



Appeal Decision

Site visit made on 3 June 2025

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Appeal Ref: APP/M1595/W/24/3357254

Land on the West side of Annabell Avenue, Orsett, Essex RM16 3BY

- 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 Raymond, MR Services (Essex) Ltd against the decision of Thurrock Borough Council.
 - The application Ref is 24/00378/FUL.
 - The development proposed is the construction of 2 no. new dwellings, with associated development.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2 no. new dwellings, with associated development at Land on the West side of Annabell Avenue, Orsett, Essex RM16 3BY in accordance with the terms of the application, Ref 24/00378/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. On the banner heading above I have used the address referred to on the Council's decision notice since I consider it accurately describes the location of the appeal scheme, although I have kept the description of the proposed development as originally described on the planning application form.
3. The National Planning Policy Framework (the Framework) was updated in December 2024, following the submission of this appeal. The appellant provided commentary on the updated Framework in their final comments. The Council were given the opportunity to respond to the appellant's view regarding the location of the appeal site within grey belt land.
4. The Council have confirmed that they agree the appeal site is located on grey belt land and that it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan. Additionally, there is a demonstrable unmet need for housing, as evidenced by the Council's lack of a 5-year supply of deliverable housing sites. The Council also consider the development would be in a sustainable location. I have no substantive evidence before me which would lead me to disagree with the main parties' position. As such, the appeal proposal would not be inappropriate development within the Green Belt.
5. The appeal site falls within the Zone of Influence of European designated sites scoped into the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). The relevant designated site is the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. Although not forming part of the Council's reasons for refusal, it is incumbent on me as competent authority to consider whether the

proposal would be likely to have a significant effect on the integrity of the SPA and Ramsar sites. It is necessary to consider this matter as a main issue.

Main Issues

6. In light of the above, the main issue in this appeal is the effect of the proposal on the integrity of the European designated sites.

Reasons

7. The Thames Estuary and Marshes SPA and Ramsar sites are designated due to the internationally important numbers of non-breeding birds and their coastal habitats including Avocet, Dunlin, Grey plover, Hen harrier, Knot and Ringed plover. The conservation objectives are, amongst other things, to ensure that the site contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the extent and distribution of the habitats qualifying features, the populations and distribution of qualifying features and supporting processes on which the habitats of the qualifying features rely.
8. 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.
9. It would be a reasonable assumption that occupiers of the proposed dwellings would be likely to visit local European protected coastal areas for recreation, as evidenced by the visitor research carried out in support of the Essex Coast RAMS Supplementary Planning Document 2020 (RAMS SPD). Any increase in visitor numbers to these sites would result in recreational pressure requiring mitigation. I therefore consider that the effects of the proposed dwelling, both on its own and in combination with other development projects, is such that they are likely to have significant effects on the integrity of the sites.
10. The Essex Coast RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling, which increases with indexation each financial year. Since these include a range of habitat-based measures such as education, communication, and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the appeal schemes on the SPA and Ramsar sites.
11. The appellants have provided a receipt from the Council confirming that they have made a contribution of £327.72 to fund the Essex Coast RAMS for the 2 additional dwellings proposed. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, the evidence before me indicates that the funds have been received by Thurrock District Council. Therefore, I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
12. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community

Infrastructure Levy Regulations. As such, the contribution toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

13. I am therefore satisfied that with the funding for the proposed mitigation measures in place, the proposal would not have an adverse effect on the SPA and Ramsar sites identified. The proposal would therefore comply with the Habitats Regulations.

Other Matters

14. Although the site is currently overgrown and occupied by scrub and debris associated with the former quarry, the line of conifers currently provides a dense screen to the former quarry beyond. However, beyond this screening they provide a limited contribution to the character and appearance of this residential area, and I do not consider their removal would be harmful.
15. The proposal would continue the pattern of development along the west side of Annabell Avenue. The proposed semi-detached houses would have a very similar appearance, scale and footprint to those adjacent and would maintain the character and appearance of the area. The materials would be similar to those already used in housing along the west side of Annabell Avenue, and although they would be distinct from those houses opposite, the overall character would be in keeping with the wider residential area.
16. The proposed houses would be of an appropriate layout and floor area. Natural light would be provided to habitable rooms. To the rear, there would be gardens including a shed to accommodate cycle and refuse storage. The gardens would be of a comparable size to others along this side of the street and would be sufficient for every-day requirements.
17. For those residents immediately opposite the site, there would be residential development where there was previously none and the outlook from properties to the east side of the street would change. However, the resultant relationship in terms of the distances between properties would be comparable to a fairly typical suburban street and would replicate the relationship between properties further down Annabell Avenue and in other streets nearby. As such, I do not consider that there would be an unacceptable loss of privacy, daylight or outlook to neighbouring properties opposite or adjacent as a result of the proposed scheme.
18. Off-street parking would be provided on the forecourt and beneath the under-croft to each dwelling. The plans show sufficient space for off street parking for 3 vehicles to each house. The provision would be such that I do not consider there would be additional pressure for on-street parking arising from the proposed dwellings. I note the Council's highways officer did not object to the scheme and I have no substantive evidence before me which would lead me to reach a different conclusion.
19. The evidence before me indicates the extraction works did not extend to the western side of Annabell Avenue and the appeal site was primarily used in connection with the storage of equipment and an office cabin. The Council have not provided any evidence to the contrary. I have no substantive evidence before me that it would be necessary to impose a condition requiring investigations regarding structure or land stability above and beyond those necessary under other regulatory regimes.
20. I acknowledge the concerns of interested parties regarding the condition of the road surface along this part of Annabell Avenue. The Council's suggested construction

management condition includes a requirement for the road condition to be recorded prior to and after the completion of the development, with any degradation to be repaired by or on behalf of the appellant.

Conditions

21. The Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty. Condition 3 requiring samples and details of all materials, and condition 4 requiring a hard and soft landscaping scheme, are both necessary in the interests of maintaining the character and appearance of the area. Condition 5 requiring a Construction Management Plan (CMP) is necessary in the interests of protecting the living conditions of nearby residents and in the interests of highway safety. The CMP would also cover hours of working, so I have removed the council's suggested condition 5 to avoid duplication.
22. Conditions 6 and 7 requiring visibility splays and the provision of car parking are necessary in the interests of highway safety. I have removed the Council's suggested condition regarding electric vehicle charging points since this is covered by the Building Regulations.
23. The advice of the Framework is that there must be clear justification to impose a condition restricting the future exercise of permitted development rights. However, in this case I find that a condition (8) would be necessary as the under-croft would be essential for off-street parking and there would be sufficient justification in the interests of highway safety to ensure the appeal scheme would not put undue pressure on on-street parking.
24. Additionally, the Council's environmental health officer has identified that the proposed dwellings may be subject to road noise from the A13. A condition (9) would be necessary to require an acoustic report to demonstrate that a suitable noise environment could be achieved within the dwellings, setting out any necessary mitigation. This is required in the interests of ensuring appropriate living conditions for future occupiers.

Conclusion

25. For the reasons given above the appeal should be allowed.

L Francis

INSPECTOR

Schedule

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing Nos: 24-026-200-02; 24-026-201-00; 24-026-202-00; 24-026-203-00
3. No development above ground level shall take place until written details or samples of all external facing materials of the dwelling have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. Prior to the commencement of above ground works, details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - a) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads and other works;
 - b) finished levels and contours;
 - c) means of enclosure including all boundary treatments;
 - d) structures including furniture, play equipment, refuse and cycle storage and lighting; and,
 - e) external surface material for parking spaces and pedestrian access.

The landscaping, with the exception of new planting, shall be carried out in accordance with the approved details prior to first occupation of the development and maintained for the lifetime of the development.

The new planting shall be provided and completed in accordance with the approved details prior to the end of the first planting and seeding season following first occupation and maintained for a period of 5 years from the date of planting. Any new planting which dies, is severely damaged, becomes seriously diseased or is removed within that period shall be replaced by planting of a similar size and species to that originally planted.

5. No development shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the local planning authority. The CMP shall provide for:
 - i. delivery, demolition and construction working hours;
 - ii. road condition surveys before commencement and after construction is completed, including a plan showing the extent the road condition surveys and means of post-construction remediation;
 - iii. the erection and maintenance of any security hoarding;
 - iv. details of the method for the control of noise with reference to BS5228 together with a monitoring regime;
 - v. a site waste management plan;
 - vi. measures to control the emission of dust and dirt during construction;

- vii. contact details for site managers including information about community liaison including a method for handling of and monitoring complaints.

The approved CMP shall be adhered to throughout the construction period for the development.

6. Prior to occupation of the development hereby permitted, visibility splays clear to ground level and measuring 1.5m by 1.5m from the back of the adjacent highway shall be provided either side of the proposed accesses within the site and retained as such thereafter.
7. No development above ground level shall take place until written details of the surfacing, layout and drainage of the parking areas serving the dwellings hereby approved have been submitted to and approved in writing by the local planning authority. The parking areas shall each be completed and made available for use prior to the first occupation of the relevant dwelling hereby permitted and thereafter permanently retained only for the parking of vehicles of the occupiers and visitors to the new dwellings.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the under-crofts to each dwelling hereby permitted shall be used only for the parking of vehicles associated with the residential use of the site and shall not be enclosed in any manner.
9. Prior to the commencement of development, an acoustic assessment shall be submitted to and approved in writing by the local planning authority. A scheme of mitigation, as necessary in light of the results of the assessment, (covering façade, glazing and ventilation specifications) shall achieve levels not exceeding 30dB LAeq (night) and 45dB L_{Amax} (measured with F time weighting) for bedrooms, 35dB LAeq (day) for other habitable rooms, with windows shut and other means of ventilation provided, external amenity areas shall be designed to achieve levels not exceeding 55 dB LAeq (day). Once approved the mitigation shall be installed fully in accordance with the approved scheme prior to first occupation and permanently maintained thereafter.

End of Schedule