



Appeal Decision

Site visit made on 11 February 2025

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/A1530/W/24/3348933

Land east of 1 & 2 Swanfield Cottages, Turkey Cock Lane, Stanway, Colchester, Essex CO3 8LZ

- 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 executors of Lorna Mary Jansma Deceased against the decision of Colchester City Council.
 - The application Ref is 232430.
 - The development proposed is the erection of one infill self-build single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal relates to a listed building, I have had special regard to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development would be in a suitable location, having regard to the local development strategy;
 - The effect of the proposed development on the character and appearance of the area, including the setting of listed building Sparrow Hall;
 - The effect of the proposed development on protected and priority species;
 - The effect of the proposed development on local infrastructure capacity, with particular regard to sport and recreation, and community facilities.

Reasons

Whether in a suitable location

4. Policy SP3 of the North Essex Authorities' Shared Strategic Section 1 Plan 2021 (SSP) focusses growth principally in or adjoining existing settlements according to their scale, sustainability and role. Reflecting SP3's spatial strategy, Policy SG1 of the Colchester Borough Local Plan 2022 Section 2 (CBLP) requires growth be located at the most accessible and sustainable locations in accordance with the spatial hierarchy. This includes the nearby villages of Copford and Stanway, where the development plan allocates sites for housing development. However, the

appeal site is outside of the limits of any settlement defined by the spatial hierarchy and is therefore located in the countryside.

5. Policy SG1 focusses development on accessible locations to reduce the need to travel, supporting development where a real travel choice is provided and sustainable travel for different purposes is promoted throughout the day.
6. At nearby London Road, is a post office offering convenience store goods; public house; and bus stops with services to the cities of Colchester and Chelmsford, other towns and villages, schools, and transport interchanges. London Road is served by pedestrian footways and streetlighting, with shops and services at the Tollgate Centre Shopping Park and Stane Retail Park within walking distance. There are childcare facilities and schools at the nearby villages of Stanway and Copford. The local area is well-served by facilities to meet day-to-day needs.
7. However, Turkey Cock Lane is a narrow, rural lane, with no pedestrian footways and only partial streetlighting. The bend in the road on approach to the junction with London Road constrains visibility and risks conflict with approaching vehicles. The site does not benefit from suitable pedestrian access and therefore would not offer real travel choice or promote sustainable travel throughout the day.
8. As set out above, the proposed development would be outside the settlement limit and would offer poor accessibility. Therefore, the proposed development would not be in a location prioritised for growth by SSP Policy SP3 and CBLP Policy SG1.
9. Policy SG1 permits development in the countryside where it safeguards rural character in accordance with CBLP Policy OV2. However, I have considered the effects of the proposal on character and appearance below and have identified conflict with the development plan in this regard. Therefore, the proposed development would not be in a suitable location.

Character and appearance

10. The site is between the carriageway of Turkey Cock Lane and nos 1 & 2 Swanfield Cottages. The site comprises overgrown vegetation and an outbuilding and is enclosed by a hedge along its boundaries. A hedgerow also runs along the front of the adjacent agricultural land. Turkey Cock Lane is therefore bound by hedgerows along its west side, which adds greenery to the street scene and contributes to the area's rural character.
11. The east side of the lane is characterised by its row of dwellings set back by front gardens, typically with open frontages. There are dwellings to the south and west of the site, and to the north lies extensive agricultural land. The appeal site provides separation between the highway and built development and provides a transition between the built area and surrounding countryside.
12. Opposite the appeal site is Sparrow Hall, a Grade II listed building. The building dates from the late 15th century. It is a two-storey house with a timber-frame, plaster, and a plain tile roof. The north and south walls have some original framing exposed with painted brick nogging, and two original window openings on the north side. The special interest of the listed building is therefore primarily associated with its historic and architectural interest.
13. Due to its pink exterior and timber frame, form, and siting near the highway edge, Sparrow Hall is visually prominent when travelling along the lane. Whilst within a

row of dwellings, Sparrow Hall is also viewed in the context of undeveloped land with vegetated boundaries to the west. The open character of the appeal site contributes positively to Sparrow Hall's setting and directly contributes to its special interest.

14. The proposed dwelling would be sited near the highway edge and would appear close to Sparrow Hall. The proposed dwelling would be clearly visible within views of Sparrow Hall from the lane in either direction. The proposed dwelling's external materials have sought to avoid visually competing with Sparrow Hall. However, the proposed development would erode the open character of surrounding land, and would have a harmful, urbanising effect upon the listed building's setting.
15. The proposed dwelling would be in front of nos 1 and 2 Swanfield Cottages and the garden would appear small, relative to the typically long plots in the area. The siting and layout of the proposed dwelling would therefore be out of keeping with the established, linear pattern of development in the area.
16. The proposed development would comprise a single-storey, dual-wing dwelling. The design has two main volumes linked together and seeks to achieve the appearance of a pair of bungalows.
17. However, the proposed dwelling has twin frontage gables which appear tightly packed together and is markedly different in form and appearance from surrounding dwellings, including nearby single-storey dwellings. The proposed dwelling would appear unrelated to the character of buildings in the area.
18. The existing boundary hedge would be retained, and a new close-boarded fence erected on the south and east boundaries. Whilst these features would partly screen the development, the dwelling would be sited close to the front boundary and would be clearly visible above the height of the hedge. The elongated form of the proposed dwelling would extend across a significant portion of the site, and therefore the proposal would contribute substantial built form and would be visually prominent in the street scene.
19. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through development within an asset's setting and that this should have a clear and convincing justification. Given harm would arise through the loss of the open, rural setting of the listed building, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
20. The proposal would contribute one dwelling to the area's housing supply. The appellant asserts the proposal would be a unit of custom-build housing as supported by CBLP Policy DM10. In addition, the proposal would provide economic benefits during construction and increase local spending power, achieve a biodiversity net gain within the site, and future occupants would have a range of services and facilities nearby. However, due to the scale of the development, the magnitude of benefits associated with the proposal would be small.

21. In the absence of significant public benefit, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II listed building. This would fail to satisfy the requirements of the Act.
22. For the reasons set out above, the proposal would harm the character and appearance of the area and would fail to preserve the setting of Sparrow Hall Grade II listed building.
23. The proposal would therefore conflict with SSP Policy SP7 which requires new development respond positively to local character and context to preserve and enhance the quality of existing places and their environs. It would not comply with CBLP Policy DM15 which requires proposals demonstrate it respects and enhances the character of the site, its context and surroundings, and would conflict with CBLP Policy DM16 which restricts development that would adversely affect the setting of a listed building and seeks to preserve heritage assets.

Protected and priority species

24. The site is considered to have the potential to support protected and priority species such as bats and reptiles. During the appeal, the Preliminary Ecological Assessment, ACJ Ecology May 2024 (PEA), was submitted.
25. The PEA outlines the likely impacts and opportunities for mitigation, compensation, and enhancement. Overall, the PEA concluded the habitats on-site are common, widespread, and of limited ecological value. The PEA includes recommendations which could be secured through planning conditions, including requirements for a sensitive lighting strategy, removal of suitable habitats outside of bird breeding season or in the presence of a licensed ecologist, and a Biodiversity Impact Assessment relating to Biodiversity Net Gain on-site provision.
26. However, the PEA indicates the site offers opportunities for foraging and shelter for hedgehogs, is in an amber risk zone for great crested newts, and birds were heard on-site. The PEA recommends further consideration or survey works be carried out in respect of such species. The PEA does not therefore rule out harm to protected species arising from the development.
27. The proposal therefore fails to demonstrate the development would not harm protected and priority species.
28. The proposal would conflict with CBLP Policy ENV1 which requires proposals conserve the natural environment and biodiversity, including through being supported by appropriate ecological surveys, demonstrate the mitigation hierarchy has been followed, and minimise fragmentation of habitats.

Local infrastructure

29. SSP Policy SP6 requires all development be supported by the provision of infrastructure, services and facilities that are identified to serve the needs arising from the development. In addition, CBLP Policy SG7 indicates permission will be granted only if it can be demonstrated there is sufficient infrastructure capacity to support the development.
30. The Provision of Community Facilities Supplementary Planning Document 2013 (PCFSPD) identifies the importance of community facilities to the well-being of residents and as a mechanism for building community cohesion. In addition, the

Provision of Open Space, Sport and Recreational Facilities Supplementary Planning Document 2006 considers that all new residential developments of one or more dwellings will impact on sport and recreation provision. The SPDs set out tariffs to calculate financial contributions toward the provision of community facilities, and open space, sport and recreation.

31. Regulation 122 of the Community Infrastructure Levy Regulations 2010 makes it unlawful for any planning obligation to be taken into account as a reason to grant a planning permission if it does not meet the three statutory tests; that it is 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. The tests are reflected in paragraph 57 of the Framework.
32. The PCFSPD indicates the community facility contribution is calculated from various assumptions, including the average build costs of new community centres. The PCFSPD states build costs are reviewed annually and therefore would be expected to change from the worked examples. Whilst the Council has requested a total financial contribution of £1641.62, the assumptions from which this figure were calculated have not been provided. Therefore, I cannot be certain the contribution would be fairly and reasonably related in scale to the development.
33. The Council indicate the financial contribution would be used toward building improvements at Copford Village Hall, and/or a community hub and disabled access improvements at St Albrights Church. The appellant has provided details of a rural exception site housing development which the Council has resolved to grant planning permission. The scheme would secure a financial contribution toward refurbishment and/or extension/new build to Copford Village Hall, creating a community hub space¹.
34. No cost details of the identified works have been provided, and it is unclear if the improvements to the hall and community hub provision would be delivered wholly by the rural exception scheme. Therefore, I cannot be certain the community facility contribution would be necessary to make the development acceptable in planning terms.
35. The Council has not identified any adverse impact arising from the development on sport and recreation provision and has not sought a financial contribution in respect of such facilities.
36. As set out above, it is not demonstrated that there would be insufficient infrastructure capacity to support the proposed development. Therefore, having particular regard to sport, recreation, and community facilities, the proposal would not have an adverse effect on local infrastructure capacity. In this regard, the proposal would comply with Policies SG7 and SP6.

Other Matters

37. The appeal site is within the zone of influence of one or more European sites on the Essex coast. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS) indicates that residential development in this location is likely to have significant effects on European Sites through

¹ LPA ref: 213086

increased recreational disturbance. The Council confirm the appellant has provided mitigation through a financial contribution toward the Essex Coast RAMS.

38. Where a proposal is likely to have a significant effect on European sites, Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires the competent authority to carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to give consent for the proposal. Since I am dismissing the appeal for other substantive grounds which result in conflict with the development plan, it is not necessary to address the proposed development's effects on European sites in further detail.

Conclusion

39. As set out above, I have identified no adverse effect in respect of the provision of sport, recreation, and community facilities.
40. However, the proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR