



Appeal Decision

Site visit made on 16 July 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Appeal Ref: APP/V1505/W/23/3328868

Gladwinds, London Road, Bowers Gifford, Basildon, Essex SS13 2HE

- 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 Nikki Wright against the decision of Basildon Borough Council.
 - The application Ref is 23/00492/FULL.
 - The development is the retention of existing one-bedroom bungalow and outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted retrospectively, and I saw during my site visit that the development had been fully constructed and was occupied as a separate dwelling. I have therefore considered the appeal on a retrospective basis.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the surrounding area;
 - whether the development provides satisfactory living conditions for the occupiers, with regard to private amenity space; and
 - the effect of the development on the integrity of European Sites, with particular regard to recreational pressure.

Reasons

Character and Appearance

4. The appeal site is occupied by a semi-detached property fronting London Road which has been converted into three flats. To the rear of this is a single storey dwelling and associated outbuilding with access from the road via a large driveway to the side of the host property. This single storey dwelling is the subject of this appeal. The surrounding area is residential in nature and largely characterised by detached or semi-detached, two-storey dwellings with gardens to the rear. The appeal site is situated at the end of the row of the dwellings on London Road and adjacent to an open parcel of land to the east, which appears to be located within the Green Belt.

5. As a single storey building in a backland location, the development has the appearance of a large garden outbuilding, rather than a stand-alone dwelling. Therefore, whilst it would not follow the prevailing pattern of development within the area it would not appear overly incongruous or out of character within its surroundings. It is noted that the development includes the subdivision of the plot with a large separate access to the side of the host dwelling. However, the plot has already been somewhat divided into separate areas through its conversion into flats, with a parking area to the side of the main dwelling. Therefore, the subdivision of the rear portion of the site does not significantly alter its contribution to the character and appearance of the area.
6. Furthermore, the appeal dwelling has limited visibility from the public realm and therefore would have little visual impact on the character and appearance of the streetscene. Whilst the building is close to the northern and western boundaries of the appeal site, due to the generous size of the site and the modest scale of the appeal dwelling, it does not appear cramped within its setting or result in an overdevelopment of the site.
7. Therefore, for the reasons above, the development does not harm the character and appearance of the area and does not conflict with the relevant section of Policy BAS BE12 of the Basildon District Local Plan Saved Policies 2007 (the LP). This policy seeks to ensure that new residential development is refused if it causes material harm to the character of the surrounding area including the streetscape. It would also comply with the general design objectives of the National Planning Policy Framework.

Living Conditions

8. Due to the position of the building close to the boundaries, its garden area is located to the side of the appeal dwelling and is partially occupied by a smaller outbuilding. Due to its location, this garden area would be partially visible from the first floor rear windows and balcony of the main property. However, the separation distance between the two is sufficient to ensure that any overlooking is not significantly harmful to the occupiers of the appeal dwelling when using their garden area. Therefore, whilst not to the rear of the appeal dwelling, the garden area still provides adequate private amenity space for the occupants.
9. As such, the development provides satisfactory living conditions for the occupiers and complies with Paragraph 135 of the National Planning Policy Framework which states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users. Policy BAS BE12 of the LP is not relevant to this main issue.

European Sites

10. The appeal site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Zone of Influence for the Blackwater Estuary Special Protection Area (SPA) and Ramsar site and the appeal development falls within the scope of RAMS as relevant development. Given that the development is for additional housing, and its proximity to the SPA, there is reasonable likelihood that it would be accessed for recreational purposes by the occupants of the development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European Site.

11. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the European Sites. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
12. The Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the measures to address direct and in-combination effects of recreational disturbance on European Sites. 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, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPA. The Council have indicated that the tariff to fund the mitigation, which is payable for all additional new dwellings is currently set at £156.76 per dwelling. Whilst the appellant has indicated that they are willing to pay this contribution, I have not been provided with a signed and dated Unilateral Undertaking making provision for the required contribution.
13. Due to the lack of a mechanism to secure the contribution to mitigate the impacts of recreational pressure, I cannot be satisfied that the appeal development would not result in an adverse effect on the integrity of the European Sites identified above. Therefore, whilst the effect of one dwelling would be small, in combination with other development, based on a precautionary approach and the evidence before me, I conclude that the proposed development would be likely to have a significant adverse effect on the integrity of the European Sites due to the potential of increased disturbance through recreational activity.
14. Consequently, I find that the proposed development has not demonstrated that it will adequately mitigate the recreational impacts of the proposal on the Blackwater Estuary SPA and Ramsar site. It would therefore fail to comply with the requirements of the Regulations as well as Paragraph 186(a) of the Framework which states that if significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Conclusion

15. Whilst the development does not harm the character and appearance of the area and provides satisfactory living conditions for its occupiers in relation to private amenity space, without mitigation secured, it is likely to have a significant adverse effect on the integrity of the aforementioned European Sites. Therefore, for the reasons given above and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR