



Appeal Decision

Site visit made on 9 June 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2025

Appeal Ref: APP/P1560/W/25/3358298

Sturicks Farm, Sturick Lane, Great Bentley, Essex CO7 8PT

- 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 M Jones against the decision of Tendring District Council.
 - The application Ref is 24/01412/FUL.
 - The development proposed is erection of a self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence before me makes reference to the appeal site falling within the Zone of Influence of Special Protection Areas. This is a matter I address subsequently.

Main Issues

3. The main issues are:
 - the effect of the proposed development on protected trees;
 - whether the proposed development would provide a satisfactory standard of accommodation for future occupants, with particular regard to daylight and sunlight; and
 - the effect of the proposed development on Special Protection Areas.

Reasons

Protected trees

4. Two mature Eucalyptus trees exist on the site, near to the proposed development. These are covered by a tree preservation order (TPO). Cumulatively, they contribute considerably to the verdant quality and attractiveness of the site and surroundings and are of high amenity value.
5. The trees would be retained as part of the proposed development and would be positioned within the garden area of the new dwelling. Within the appellant's Arboricultural Impact Assessment (AIA), the trees have been identified as Category B trees (of moderate quality and value). From that perspective, the trees will likely survive on the site and continue to make a contribution to the character and appearance of the area, for many more years.

6. The AIA sets out that it is possible to retain and protect the existing trees as part of the proposed development. Based on the evidence before me, I am satisfied that this is the case. Whilst the dwelling would be set relatively close to the trees, an adequate separation distance would be provided, with precautions and methods proposed to protect the root protection areas of the trees. These protections could be secured via condition were the scheme found acceptable.
7. The area is characterised by dwellings in relatively spacious plots with established landscaping, often punctuated by mature trees. These features contribute to a sylvan character here. Whilst I accept that, in theory, trees close to dwellings may impede living conditions, in this instance individuals electing to reside here would be aware of that surrounding context and, in all likelihood, place considerable value upon it. For these reasons, and given the protections in the TPO, there is limited potential for indirect pressure to prune or fell trees to arise in the future.
8. For the above reasons, I conclude that the proposed development would not harm the protected trees, in accordance with the relevant provisions of policies SP7, PPL3 and SPL3 of the Tendring District Local Plan (LP). These policies, in summary, seek to ensure appropriate quality in development, that respects its local environment and the rural landscape, including trees. This is in a similar vein to the provisions of the National Planning Policy Framework (the Framework) insofar as high quality development and the protection of trees is concerned.

Standard of accommodation

9. The main living room area of the proposed dwelling would feature windows on three elevations. One of the two bedrooms would also be dual aspect, with the main direction of outlook from the dwelling towards the site entrance and garden area to the north.
10. As reasoned above, the retained mature trees would be prominent and highly visible to future occupants of the proposed dwellings. This would provide an attractive, verdant outlook for much of the year. The proposed dwelling would be served by multiple and reasonably sized windows, with reasonable degrees of separation to the site boundaries. There is no substantive evidence before me to indicate daylight or sunlight levels would be insufficient. Therefore, the trees would not result in an unacceptable sense of enclosure or unacceptably limit access to daylight or sunlight. Similarly, the proposed private amenity space would be reasonable. The existing mature trees would not prevent use or enjoyment of these spaces.
11. Consequently, I conclude that the standard of accommodation for future occupiers would be acceptable, with particular regard to daylight and sunlight, in accordance with the relevant provisions of LP policies SP7 and SPL3. These policies, in summary, seek to protect the amenities of neighbouring properties. This is in a similar vein to the provisions of the Framework insofar as standard of amenity is concerned.

Special Protection Areas

12. The appeal site lies within the Zone of Influence of the Dengie, Colne Estuary and Stour Estuary Special Protection Area (SPA) and Ramsar sites.

13. There is the potential for significant impacts on the SPAs/Ramsar sites identified as a result of any net increase in residential development within the Zone of Influence. This is principally due to pressures on the sites by reason of their attractiveness as a location for recreation. While the increase in recreational activity resulting from the proposed development would likely be limited, it is likely that in combination with other developments, the proposal could have a significant impact on the integrity of the SPAs/Ramsar sites.
14. All public bodies have a duty to take reasonable steps to further the conservation and enhancement of such designated areas. Specifically, the Conservation of Habitats and Species Regulations 2017 (the Regulations) requires competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects. The proposal is not directly connected with or necessary for the management of the protected sites and on-site mitigation would not be possible. I must therefore consider whether measures could be put in place to avoid or mitigate the impact of the pressure arising from the proposed development on the protected sites, and the effectiveness of any proposed measures.
15. The Council's ecologist sets out that a financial contribution should be sought, in line within the Essex Recreational disturbance Avoidance and Mitigation Strategy via planning obligation or S.111 Payment with Tendring District Council. There is no evidence before me to demonstrate that the necessary mitigation has been secured in this case, such as the submission of a unilateral undertaking. I note that a condition has been suggested by the Council in respect of this matter. This requires details to be submitted and agreed in the future and, as such, no scheme of mitigation has been secured at this time. In any case, I do not consider that a condition would, in this instance, meet the test of precision.
16. Based on the evidence before me, taking a precautionary approach and in the absence of suitable mitigation having been secured, I cannot be satisfied, beyond all scientific doubt, that there would be no adverse effect on the integrity of a protected site, either alone or in combination with other plans and projects. The likely adverse effects of the proposed development would not be mitigated.
17. Overall, I cannot conclude that the proposed development would not have an adverse effect on the integrity of protected sites. The development would be contrary to paragraph 193 of the Framework. This indicates that planning permission should be refused if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort, compensated for. There is no local plan policy before me which would conflict with these findings.

Other Matters

18. The appeal site is located within the wider surroundings of Grade II listed building, Sturrick Farmhouse. Mindful of the statutory duty set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. The verdant surroundings of the building, of which the appeal site forms part, positively contributes to its significance. Nevertheless, given the location and extent of the proposed development, I consider that it would preserve the setting of this listed building and

the contribution it makes to its significance. I note the Council had no concerns in this regard either.

Conclusion

19. For the reasons above and having had regard to the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR