



Appeal Decision

Site visit made on 9 April 2025

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2025

Appeal Ref: APP/P1560/W/24/3352355

5 Swift Avenue, Jaywick CO15 2JF

- 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 Ms Amanda Dunns against the decision of Tendring District Council.
 - The application Ref is 24/00953/FUL.
 - The development proposed is the erection of a 1 bedroom residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The parties refer to a mobile home on the site. Within the context of this appeal under section 78 of the Act, it is not within my remit to formally determine whether this is lawful. If the appellant wishes to ascertain whether it is lawful, an application can be made under section 191 of the Act. Nevertheless, I have had regard to the presence of the mobile home on the site insofar as it is relevant to my consideration of the case.
3. The National Planning Policy Framework (the Framework) was revised in December 2024. As this could affect the issues and matters in this case, the parties were invited to make further comments. My decision reflects the latest versions of the Framework, and the responses received on it.

Main Issue

4. The main issue is whether the proposed development would be in a suitable location having regard to the risk of flooding.

Reasons

5. The appeal site lies within the Jaywick Sands settlement development boundary within Flood Zone 3a where there is a high risk from tidal flooding. There are existing sea flood defences, but there is a risk of water overtopping them in certain flood events. In this area, the Essex and South Suffolk Shoreline Management Plan takes an approach of holding the existing defence line by maintaining or changing the standard of flood protection.
6. The Framework seeks to avoid inappropriate development in areas at risk of flooding by directing it away from areas at highest risk. Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (LP) sets out the approach to development and flood risk. It requires all proposals to be considered against the Framework's sequential test to direct development toward sites at the

lowest risk of flooding, unless they involve land allocated for development on the Policies Maps or Local Maps.

7. The Framework requires the application of a sequential approach to the location of development to avoid, where possible, flood risk to people and property. It states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
8. The Planning Practice Guidance sets out further information on the application of the sequential approach. For planning applications, it states that the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.
9. Jaywick Sands is identified as a Priority Area for Regeneration under Policy PP14 of the LP where there will be a focus for investment in infrastructure and initiatives to improve community safety, amongst other things. The Council has been working on a Place Plan to provide a long term strategy for Jaywick Sands, and its technical guidance on the application of the sequential approach in this area (the technical guidance)¹ recognises the regeneration objectives. It also acknowledges that the area has a high proportion of poor quality homes which are at risk of flooding, now and in the future. Therefore, the technical guidance indicates that improving the safety of residents in a flood event, and the flood resistance and resilience of homes, is an important part of meeting the aims of Policy PP14.
10. In terms of the sequential approach, the technical guidance states that for proposals which meet the Policy PP14 regeneration objectives, sites outside the policy area are unlikely to provide reasonable alternatives so the sequential search area would reasonably be set as the policy area boundary. For proposed developments inconsistent with the policy objectives, it outlines that the sequential search area may need to be set wider. Further, it is indicated that the Environment Agency will not object to proposals for on-plot replacement dwellings involving no net increase in bedspaces in the areas of Jaywick Sands which lie within Flood Zone 3, subject to several design criteria.
11. Historically, there may have been a dwelling on the appeal site, but it is currently occupied by a caravan which the Council considers to be unauthorised, a storage container and other paraphernalia. The proposal is for a dwelling on two levels which includes flood resilience measures. It is indicated that the design accords with the Council's Jaywick Sands Design Guide Supplementary Planning Document 2023 and the design criteria in the technical guidance.
12. Nevertheless, there is little evidence that the current caravan is authorised, and the appeal scheme would introduce new permanent residential accommodation onto the site rather than meeting a need to replace an existing poor quality dwelling. It would provide living space for two people, bringing more residents into an area at high risk of flooding, and the Environment Agency objects to the proposal on this basis. Thus, it would not meet the Policy PP14 objective of improving community safety and, to comply with the Council's approach to the sequential test, it is necessary to consider whether there are reasonable alternative sites at a lower risk of flooding in the wider area.

¹ Jaywick Sands – Approach to betterment, sequential and exception test, Technical Guidance for builders and developers 2022

13. The appellant has conducted research through estate agents and online tools, concluding that there are no other areas within Jaywick suitable for the proposed scheme. In Tendring, there is considerable land suitable for new housing in areas at lower risk of flooding and the Council considers that the sequential approach should apply across the whole district. Whilst land prices may be higher outside Jaywick, the evidence does not show that all reasonably available sites have been considered in accordance with the sequential test to determine whether the proposed development could be located in an area with a lower risk of flooding.
14. The Environment Agency notes that the proposed dwelling would provide refuge on the upper floor above the defended 1 in 1,000 year annual probability with climate change flood level. However, as the proposal does not meet the sequential test, it is not necessary to consider the Flood Risk Assessment results and its implications for the proposed accommodation.
15. There is a reference to an approval of two dwellings at Golf Green Road, but limited details of that case have been provided so I am unable to compare it to the appeal proposal.
16. Consequently, I conclude that the proposed development would not be in a suitable location having regard to the risk of flooding. This would be contrary to Policy PPL1 of the LP.

Other Matters

17. The Council did not find harm or development plan conflict in relation to several other matters, including character and appearance, access to services and public transport, amenity space provision and parking. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.
18. The proposed development would be likely to have a significant effect, either alone or in combination, on the Essex Estuaries Special Area of Conservation, due to its location within the Zone of Influence set out in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document 2020. However, there is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Conclusion

19. For the above reasons, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

A Wright

INSPECTOR