amenity value through public views in the surrounding area.
8. T6 and T7 are of a significant height and would be expected to live for many more years. However, the trees are noticeably leaning away from the appeal site towards the road, and owing to the proposal's modest height, and the tree's tall crown with relatively sparse branches between the canopy and the ground, no unacceptable harm would be caused to future occupiers' outlook and daylight/sunlight levels. Furthermore, the proposal has been designed to be largely double aspect which would assist in providing acceptable outlook and daylight/sunlight levels.
9. Trees can often be perceived as a nuisance by reason of the obstruction of light and from falling leaves and debris. Nonetheless, given the verdant characteristics of the area, future occupiers are likely to choose to live at the appeal site because they want to live in a landscaped setting and would not find the proximity to trees a nuisance.
10. At worst, some minor cutting back of T6 and T7 may be required should there be significant growth towards the proposed dwelling. However, given the existing sparse branch coverage nearest the proposal, there is no substantive evidence to indicate that the trees would require constant maintenance. Or that excessive pruning would take place, giving rise to liveability issues that would ultimately require the complete removal of the trees.
11. The trees are protected due to their location in a conservation area and the Council would have the authority to allow or decline any applications for works to the trees. There is no detailed evidence that any future applications for works would be so numerous to suggest that a harmonious relationship between the dwelling and tree cannot be maintained over the longer term.
12. I see no clear reason why T6 and T7 would not endure broadly as they are, thereby maintaining the positive contribution they make to the verdant qualities of the area. It therefore follows that the contribution the trees make to the character and appearance of the SCA as a whole would be preserved and

its significance as a designated heritage asset would not be harmed. In doing so the proposal would meet the requirements of section 72(1) of the Act and the provisions of the Framework which seek to conserve and enhance the historic environment.

13. Overall, the proposal would not unduly compromise the long-term health and viability of protected trees, and would preserve the SCA and its significance, in accordance with Policy DM17 of the LP. This policy, amongst other things, requires development proposals to not result in unacceptable harm to the health of trees in a conservation area.

Protected Sites

14. The appeal site lies within the zones of influence for the Blackwater Estuary Special Protection Area and Ramsar site and Essex Estuaries Special Area of Conservation (the protected sites). The sites are protected pursuant to the Conservation of Habitats and Species Regulations 2017 (the Regulations) and are recognised for their value as coastal habitats and support internally important populations of breeding and non-breeding birds. Features of interest include dark-bellied brent goose (non-breeding), ringed plover (breeding), Atlantic salt meadows and subtidal sandbanks.
15. The protected sites have been identified as being vulnerable to harm through recreational disturbance, exacerbated by an increase in the local population resulting from new residential development, including through the cumulative effect of small-scale developments. Additional residents from the proposal could therefore cause an adverse effect on the integrity of the sites. As such, alone and in combination with other development, the proposal constitutes a likely significant effect to the protected sites.
16. As the competent authority I am required to carry out an appropriate assessment in relation to the effect of granting permission on the integrity of the protected sites. Mitigation has been developed to avoid such adverse effects in the form of the Essex coast recreational disturbance avoidance and mitigation strategy (RAMS), funded through proportionate developer contributions. In this case, the appropriate contribution has been secured through a direct payment to the Council and I have been provided with evidence from both parties confirming that the required financial contribution was made while the planning application was before the Council.
17. The RAMS is a well-established mitigation strategy, endorsed by Natural England and involves several local authorities working in partnership. I am therefore content that the appropriate arrangements are in place to ensure that the funds are directed towards the implementation of the mitigation set out in the RAMS. I have no clear reason to doubt that the Council, as a responsible public body, would not spend the money in the way it is intended.
18. On this basis, in carrying out the appropriate assessment, the adverse effects of the proposal on the integrity of the protected sites would be avoided. Consequently, with the above mitigation measures in place, the proposal would not adversely affect the integrity of the protected sites, either alone or in combination with other development.

Other Matters

19. The site is in proximity to listed buildings including the Grade I listed Church of All Saints¹ and the Grade II listed Church Green Cottage². Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess. From the information before me, the special interest and significance of these assets primarily stem from, singularly or in combination, their archaeological, historic and architectural interests. However, pertinent to the appeal, they are also derived, to a greater or lesser extent, from their respective largely open and verdant settings.
20. Given the location, extent and nature of the proposal in relation to these listed buildings, I consider that the settings of these designated heritage assets would be preserved and the contribution they make to the assets' significance would not be harmed. This would meet the requirements of section 66(1) of the Act and the provisions in the Framework regarding the conservation and enhancement of the historic environment. I note the Council raised no concerns in this respect either and Historic England were not notified of the proposal³.

Conditions

21. The conditions suggested by the Council have been considered and amended as necessary to ensure compliance with the Planning Practice Guidance and the Framework. Furthermore, the appellant is in agreement with the pre-commencement conditions.
22. It is necessary to impose a condition identifying the approved plans for clarity and a condition securing material details in the interests of the character and appearance of the area. This includes reference to the materiality of rainwater goods and so a separate condition is not necessary. Similarly, a condition is imposed to secure the submission of large-scale drawings given the site's sensitive location within a conservation area. Furthermore, I have imposed a condition relating to the removal of certain permitted development rights in the interest of visual appearance, and to ensure that the trees at the site are not put under pressure from additional development.
23. A condition is imposed to secure details of both hard and soft landscaping in the interest of biodiversity and character and appearance, this covers boundary treatments and as such a separate condition is not required. For the same reasons, a condition is imposed to make sure that the development is carried out in accordance with the AIA. To ensure a sustainable form of development a condition is imposed to secure water efficiency.
24. The submission and approval of a construction method statement is required in the interest of highway safety and protecting the living conditions of neighbouring occupiers, and before the commencement of development as the details relate to the construction phase. I also impose a condition in relation to remediation and contamination to protect living conditions. In the interest of

¹ List Entry Number 1236734

² List Entry Number 1236735

³ Under Regulation 5A(3) of the Town and Country Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) Historic England must be notified on development which the local authority think would affect the setting of a Grade I or Grade II* listed building.

historical recording of the site and its likely archaeological interest a condition is imposed in relation to archaeological evaluation. This is required before the commencement of development so that a programme of archaeological recording can take place to ensure that ground works do not impact on any surviving archaeological remains.

25. In the interest of highway safety, conditions are imposed relating to surface water and ensuring that the areas to be used by vehicles are laid out, including parking. This condition includes reference to electric charging infrastructure in the interest of promoting low carbon transport, and so a separate condition is not necessary.
26. I have assessed the proposal based on the submitted plans which do not include the existing access to the main road within the red edge. As such I have not imposed conditions relating to unbound material within the first six metres of the highway boundary, or the provision of a dropped kerb, which in any event, relates to another planning permission. I have also not included conditions requiring the provision of cycle parking or the implementation of a residential travel information pack, which given the scale of the proposal are not necessary to make the development acceptable.

Conclusion

27. For the reasons given above the proposal accords with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal should be allowed.

F Harrison

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three 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 PFCG4; Block Plan PFCG3; Tree Survey Plan 01/A; Tree Removal Plan 02/A; Tree Protection Plan 03/A; Hedging Planting Plan 04/A; Floor Plan PFCG2; and Proposed Elevations.
- 3) No development shall take place, including any ground works or demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of:
 - parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development; and
 - wheel and underbody vehicle washing facilities.

The approved CMS shall be adhered to throughout the construction period.

- 4) No development shall take place, including any ground works within the red line boundary shown on approved Location Plan PFCG4 until the implementation of a programme of archaeological recording has been secured. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 5) No above ground construction shall commence until details and samples of the materials to be used in the construction of all external surfaces have been submitted to and approved in writing by the local planning authority. This includes all rainwater goods which shall be of cast iron or cast aluminium and painted black. Development shall be carried out in accordance with the approved details and samples and thereafter maintained as such.
- 6) Prior to their installation, large scale drawings shall be submitted to and approved in writing by the local planning authority showing details of windows, doors, eaves, verge, plinth, dormer, meter boxes, external lighting, vents and flues.
- 7) Details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. The details shall include:
 - hard surfaced areas and materials;
 - the position, design and materials of boundary treatments;
 - existing trees and hedges to be retained;
 - planting plans including specifications of species, sizes, planting centres, number and percentage mix;
 - planting or features to be provided to enhance the value of the development for biodiversity and wildlife; and
 - a five-year maintenance plan.

The hard landscaping works shall be carried out in accordance with the approved scheme and shall be completed prior to the first occupation of the

development. The soft landscaping works shall be carried out in accordance with the approved scheme and in the first available planting season following the first occupation of the development. Any trees or hedges planted or retained in accordance with this condition which are removed, uprooted, destroyed, die or become severely damaged or become seriously diseased within 5 years of planting shall be replaced within the next planting season by trees or shrubs of similar size and species to those originally required to be planted.

- 8) The development hereby permitted shall be carried out in strict accordance with the Arboricultural Impact Assessment and Draft Arboricultural Method Statement dated November 2022 by Plumb Associates and Tree Protection Plan 03/A.
- 9) Prior to first occupation of the development, all areas to be used by vehicles shall be fully laid out, including the driveway and parking shown on the approved Block Plan PFCG3 and charging infrastructure for electric vehicles at a rate of 1 charging point per dwelling. The arrangements shall be retained as such thereafter.
- 10) The dwelling hereby approved shall not be occupied until the Building Regulations optional requirement to achieve increased water efficiency to a standard of no more than 110 litres of water per person per day has been complied with.
- 11) There shall be no discharge of surface water from the development site onto the highway.
- 12) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until the developer has submitted and obtained written approval from the local planning authority for a remediation strategy detailing how this contamination shall be dealt with. The remediation strategy shall be carried out as approved before the development is resumed or continued. Following completion of any remediation measure a validation report must be submitted to and approved in writing by the local planning authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the dwelling hereby permitted shall not be enlarged or extended, no roof alterations, windows or other openings other than those expressly authorised by this permission shall be inserted and no outbuildings or enclosures shall be built or erected within the curtilage of the dwelling.