Planning Inspectorate

Appeal Decision

Site visit made on 23 April 2025

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2025

Appeal Ref: APP/A1530/W/24/3353458
62A Straight Road, Boxted, Colchester, Essex CO4 5QY

- 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 Kevin Pugh against the decision of Colchester City Council.
- The application Ref is 240807.
- The development proposed is "proposed holiday lodges and glamping site to the rear of 62A Straight Road, Boxted, Colchester, Essex CO4 5QY".

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the appeal site would be a suitable location for the proposal with regard to the Council's strategy for the location of development;
- the effect of the proposal on the ecology and biodiversity of the site and its surroundings, including Biodiversity Net Gain;
- the effect of the proposal on the operation of the adjacent waste infrastructure; and,
- the effect of the proposal on the integrity of the European designated sites.

Reasons

Location

3. The appeal site comprises the rear section of a yard and offices occupied by a landscaping business. The visitor accommodation would be located in an area mostly given over to storage, grass and scrubland. The appeal site runs alongside Chapel Lane, a Public Right of Way (PRoW) to the east, from where there would be pedestrian and cycle access to the site. There would be a vehicular and pedestrian access from Straight Road, using a redundant former access where there is an existing field gate. The yard and associated offices would remain, with a landscaped, planted buffer separating it from the proposed visitor accommodation. In total, the glamping paddock would comprise 9 pitches, with an additional 2 holiday lodges adjacent. There would be a separate shower block, along with refuse storage, electric vehicle charging and parking adjacent to each pitch.

4. Policy DM5 of the Colchester Borough Local Plan 2013-2033 Section 2 adopted 2022 (LP2) supports new visitor accommodation in suitable locations subject to minimising their impact on, and demonstrating how the development could make a positive contribution to, neighbouring areas and provide biodiversity enhancements. The policy states that tourist development should be appropriate in scale and function to the surrounding area, be accessible by a choice of means of transport and not cause significant harm to the amenity of people living and working nearby. The supporting text to the policy expands on this, stating that to maximise the benefits of tourism to rural economies it is important to locate new tourism development in locations where visitors can help support local shops, pubs and other rural services.

5. Despite being located close to a garden centre and its café, the location of the appeal site is otherwise relatively isolated in terms of its proximity to local services and facilities. Straight Road is an unlit rural road with no footway in the section nearest the appeal site, and narrow verges which would provide limited opportunities for safe walking. There is a bus service linking to Colchester and Dedham which stops within a few minutes' walk of the appeal site, although I note services are infrequent and there is no footpath link to the bus stops. Services such as local pubs and places of interest, including Colchester, would be most easily accessible by car and in general terms, the proposed location would not be conducive to visitors accessing local facilities and places of interest other than by car.

6. The appellant indicates the PRoW along Chapel Lane would be made accessible from the eastern boundary of the appeal site. This footpath links with a limited number of other rural footpaths locally, although these do not link directly with local services and facilities. The location would therefore not provide convenient or direct access to local services and facilities for pedestrians from the appeal site.

7. Given the proximity to other PRoW in the area, I accept that there would be some outdoor recreation opportunities for walking and cycling for those who wish to take the opportunity, and there are some routes which would link to places of interest further afield. However, many of the other local villages and places of interest cited by the appellant would not be easily accessible by public transport or walking, particularly given the infrequency of the bus service.

8. I note that the appellants would provide information packs to occupiers of the accommodation regarding local public transport links and footpaths. However, in my judgement this would not be sufficient mitigation for the poorly accessible location.

9. My attention has been drawn to other local caravan and camping sites in the area. However, I have no detail before me regarding these sites and their surroundings, or whether they received planning permission. I note that none are particularly close to the appeal site and their presence does not weigh in favour of the proposal.

10. I conclude on this main issue therefore that occupiers of the proposed visitor accommodation would be highly reliant on private vehicles, particularly to access visitor attractions, entertainment and local services. Whilst there would be some opportunity for walking and cycling from the PRoW adjacent to the appeal site, this would be reasonably limited for the reasons outlined above. The proposal would

therefore be contrary to Policy DM5 insofar as it seeks new tourist development to be suitably located.

11. I note the Council's reference to Policy SB1 of the Boxted Neighbourhood Plan 2016, however, I do not consider it directly determinative in this instance as it does not specifically reference locational requirements for new tourist accommodation.

Ecology and Biodiversity

i) Biodiversity Net Gain (BNG)

12. BNG is a way of creating and improving biodiversity by requiring development to have a positive biodiversity impact. It is required under a statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990 (the Act), which was inserted by the Environment Act 2021. Every relevant planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met, for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the on-site habitat. This is reflected in paragraph 187(d) of the National Planning Policy Framework (the Framework) and LP2 Policy ENV1(v).

13. The appeal proposal is therefore required to demonstrate 10% BNG in mitigation. The minimum information required to accompany a planning application[1] which would be subject to BNG has not been provided with the appeal.

14. Whilst I note the extent of the planting proposals in the form of trees and native hedgerows, without understanding the existing baseline conditions of the site, there is uncertainty as to whether the landscaping proposals would offer appropriate mitigation in relation to specific habitats currently found on site. Even if I were to infer that due to the condition of the existing site, minimal habitat enhancements would be required to achieve a 10% BNG, there is no objective pre-development biodiversity value from which to make any accurate comparison.

15. The appellant suggests that the biodiversity enhancements could be secured by planning condition. However, this would not be an appropriate approach to address the statutory biodiversity gain condition under paragraph 13 of Schedule 7A of the Act.

ii) Ecology

16. As well as referring to the statutory BNG requirement, LP2 Policy ENV1 states that proposals will only be supported where they will conserve or enhance the biodiversity value of greenfield and brownfield sites and minimise fragmentation of habitats, and maximise opportunities for the preservation, restoration, enhancement and connection of natural habitats in accordance with the UK and Essex Biodiversity Action Plans.

17. Whilst I appreciate that a large proportion of the appeal site is used for storage purposes, there are areas of the site, particularly around the perimeter and in the location of the proposed access road, which would potentially contain habitats for priority and protected species including bats and reptiles. I have no information before me therefore on the baseline ecological condition of the site through, for

[1] As set out in Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Planning Policy Guidance Reference ID: 74-011-20240214

example, a Preliminary Ecological Appraisal, and the level of any mitigation required to offset any harm. I do not consider that the use of a condition would be appropriate in the absence of an understanding of the potential ecological effects of the proposal

18. I conclude on this main issue therefore that there is insufficient information before me to provide any certainty over how ecology and biodiversity of the site and surroundings may be affected by the proposal, including to protected species. The appeal proposal conflicts with Policy ENV1 of LP2 insofar as it requires applications to be accompanied by an appropriate ecological assessment and deliver net biodiversity gains in addition to protecting existing habitats and species. The proposal also conflicts with the BNG requirements of Schedule 7A of the Act and with paragraph 187(d) of the Framework. Paragraph 193(a) of the Framework is clear that where significant harm to biodiversity from a development cannot be avoided or adequately mitigated then planning permission should be refused.

Waste Infrastructure

19. Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017 (Waste Local Plan) aims to ensure that existing and allocated waste sites and infrastructure are protected from inappropriate neighbouring developments that may prejudice their continuing operation or ability to carry out their allocated function in the future.

20. Directly to the north of the appeal site there is a waste transfer station. As the appeal site is within a radius of 250m of the waste transfer station, it is categorised as being within a 'Waste Consultation Area' as defined by Policy 2 of the Waste Local Plan. This policy also requires a Waste Infrastructure Impact Assessment (WIIA) to support planning applications for development within a Waste Consultation Area.

21. The appeal scheme is not supported by a WIIA. Given its location in proximity of the waste transfer station, there would be the potential for complaints to arise from future visitors to the proposed tourist accommodation given the nature of the waste infrastructure and potential sources of nuisance, for example noise, dust and odours. There is little substantive evidence before me that the tourist accommodation would not have the potential to undermine or prejudice the continued operation of the adjacent waste transfer site due to the potential for complaints from people occupying the visitor accommodation. It would not be appropriate to deal with this issue by planning condition in the absence of an understanding of the potential effects of the proposed use in relation to the adjacent operation along with any necessary mitigation.

22. In conclusion on this main issue therefore, there is insufficient evidence to demonstrate that the appeal proposal would not harm the operation of the adjacent waste site. The proposal would be contrary to Policy 2 of the Waste Local Plan insofar as it seeks to protect the ability of existing waste sites to operate.

European Designated Sites

23. The appeal site falls within the Zone of Influence of European designated sites scoped into the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (Essex Coast RAMS) including the Blackwater Estuary Special Protection Area (SPA) and Ramsar site and the Stour and Orwell Estuaries SPA and Ramsar

site. The sites are designated due to the internationally important numbers of breeding and non-breeding birds and their coastal habitats.

24. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority in the context of this appeal.

25. It would be a reasonable assumption that visitors to the proposed holiday lodges and glamping site would be likely to visit local European protected coastal areas for recreation. Any increase in visitor numbers to these sites would result in additional recreational pressure requiring mitigation. In the circumstances, and taking a precautionary approach, I can only conclude that the proposed holiday accommodation, both on its own and in combination with other development projects, would have the potential to adversely affect the integrity of the European designated sites.

26. The Essex Coast RAMS sets out a strategic approach to mitigation by several councils across the wider area. The RAMS Supplementary Planning Document 2020 referred to by the Council states that any mitigation proposals for tourist accommodation will need to be considered separately from the RAMS strategy. No specific mitigation has been proposed.

27. In the light of a negative assessment on the implications on designated sites, the Habitats Regulations require consideration as to whether there are any alternative solutions and if not, whether there are any imperative reasons of overriding public interest. No alternative solutions have been proposed. The provision of holiday lodges and glamping accommodation is not sufficient to amount to imperative reasons of overriding public interest. The Habitats Regulations indicate that permission must therefore not be granted.

28. Based on my findings above, the appeal proposal would also conflict with Policy SP2 of Colchester Borough Local Plan 2013-2033 Section 1 adopted 2021 and LP2 Policy ENV1. Taken together, these seek to protect designated sites from adverse effects and support contributions towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038.

Other Matters

29. The Council considers the scheme acceptable with respect to its effect on the character of the landscape, highway safety and on the living conditions of nearby residents. I do not have substantive evidence to contradict the conclusions of the Council in these matters, so I see no reason to disagree. Nevertheless, the absence of harm means these are neutral considerations in my determination of the appeal.

30. I note the points raised by interested parties regarding a land ownership dispute on the appeal site and the ownership of the private road labelled as Chapel Lane on the drawings. As I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance and Conclusion

31. The proposal would support local economic growth through the provision of a new commercial use. There would potentially be additional employment in the form of employment in construction and the subsequent operation and maintenance of the site. The scheme would be built to high environmental standards with the lodges and shower block fitted with solar photovoltaic panels and heated by air source heat pumps. The lodges and shower block would be accessible by path and ramp. Electric vehicle charging would be provided.

32. However, the location of the proposal would conflict with the Council's strategy for the location of development which, amongst other things, aims to direct tourist development to accessible locations. There is insufficient evidence that the operation of visitor accommodation in this location would not prejudice the operation of the adjacent waste transfer station. Additionally, there is little evidence to suggest that harm to the ecology and biodiversity of the site and its surroundings would be avoided. The minimum level of information set out in the Act required to accompany applications subject to BNG has not been provided. Finally, the proposal would have the potential to adversely affect the integrity of the European designated sites, contrary to the Habitats Regulations. The benefits arising from the appeal proposal do not outweigh the harm I have identified.

33. 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. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR