



Appeal Decision

Site visit made on 24 March 2025

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025

Appeal Ref: APP/P1560/W/24/3349933

Land adjacent to The Willows, Little Clacton Road, Great Holland, CO13 0ET

- 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 Stevens against the decision of Tendring District Council.
 - The application Ref is 23/01798/FUL.
 - The development proposed is demolition of a former livestock building and replacement with a two-bed bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for demolition of a former livestock building and replacement with a two-bed bungalow at Land adjacent to The Willows, Little Clacton Road, Great Holland, CO13 0ET, in accordance with the terms of the application, Ref 23/01798/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Stevens against Tendring District Council. This application is the subject of a separate decision.

Procedural Matters

3. The description of development has been taken from the application form but omits the superfluous information relating to a previous application that was included in brackets at the end of the description.

Main Issues

4. The main issues are i) whether the proposed dwelling would be in a suitable location having regard to local and national planning policies, and ii) the effect of the development on the integrity of European designated habitats sites.

Reasons

Location of development

5. Policy SP3 of the Tendring District Local Plan 2013-2033 and Beyond (the local plan) sets out the spatial strategy for North Essex. It states that existing settlements will be the principal focus for additional growth, with development being accommodated within or adjoining settlements according to their scale, sustainability and existing role within the district and wider strategic area. Policy SPL2 of the local plan relates to settlement development boundaries. It states that there will be a general presumption in favour of new development within such boundaries and that outside of these boundaries, planning applications will be

considered in relation to the pattern and scale of growth promoted through the settlement hierarchy in Policy SPL1 and any other relevant policies.

6. Paragraphs 83 and 84 of the National Planning Policy Framework (the Framework) state that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It recognises that development in smaller villages may support services in others nearby but does not support isolated homes in the countryside, except in certain circumstances.
7. The site is located a short distance outside of Great Holland, which is defined by Policy SPL1 of the local plan as a smaller rural settlement. Although the village has limited facilities, I am advised that a public house and community shop are re-opening and that a regular bus service runs through the village providing access to the nearby urban settlements of Frinton-on Sea and Clacton-on-Sea.
8. Although the site is not within or adjacent to the settlement, it is only separated from its built edge by a single field that is approximately 150 meters wide. I note that there is no footpath along the site frontage or along the road edge of the adjacent field that separates the site from the village, but as this short stretch of road is relatively straight and open, has a 30mph speed limit and some street lighting, walking along the road or grass verge, or cycling to the village would be possible. I also noted that a public footpath runs close to the eastern boundary of the site, and the footpath plan provided by the Council shows that this leads into the centre of the village. I acknowledge that as this route is not fully surfaced or lit, it may be unsuitable for some users particularly during or following wet weather and in hours of darkness, but nevertheless it offers an alternative route into the village than walking along the road. The proposal would form part of a small loose knit group of dwellings, close to the village, and as such would not be isolated. Future occupiers of the development would also be able to access services and facilities by means other than private car.
9. The proposed new dwelling would have a marginally larger footprint than the agricultural building it would replace. It would be sited slightly closer to the south and east boundaries of the site, with only a small overlap of the southeast corner of the existing building footprint. However, most of the new dwelling would still be within the existing concreted area and the new building would better align with other nearby residential properties and outbuildings, which are sited closer to the road frontage. The new dwelling would also be shorter and wider than the existing long narrow building to be replaced. It would be approximately 1.6 metres higher but would still have a low shallow roof pitch, resulting in a building of similar proportions to the one to be replaced. It is proposed to clad the exterior of the new dwelling with black horizontal weatherboarding and to have a slate roof, which would reflect the rural appearance of the area.
10. The existing vehicular access would be used with two parking spaces provided adjacent to this and linked to the new dwelling by a new footpath. The existing building to be demolished was originally a pair of Arcon dwellings, constructed to provide emergency accommodation after the Second World War and was subsequently used for keeping pigs. Whilst modest in scale, and simple in appearance, in its current condition, the existing building does not contribute positively to its surroundings. The proposal to remove this building and replace it with a modest bungalow would significantly enhance the appearance of the site.

11. Whilst a new build would not have the same sustainability benefits as a conversion in terms of reusing existing built fabric, it is likely to achieve other benefits in terms of energy efficiency. Furthermore, the photographic evidence before me indicates that the conversion previously granted consent on the site, under Class Q of the GPDO, would have reused very little existing built fabric.
12. I therefore conclude that notwithstanding the partial conflict with the development plan, which arises from the site not being within or adjoining a settlement boundary, a single dwelling in this location would not significantly undermine the Council's spatial strategy. The site is an appropriate location for a single small scale dwelling to replace an existing building, having regard to the Framework and the broad aims of local plan Policies SP3 and SPL2, which seek to protect the character and appearance of the countryside, to avoid isolated new homes, to reduce the need to travel by private car, and to locate rural housing where it will maintain rural communities and support village services.

Designated habitats sites

13. The site is within the Zone of Influence (Zol) for the Hamford Water Special Protection Area (SPA) and Ramsar, a European designated site which is covered by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The special qualifying features of the SPA are as follows: Dark-bellied brent goose (Non-breeding); Common shelduck (Non-breeding); Eurasian teal (Non-breeding); Pied avocet (Non-breeding); Ringed plover (Non-breeding); Grey plover (Non-breeding); Black-tailed godwit (Non-breeding); Common redshank (Non-breeding); and Little tern (Breeding).
14. Protected sites are vulnerable to disturbances from recreation, resulting from an increasing local population. The Habitats Regulations require 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. Although the site was historically occupied by a pair of Arcon dwellings, which were subsequently used for housing pigs, these uses ceased long ago. The proposed development of a new single dwelling on the site would, on its own, have a negligible effect on any designated sites. However, it is also necessary to consider the cumulative effects of such developments in the area. The increased recreational visitor pressure arising from future occupiers of the development, in combination with other developments in the area, is likely to result in significant effects within the Zol,
15. The Council, in conjunction with other nearby Council's and Natural England, have produced a mitigation strategy to manage the effects of new development within the Zol. Details of this are set out in the Essex Coast RAMS Supplementary Planning Document (SPD) and the local plan. Consequently, I am satisfied that the effect of the proposed development could be mitigated by way of a proportionate financial contribution towards the Essex Coast RAMS. Providing this is secured and considering the location, nature and scale of the proposed development, in relation to any identified protected site, significant effects are not likely to occur.
16. The application was refused, in part, due to the absence of a legal agreement to secure a financial contribution towards the necessary mitigation measures. However, since then, the Council has amended its procedures for dealing with such matters. The main parties agree that the proposed mitigation can now be

secured by way of a planning condition, which would require that a detailed proposal addressing the mitigation of the development's impact on protected sites is submitted to and approved in writing by the local planning authority. Such a proposal must provide for mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast RAMS or demonstrate mitigation measures of an equivalent effectiveness. The proposal may require on site or off-site mitigation, but in either case must include the completion of a legal agreement to secure the proposed mitigation and/or contribution.

17. Following consultation with Natural England, I therefore conclude that subject to a condition to secure adequate mitigation, the proposal would not have an adverse effect on the integrity of the European sites included within the Essex Coast RAMS. As such, it would accord with Policies SP2 and PPL4 of the local plan, which require contributions to be secured from development in accordance with the Essex Coast RAMS. The proposal would also accord with the Framework and the Habitats Regulations.

Other Matters

18. In April 2021 the Council agreed that prior approval was not required to convert the existing agricultural building on the site to a dwelling, subject to the provisions set out in Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. It is common ground that the Class Q consent has now expired and that no further application has been made. Nevertheless, the appellant states that the Class Q option would still go ahead if a new build was not possible. My attention has been drawn to an appeal¹ in which an Inspector gave weight to a potential fallback position relating to an expired Class Q consent. I am not aware if there were any doubts in that case as to whether a new Class Q consent would be granted. Consequently, that case is unlikely to be comparable to the one before me, whereby the Council has clearly stated that it would be unlikely to support a new Class Q application and has provided evidence of a similar conversion proposal under Class Q that was refused and dismissed at appeal².
19. Previous applications made for the same proposal as that currently before me have, despite one being recommended for approval, been refused on the grounds that the agricultural building is no longer considered to comply with the necessary provisions of Class Q, in terms of its structural condition, and that subsequently there would be no fallback position. Despite having had no objection to the Class Q proposal in 2021, the Council is entitled to reach a different view on the matter now, having had regard to the subsequent changes to the building and more recent appeal decisions. Given the uncertainty surrounding the potential fallback position of a new Class Q application, which I have not been provided with plans of, I have afforded this little weight in reaching my decision.

Planning Balance and Conclusion

20. The proposal would result in some conflict with Policies SP3 and SPL2 of the local plan in so far as they seek to direct new housing to sites that are within or adjoining existing settlements. However, the purpose of these policies is to maintain the distinctive character and role of settlements, to avoid coalescence

¹ APP/A1530/W/21/3279464

² APP/P1560/W/22/3295625

between them, to conserve their setting, to ensure that development is accessible by a choice of travel means, to encourage sustainable patterns of growth and to control urban sprawl.

21. There is no evidence before me, nor any suggestion by the Council, that the proposal would conflict with any of the relevant policy aims. The proposal would not result in an isolated home in the countryside, would replace an existing building of similar scale and siting with a more attractive and higher quality building that would preserve the rural character of the area, and would be within walking and cycling distance of a settlement providing some services and facilities and a bus service to larger settlements. Future occupiers of the development would support existing services and facilities in the village and in other nearby settlements. The very limited scale of the development would not significantly undermine the spatial strategy for the area or result in any identifiable harm to the purpose or broader aims of the development plan.
22. Whilst I have afforded little weight to the potential for converting the existing building on the site, given the uncertainty surrounding that possibility, I afford significant weight to the absence of any conflict with the National Planning Policy Framework, to the absence of conflict with the general aims and purpose of the relevant development plan policies and to the absence of any other harms.
23. I therefore conclude that the proposed development would result in some minor conflict with the development plan, but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above, the appeal should be allowed.

Conditions

24. I have considered the conditions suggested by the Council, having regard to the relevant legal and policy tests. Conditions specifying the timeframe for the commencement of the development, and the approved drawing which the development must accord with, are necessary to provide certainty on these matters.
25. As part of the justification for the development is the enhancement to the appearance of the site arising from the removal of the former pig sheds and associated hardstanding, a condition to ensure that these are removed is reasonable and necessary. Conditions relating to external materials, hard and soft landscaping including boundary treatment details, and to remove some permitted development rights for extensions and outbuildings, are necessary to safeguard the rural appearance of the site, having regard to the scale of the building being replaced, and to ensure an appropriate standard of garden space is retained for future occupiers.
26. It is necessary to impose a condition requiring sustainability, water and energy efficiency measures to be agreed to ensure the development will accord with Policies PPL5 and PPL10 of the local plan. To safeguard protected species that may be present in the vicinity of the site and to protect the integrity of designated habitat sites and their special features, it is necessary to impose conditions to secure the provision and implementation of appropriate mitigation measures and enhancements. The submission, agreement and implementation of a bio-diversity enhancement strategy is necessary to ensure the development supports the enhancement of habitats for protected and priority species in the area.

27. Given the past livestock use of the site a precautionary condition is necessary to ensure that any contamination discovered during the course of the development is dealt with appropriately. However, given the scale of the development and its distance from the nearest noise sensitive properties, I do not consider conditions relating to construction hours, noise and disturbance to be necessary.
28. As the vehicular access and visibility splays are existing and no changes are proposed to these, conditions relating to such matters are not necessary. However, a condition to ensure the proposed new car parking spaces and the footpath between these and the new dwelling are provided prior to the first occupation of the dwelling and are retained thereafter, is necessary to ensure future occupiers have appropriate off-road parking that does not obstruct the shared access to adjoining land and have suitable access between these areas. A condition is also necessary to ensure these areas are suitably drained.

R Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing number STW-02 Revision B.
- 3) The external surfaces of the building hereby permitted shall be constructed using the materials specified on approved drawing number STW-02 Revision B.
- 4) Prior to the commencement of the development hereby permitted, full details of the sustainability, water and energy efficiency measures to be used in the development shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details, and the approved measures shall be provided and made available for use prior to the first occupation of the permitted dwelling and retained in perpetuity.
- 5) Prior to the commencement of the development hereby permitted, detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites shall be submitted to and approved in writing by the local planning authority. Such proposals must provide for mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) or demonstrate mitigation measures of an equivalent effectiveness. These proposals may require on site or off-site mitigation, but in either case must include evidence of the completion of a necessary legal agreement to secure the proposed mitigation and/or contribution towards mitigation. The approved mitigation shall be provided prior to the first occupation of the dwelling hereby permitted.
- 6) No development above ground level shall take place until the whole of the existing building to be replaced has been demolished and removed from the site, including any concrete hardstanding associated with it which is located outside of the residential curtilage of the new dwelling as defined by the approved drawing number STW-02 Revision B.
- 7) No development above ground level shall take place until details of both hard and soft landscape works, including all boundary treatments/means of enclosure, have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before the development is first occupied or in the case of soft landscaping works no later than the first planting or seeding season following first occupation of the approved dwelling.
- 8) No development above ground level shall take place until a wildlife / habitat enhancement plan has been submitted to and approved in writing by the local planning authority. The enhancements shall be implemented in accordance with the approved plan prior to the first occupation of the dwelling and shall be retained thereafter.
- 9) Prior to the first occupation of the dwelling hereby permitted, the 2 car parking spaces and the footpath connecting the car parking spaces to the dwelling, shall be provided and made available for use, in accordance with the approved drawing number STW-02 Revision B, and shall thereafter be retained for their intended use. These areas shall be constructed using porous materials or provisions made

for water running off the hard surface to drain directly into a permeable area within the site.

- 10) Any contamination that is found during the construction of the development hereby permitted shall be reported immediately to the local planning authority and development on the site shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A, AA, B or E of Part 1 of Schedule 2 to the Order shall be undertaken.

END OF SCHEDULE