



Appeal Decision

Site visit made on 12 November 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/P1560/W/24/3340768

Darmel Lodge, Brightlingsea Road, Thorrington, Essex CO7 8JH

- 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 Darren Sell against the decision of Tendring District Council.
 - The application Ref is 23/01460/FUL.
 - The development proposed is a new chalet bungalow to the rear of Darmel Lodge with new access, and retention of existing bungalow (Darmel Lodge).
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Decision

1. The appeal is allowed and planning permission is granted for a new chalet bungalow to the rear of Darmel Lodge with new access, and retention of existing bungalow (Darmel Lodge) at Darmel Lodge, Brightlingsea Road, Thorrington, Essex CO7 8JH in accordance with the terms of the application, Ref 23/01460/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - whether the proposed development would be in a suitable location for housing with regard to the local development strategy.

Reasons

Character and Appearance

3. The appeal site is occupied by a single storey dwelling known as Darmel Lodge, fronting Brightlingsea Road. Along with a garden to the rear, the site also extends to the rear of a number of other properties on Brightlingsea Road where a large lawned area and several outbuildings are located. This land to the rear of the host dwelling is accessed via an existing track between Darmel Lodge and the neighbouring property, Southaw. The proposed development would introduce a new chalet bungalow to this area of land to the rear of the properties on Brightlingsea Road.
4. Due to its location, the proposed development would constitute backland development. Policy LP8 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (the Section 2 Plan) 2022 lists a number of criteria that backland residential development must comply with. This includes criterion (e) which states that the site must not be on the edge of a defined settlement

where likely to produce a hard urban edge or other form of development out of character in its particular setting, and criterion (f) which states that the proposal must not be out of character with the area or set a harmful precedent for other similar forms of development.

5. The appeal site is not on the edge of a defined settlement and the Council concede that due to the presence of other development in the area would not create a hard urban edge when viewed from the west. However, residential development in the area, including Darmel Lodge, is largely linear in nature, fronting Brightlingsea Road. A dwelling to the rear of the main row of dwellings on Brightlingsea Road would therefore not follow the prevailing pattern of development in the area. Nevertheless, in this particular area, there are a number of buildings to the rear of the main building line, both to the north and south of the appeal site and on the appeal site itself.
6. It is noted that the proposed development would be located within the open countryside. However, due to the presence of other development to the rear of the main building line surrounding the appeal site, the proposal would not result in a harmful intrusion into the countryside. Particularly as there are already a number of outbuildings in this location. Therefore, whilst it may be located in the countryside and not follow the prevailing pattern of development in the area, the single dwelling proposed in this location would not appear out of character in its particular setting and would not conflict with criteria (e) and (f) of Policy LP8.
7. Criterion (b) of Policy LP8 states that long or narrow driveways will not be permitted. However, whilst the proposal includes an additional access point onto Brightlingsea Road, which would be visible in the streetscene, the driveway to be used to access the new dwelling is already in situ and used by the occupiers of Darmel Lodge to access existing outbuildings on the land, including a garage. Therefore, whilst the proposal would include the use of a long, narrow driveway for access, which is not permitted under criterion (b) of Policy LP8, the driveway itself is not a new element on the appeal site and therefore would not be visually detrimental to the streetscene.
8. Therefore, for the reasons above, the proposed development would not harm the character and appearance of the surrounding area and would not conflict with Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan (the Section 1 Plan) 2021 or Policies SPL3, LP4 and LP8 of the Section 2 Plan. These policies collectively seek to ensure that new development, including backland residential development, responds positively to the local character and context and relates well to its site and surroundings, to preserve and enhance the quality of existing places and their environs, contributing to the District's sense of place.

Location

9. Whilst in close proximity to the village of Thorrington, the appeal site is outside of its settlement development boundary and therefore forms part of the wider countryside. Policy SP3 of the Section 1 Plan states that existing settlements will be the principle focus for additional growth across the North Essex Authorities area.
10. Policy SPL2 of the Section 2 Plan states that outside of settlement development boundaries the Council will consider any planning application in

relation to the pattern and scale of growth promoted through the settlement hierarchy in Policy SPL1 and any other relevant policies in this plan. The Council identify that in this instance the 'other relevant policies in this plan' referred to include Policy SP7 of the Section 1 Plan and Policy SPL3 of the Section 2 Plan, of which I have found above that the proposed development complies with.

11. The Council consider that sustainable development is achieved by directing further housing growth to existing settlements and the proposed development would result in harm through its failure to comply with the statutory plan led approach to local housing. However, the aforementioned policies do not categorically preclude development outside of the settlement development boundaries and no specific harm has been cited in relation to the location of the proposed development. Whilst the Council claim they can demonstrate a healthy five year supply of deliverable housing, this is not a limit and does not mean that any other sites should be automatically discounted.
12. Paragraph 83 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include the consideration of providing support for local services even in a village nearby. The appeal site is in close proximity to the settlement of Thorrington, which is classified as a smaller rural settlement within the settlement hierarchy in Policy SPL1 of the Section 2 Plan.
13. The preamble to Policy SPL1 states that these smaller villages are considered to be the least sustainable locations for growth. However, Thorrington has some services and facilities which are accessible from the appeal site via foot, on a path adjacent to the road. There is also a bus stop located in close proximity to the appeal site providing access to villages and towns nearby with a greater range of services and facilities. Therefore, even though the scale of the development is limited, the proposed development can be given moderate weight in relation to paragraph 83 of the Framework.
14. Consequently, whilst the appeal site is located outside of the settlement development boundary, no harm from the proposed development has been identified and it is given weight in relation to paragraph 83 of the Framework. Therefore, in this instance, the proposed development would be located within a socially and environmentally sustainable location and would therefore be in a suitable location for housing. As such, it would not conflict with Policies SP1 and SP3 of the Section 1 Plan and Policies SPL1 and SPL2 of the Section 2 Plan as outlined above.

Other Matters

15. It has been highlighted within the Council's report that the appeal site is within the Zone of Influence (ZoI) for the Colne Estuary Special Protection Area (SPA) and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). 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 SPA, SAC and Ramsar sites. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.

16. The development would result in an additional dwelling with a consequent increase in the number of local residents living within the ZoI for these European Sites. This would be likely to result in additional recreational activity in these areas. Therefore, the proposed development is likely to have a significant effect on these European Sites. As the competent authority, it is necessary for me to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPA, SAC and Ramsar sites identified.
17. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of a European site, such as those listed above. I may consider measures to secure mitigation with a view to ensuring that the proposal would not adversely affect the integrity of the SPA, SAC and Ramsar sites. The Essex Coats Recreational disturbance Avoidance and Mitigation Strategy (RAMS) provides strategic mitigation measures to address this impact, with financial contributions at a specified tariff per dwelling collected from new development to fund this mitigation.
18. A complete unilateral undertaking has been submitted with the appeal in relation to this contribution and therefore, given the evidence before me, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose. The contribution 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 towards the mitigation schemes would count as mitigation towards maintaining the integrity of the sites. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the European Sites outlined above. The development would therefore comply with the Habitats Regulations.
19. Third party representations make reference to the impact upon the occupiers of neighbouring dwellings in relation to noise and disturbance and light pollution. However, the Council have raised no objections to these matters and I agree that the presence of a single dwelling in this location would have a limited impact on the occupiers of the surrounding properties.

Conditions

20. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. Furthermore, conditions relating to visibility splays and parking areas suggested by the Council have been included to ensure highway safety. A condition relates to water, energy and resource efficiency measures has not been included as these matters are secured through the Building Regulations.

Conclusion

21. For the reasons given above the appeal should be allowed.

E Grierson

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 drawing nos 700/0S, BC/1235/2, BC/1235/3 and BC/1235/5.
- 3) Before the access is first used, clear visibility shall be provided and thereafter permanently maintained in that area between the nearside edge of the metalled carriageway and a line 2.4 metres from the nearside edge of the metalled carriageway at the centre line of the access point and a distance of 120 metres in each direction along the edge of the metalled carriageway from the centre of the access. Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
- 4) All new parking areas and areas of hardstanding shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area within the site area.