



Appeal Decision

Site visit made on 15 April 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/P1560/W/24/3351652

60 Harwich Road, Lawford, Essex CO11 2LP

- 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 Mrs Premwadee Haynes against the decision of Tendring District Council.
 - The application Ref is 24/00920/FUL.
 - The development proposed is described as the conversion/adaption of hay barn currently designated for uses incidental to the enjoyment of the main dwellinghouse to residential ancillary annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed 'National Landscapes', and Dedham Vale AONB within which the appeal site is located became known as the Dedham Vale National Landscape. I have therefore referred to the National Landscapes and the Dedham Vale National Landscape in my decision, except where legislation or policy documents continue to refer to AONBs.
3. There is another appeal¹ currently under consideration which relates to the refusal of an application² for a Certificate of Lawfulness of Proposed Use or Development³. This application sought to confirm the extent of the residential curtilage of the property relating to the proposed use of buildings, land and operations proposed to be carried out in, on, over or under land in association with Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). This decision, however, relates only to the matter stated in the banner heading above.

Main Issues

4. The main issues are:
 - whether the proposed development is an annex or a self-contained residential unit;
 - if the proposal is a self-contained residential unit, whether this is appropriate location having regard to the spatial strategy in the development plan;

¹ Appeal Ref: APP/P1560/X/24/3351659

² Application Ref: 24/00919/LUPROP

³ Section 192 of the Town and Country Planning Act 1990

- the effect of the proposed development on the character and appearance of the area, having particular regard to conserving and enhancing the landscape and scenic beauty of the Dedham Vale National Landscape;
- the effect of the proposed development on protected species; and
- the effect of the proposed development on living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

5. The appeal site comprises a detached hay barn, which is open fronted and constructed of timber and cement boards to its side and rear elevations as well as its roof. The design and appearance of the building is typical of an agricultural style rural building. It is the furthestmost building within the site, and at approximately 5.25 metres in height is the tallest of the outbuildings.
6. The hay barn is located to the rear of 60 Harwich Road (No.60), which is a semi-detached house, developed as part of the Foxash Estate, a settlement scheme introduced after the first world war. It has a repetitive pattern of mostly linear residential development. There is a single highway access into the appeal site currently shared by No.60 and the adjoining residential property 59 Harwich Road (No.59).
7. Within the wider ownership of the site there are also stables and a menage, as well as a number of other smaller outbuildings. To the west is a collection of paddocks which are in the ownership of the appellant and is mostly enclosed by hedges and trees.

Whether a Self-Contained Residential Unit

8. The proposal would involve the conversion and adaption of the 'hay barn' to provide a two-bedroomed annex, which would be occupied by the appellant. The appellant states that what is proposed would be an ancillary self-build annex and not a self-contained or independent dwelling. However, the Council dispute this and consider that the proposal would constitute a separate self-contained residential unit.
9. In this regard, it is not disputed that the proposed building would provide all the necessary facilities for independent day-to-day living including two bedrooms, a bathroom, kitchen and living room as well as a small garden and adjacent parking area. Nonetheless, it is a matter of fact and degree whether the proposed development would be an annex or a self-contained residential unit.
10. The appellant states that they would occupy the proposed annex, with their daughter or a carer occupying No.60. However, it is not clear whether future occupiers would live independently or as part of the household in the main house including whether they would share meals, whether care would be provided and the likely degree of comings and goings between the two buildings. There is nothing of substance before me demonstrating the occupants of the new building would be dependent on the occupants of No.60 and it is unclear whether or indeed how utility bills and services would be shared. Therefore, I cannot be satisfied that the development would be ancillary accommodation to the main dwellinghouse.

11. The Hay Barn which is proposed to be converted is one of the furthestmost buildings at the rear of No.60. As a result, there would be intervening buildings between the proposed annex and the existing dwelling. Whilst I note that the appellant has stated that there would be no boundary demarcation within the site, I observed during my site visit that there is an area of garden directly to the rear of No.60 which is already enclosed, and the presence of intervening buildings would further compound the visual and functional separation. Although I acknowledge that these are all within the same ownership, it is not clear how these intervening buildings will be used, or by whom in the future. Furthermore, the proposed annex and No.60 are unconnected buildings, and as a consequence it would be possible to sever the ownership of the two properties in future.
12. Although the precise dimensions of the proposed annex are disputed, it would have a floorspace of between 125m² and 144 m², which is a substantial size for a two-bedroom property, particularly considering that it is intended to function as an annex. The appellant states that the proposed annex would provide sufficient space to meet the appellant's needs but have not provided any detailed evidence to support this claim. They also state that the annex would have fewer bedrooms than No.60, which has been extended. However, I have not been provided with details of the size or layout of No.60.
13. Furthermore, the proposed annex would be two-storeys in height and have the appearance and scale of a separate house despite being located near to other single storey outbuildings. Therefore, the proposed annex would not have the appearance of a structure set within the garden of No.60. Instead, it would have a visual independence due to scale and design. Thus, for these reasons, the proposed annex would not appear subservient to No.60.
14. I accept that the highway access into the site would be a shared physical feature. However, it is not uncommon for two separate households to share a single access. In this particular case, the access is already shared with No.59. Furthermore, the occupants of the two properties could park separately from one another. In this instance, the parking and access arrangements would not make for a strong functional link.
15. My attention has been drawn to guidance adopted by the Peak District National Park Authority concerning ancillary accommodation and annexes. However, although I acknowledge that the Council has no specific policies or guidance of its own in relation to annexes, compliance with guidance established by another local authority area cannot be relied upon in reaching a decision as to whether or not a proposed annex is a separate dwelling. Therefore, whilst I have had regard to similar legal principles and tests, I have not based my findings on this document.
16. Therefore, whilst I recognise that there is no objection in principle to an annex, on balance, given the size, design and layout the proposed building would have, I conclude that the proposal would constitute a self-contained residential unit. As such, it should be assessed as an entirely separate unit of accommodation.

Spatial Strategy

17. The development plan for the area comprises the Tendring District Local Plan North Essex Authorities Shared Strategic Section 1 Plan, adopted January 2021 (the TDLP1), and the Tendring District Local Plan Section 2, adopted January 2022 (the TDLP2).

18. Policy SP3 of the TDLP1 sets out the broad spatial strategy for development within the district. It seeks to direct growth to within or adjoining settlements according to their scale, sustainability and existing role within the district.
19. In this regard, the appeal site is located approximately 1km to the west and outside of the nearest settlement development boundary for Lawford, which is categorised as a smaller urban settlement as defined in Policy SPL1 of the TDLP2. Therefore, for the purposes of the above policies, the appeal site is outside the settlement boundary and in the countryside.
20. Whilst the appellant states that the proposed development is not self-build dwelling, they have provided with their written evidence a number of references to duty placed on local authorities in this regard. In particular in relation to whether the Council can demonstrate that they have granted a sufficient number of permissions to meet the demand for self-build plots.
21. My attention has been drawn to an appeal decision⁴ concerning the assessment of supply. However, I do not have the full details of this appeal scheme, and it refers to a different local authority area. Therefore, it is not directly comparable to the appeal proposal, and I cannot attribute it more than very limited weight.
22. Nonetheless, I have therefore had regard to Section 1 of the Self Build and Custom Housebuilding Act 2015 sets out that local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under Sections 2 and 2A of that Act to have regard to this and to give enough suitable development permissions to meet the identified demand.
23. Whilst Policy LP7 of the TDP2 supports the provision of self-build or custom-build housing, it requires that all new self-build and custom-build homes must either be safely accessible on foot within 600 metres of the edge of the settlement development boundary of one of the District's 'strategic urban settlements' or 'smaller urban settlements', or 400m of the edge of the settlement development boundary of one of the District's 'rural service centres' or involve the redevelopment of vacant or redundant previously developed land that is unviable for employment use. It has not been demonstrated that the proposed development would comply with any of these requirements.
24. Furthermore, I have little substantive evidence before me to demonstrate that the proposed development would be secured as self or custom-build housing. A planning obligation is the most appropriate method of ensuring that the development is self or custom build housing rather than market housing.
25. Therefore, while I appreciate that may be the intention, and that the proposed dwelling would respond to the appellant's requirements, the delivery of a self-build scheme contributing to the Council's legal obligations in this regard cannot be guaranteed. For these reasons, in the absence of a suitable mechanism to secure the proposed development as self-build or custom-build housing, I can only attach very limited weight to this matter.
26. Consequently, I conclude that the appeal site is not appropriate location for the proposed development having regard to the spatial strategy in the development

⁴ Appeal Ref: APP/W0530/W/22/3311183

plan. Thus, it would be contrary to Policies SP3 and SP7 of the TDLP1 and Policies SPL1 and LP7 of the TDLP2. Together, these policies seek amongst other things, seek to direct new development to existing settlements.

Character and Appearance

27. The appeal site lies within the Dedham Vale National Landscape (the DVNL) which is a predominantly agricultural landscape that exhibits a subtle lowland river valley with features that include scattered farmsteads and agricultural buildings.
28. Policy PPL3 of the TDLP2 states that development proposals affecting protected landscapes must pay particular regard to the conservation and enhancement of the special character and appearance of the Dedham Vale and Suffolk Coast and Heaths AONBs, and their settings and development proposals should have regard to the Council's Landscape Character Assessments, as relevant, and should protect and reinforce identified positive landscape qualities.
29. Policy SPL3 of the TDLP2 also states that all new development (including changes of use) should make a positive contribution to the quality of the local environment and protect or enhance local character.
30. The existing hay barn is a large, open-fronted, timber building with a cement sheet roof. It is agricultural in its appearance. The proposed development would involve the conversion and adaption of an existing building and would utilise materials similar to those currently used. Nonetheless, the scale and bulk of the proposed building would appear greater as a solid building, and the introduction of window and door openings would result in a more domestic style of appearance, in contrast to the surrounding buildings which would remain agricultural in their appearance. As a result, the design would be at odds with the rural character of the site and surrounding area.
31. Whilst I accept that the proposal lies at the northern end of a cluster of outbuildings in rural surroundings and cannot be seen directly from Harwich Road, due to its scale and design, it would result in the gradual erosion of the countryside and the rural character of the area. Furthermore, along with the visual impacts of the proposal it is also necessary to consider the effects of the residential use of the site. This would include matters such as vehicle movements and parking associated with the development, fencing, domestic cultivation, and items such as garden furniture, external lighting and washing lines, which would also have a suburbanising effect on the character of the area.
32. Following on from my findings in respect of the first main issue, it is also appropriate to consider the effect of the proposed development in the context of Policies SPL3, SP7 and LP8, all of which relate to new residential development.
33. Policy LP7 of the TDLP2 which relates to proposals for self-build or custom-build housing, requires that the proposal shall have no significant material adverse impact on the landscape, or the form and character of nearby settlements and shall be otherwise appropriate in scale and design for their location, having regard to other policies in this Local Plan.
34. In this particular case, the proposed development by virtue of its siting to the rear of No.60 would not reflect the linear form of development along this part of Harwich Road which has a well-defined settlement pattern.

35. Policy LP8 of the TDLP2 states that residential development of backland sites must avoid tandem development using a shared access, that long or narrow driveways will not be permitted, and that development must not be out of character with the area.
36. The supporting text to Policy LP8 states that “tandem” development consists of a dwelling or dwellings immediately behind an existing residential frontage which are served by a shared access. It is generally unsatisfactory because of the difficulties of access to the dwelling at the rear and the disturbance and lack of privacy suffered by the residents of the dwelling in front.
37. In this regard, the proposed development would constitute tandem development in that it would be located to the rear of an existing dwelling, would be accessed via a long narrow driveway that’s runs close to No.60 and would potentially result in disturbance to the occupiers of No.60. On this basis, the proposal would not comply with Policy LP8 of the TDLP2.
38. Consequently, the proposed development would cause harm to the character and appearance of the area and therefore it would not preserve or enhance the special character and appearance of the DVNL. Thus, it would be contrary to Policies SP7, SPL3 and LP8 of the TDLP2 which require, amongst other things, all new development to protect or enhance local character, avoid tandem development and shall have no adverse impact on the landscape. It would also be contrary to Policy PPL3 of the TDLP2 which requires, amongst other things, development to pay particular regard to the conservation and enhancement of the special character and appearance of the DVNL.

Ecology

39. Policy PPL4 of the TDLP2 states that any proposed development on sites which may support protected species will require a relevant survey(s), undertaken by a suitably qualified ecologist. If protected species are present, a suitable mitigation plan will be required prior to planning permission being granted.
40. The Conservation of Habitats and Species Regulations 2017 imposes a duty to consider whether there is a reasonable likelihood of European Protected Species (EPS) being present and affected by the proposal. Bats are listed as an EPS under these regulations.
41. Whilst the appellant states that there is no evidence of the presence of protected species, the appeal proposal is not supported by a Preliminary Ecology Survey or other evidence relating to protected species.
42. Natural England’s standing advice indicates that survey work should be undertaken if a development proposal is likely to negatively affect bats or their roost, foraging or commuting habitats. Circular 06/20056 also states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development is established before planning permission is granted. The Circular states that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. I am not convinced that any such circumstances exist in this case.
43. Therefore, I find that insufficient information has been provided to demonstrate that the proposed development would not have an unacceptable adverse effect on

protected species. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required. Thus, the proposed development would be contrary to Policy PPL4 of the TDLP2

Living Conditions of Neighbouring Occupiers (Privacy)

44. The proposed development would be located close to the boundary with 59 Harwich Road (No.59), which together with No.60 form a pair of semi-detached dwellings with a similar layout of land and buildings to the rear.
45. Policy SPL3 of the TDLP2 requires that buildings and structures are designed and orientated to ensure adequate daylight, outlook and privacy for future and existing residents; and the development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.
46. The submitted plans indicate that there would be two first floor windows which would face towards the land at the rear of No.59. The submitted floor plans are not annotated, so it is unclear whether or not these windows would serve habitable rooms. However, even if these windows would be within habitable rooms, they would look across land which is some distance from the rear of No.59, where the more private garden areas are located. There are also buildings close to the boundary, including a shelter style building which abuts the boundary with the appeal building. As a result, the position of windows although side facing, would not be likely to result in a significant reduction in privacy for the neighbouring occupiers.
47. Consequently, I therefore find that the proposed development would not cause unacceptable harm to the living conditions of the neighbouring occupiers, with particular regard to privacy. Thus, it would not conflict with Policy SPL3 of the TDLP2 which requires amongst other things, buildings to be designed and orientated to ensure adequate privacy for future and existing residents.

Other Matters

48. I have had regard to the personal circumstances of the appellant, their concerns about flood risk which affects their current property and future concerns about ageing and health problems which may necessitate care to be provided. However, no substantive details have been provided, including the type and nature of care the residents may require and why the proposed annex is necessary to meet these needs. Therefore, whilst I am sympathetic to the appellant's desire to find more suitable accommodation to meet their existing and future needs, this does not alter my above findings.
49. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). The Planning Practice Guidance (the PPG) sets out that local planning authorities may seek further information, where it is appropriate to do so, about the approach to meeting the biodiversity gain objective for the development, and that BNG is a material consideration, including whether any imposition of conditions, or other ways can secure BNG.
50. The Regulations⁵, exempt certain developments from meeting the biodiversity requirement that would otherwise be imposed as a general condition of planning

⁵ The Biodiversity Gain Requirements (Exemptions) Regulations 2024

permission, which includes the de minimis exemption. However, this exemption only applies if two conditions are met 1) where it would not impact on a priority habitat, and 2) impacts must be less than 25 square metres (sqm) of onsite habitat with a biodiversity value greater than zero, and less than 5 metres of onsite linear habits (such as hedgerows).

51. I note that the Council concluded that the area impacted is considered de minimis (under the threshold) and therefore this development would be exempt from Biodiversity Net Gain. In the event that I had been minded to allow the appeal I would have needed to establish whether or not this exemption would apply. However, as I am dismissing the appeal for other reasons, I have not considered this matter further.
52. The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'.
53. Had I concluded that the development would be acceptable in terms of the main issues set out above, it would have been necessary to investigate the effect of the proposal on the integrity of the SAC as part of Habitats Regulation Assessment and Appropriate Assessment. However, given the harm identified above and that I am dismissing the appeal for other reasons, I have not considered this matter further.

Conclusion

54. 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.

K Lancaster

INSPECTOR