



Appeal Decision

Site visit made on 14 July 2025

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: APP/A1530/W/25/3360676

38 Straight Road, Boxted, Essex CO4 5HN

- 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 and Mrs Sparkes against the decision of Colchester City Council.
 - The application Ref is 242156.
 - The development proposed is for the conversion of existing detached garage to 1 bedroom holiday let.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing detached garage to 1 bedroom holiday let at 38 Straight Road, Boxted, Essex CO4 5HN in accordance with the terms of the application, Ref 242156, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appeal site falls within the zone of influence for multiple European designated sites, scoped into the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy. The decision notice contains a reason for refusal relating to the absence of a mitigation payment. The Council have received a mitigation payment as part of the appeal and now consider that this reason for refusal is resolved. As competent authority, I need to consider whether there would be adverse effects on the integrity of the Habitats sites in accordance with The Conservation of Habitats and Species Regulations 2017.

Main Issues

3. The main issues are:
 - whether the appeal site would be an appropriate location for holiday accommodation having regard to the development plan and national policies; and
 - the effects on the integrity of Habitats sites.

Reasons

Appropriate location

4. Policy DM5 of the Colchester Borough Local Plan Section 2 (2022) (LP) supports development for new visitor accommodation in suitable locations including where they are appropriate in scale and function to the surrounding area and are accessible by a choice of means of transport. The policy recognises that in

locations where residential use would be inappropriate, visitor accommodation should be limited by condition or legal agreement to holiday use only, and/or certain times of the year to prevent permanent residential occupation. The supporting text to the policy recognises that it is important to locate new tourism development where it can support local shops, pubs and other rural services.

5. The Council's refusal is focussed on the location of the proposed development, with a concern that there would be a reliance on the use of the private car and that it would not directly benefit or support local shops, pubs or other rural services which the supporting text to Policy DM5 seeks to ensure.
6. The site is located in the open countryside and is accessed via a straight rural road. Whilst there are no shops, pubs or other facilities in the immediate vicinity of the site, such amenities are easily accessible by car using the local road network. It is a reasonable assumption that many visitors to the proposed accommodation would arrive by private motor vehicle and use this to access services and facilities. The appeal site is a short distance by car to the village of Great Hawksley and Colchester, offering a large range of services and facilities. Additionally, the site is 15 minutes from Colchester Zoo and less than 10 minutes from High Woods Country Park. Visitors staying at the modest sized holiday let would be able to support these attractions and facilities, making a small but nonetheless positive contribution to the local economy without needing to drive long distances.
7. Straight Road, in the vicinity of the appeal site, does not have a footway and is unlit. Therefore, it is unlikely to be used regularly to access facilities and services on foot or by bus from the bus stop that is located a short distance from the appeal site which provides services to Colchester. I note that the Council considers the bus service to be too infrequent, with no Sunday service to be of practical use. However, I am mindful that Paragraph 110 of The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision-making.
8. The appeal site is in close proximity to a network of public footpaths, accessed off Pepper Lane. Although there is no footway, a wide grass verge fronting the appeal site provides foot access to Pepper Lane which is located a very short distance north of the site. These footpaths offer opportunities for recreational countryside walking which would not require the use of a car and connect to larger settlements where visitors would be able to use and support local services.
9. Although Straight Road is subject to a 40mph speed limit, it is straight and wide, and from the appeal site, it is only a short distance to a cycle track that provides access into Colchester. I thus do not consider the route from the appeal site would be unduly prohibitive for cyclists. Overall, I find that the site is not functionally isolated and is accessible by a choice of transport means, which is what the policy requires, with opportunities beyond just a private vehicle.
10. Moreover, whilst the proposal would result in a residential unit, it is for holiday accommodation. There is a material difference in how such accommodation is used compared to a permanent residential dwelling. Policy DM5 of the LP accepts that tourism development may be appropriate in locations where permanent residential use would not.

11. The Council has drawn my attention to a recent appeal decision¹ concerning the provision of holiday accommodation that was dismissed. From the information before me, this does not appear to be in a comparable location, more remote from larger settlements, with no bus provision nearby. The scheme itself is also not directly comparable, relating to the construction of a new holiday let building on undeveloped land. Moreover, in that decision it appears that policy conflict was identified with Policies SP1, SP3, SG1, SG2 and OV2 of the LP. In this appeal case, these policies have not been referenced in either the officer report or the reason for refusal in relation to this main issue. Considering all the above points, I find the proposal is not comparable to this appeal, which I have considered on its individual merits.
12. The reason for refusal also suggests that there is insufficient evidence to demonstrate that there is a need for tourism accommodation in this area and/or a lack of tourism facilities in the nearby villages. However, Policy DM5 does not require any such evidence to be provided.
13. For the above reasons, the proposal would be an appropriate location for holiday accommodation. It would therefore accord with Policy DM5 of the LP which requires proposals to be compatible with the rural character of the area and promoting accessibility by a choice of means of transport.

Habitats sites

14. The development falls within the zone of influence for multiple European designated sites scoped into the Essex Coast Recreational disturbance Avoidance & Mitigation Strategy (RAMS). These are the: Blackwater Estuary Special Protection Area (SPA) and Ramsar site, Dengie SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, and Essex Estuaries Special Area of Conservation (SAC).
15. These sites have been primarily designated for their international importance for their value as coastal habitats supporting internationally important breeding and non-breeding bird species. The Essex Estuaries SAC contains an important variety of estuary and shoreline habitats including mudflats, saltmarsh and sandbanks. The Blackwater Estuary SPA and Ramsar is a site of significant ornithological importance for breeding and non-breeding bird species, including non-breeding dark-bellied brent geese, hen harriers, dunlin and grey plover and breeding ringed plover, little tern and common pochard. The Dengie SPA and Ramsar site is important for non-breeding birds, including dark-bellied brent goose, grey plover, hen harriers and knots and the Stour and Orwell Estuaries SPA and Ramsar Site is of importance for breeding birds including pied avocet, along with non-breeding birds including northern pintail, red knot and black-tailed godwit. The above features all comprise the qualifying features of the habitat sites that may be affected by the development.
16. The conservation objectives of these sites are to ensure that, subject to natural change, the integrity of the sites are maintained or restored as appropriate, and that the sites contribute to achieving the favourable conservation status of their qualifying features, by maintaining or restoring the qualifying natural habitats including their structure and function and qualifying species including their population and distribution.

¹ Appeal Reference: APP/A1530/W/24/3345659

17. Recreational disturbance has been identified as an issue for the qualifying features of the designated habitat coastal sites, with the coast a major destination for recreational use including walking, sailing, bird-watching, jet skiing, dog walking and fishing. New residential development is likely to result in additional residents, in this case tourists, within the area who may use the designated sites for recreation purposes. As such, there is a pathway for the proposal to have effects on the designated sites with increased recreational disturbance of the birds and their habitats, thus a likely significant effect cannot be ruled out. In combination with other plans or projects, the proposal could lead to an adverse effect on the integrity of those sites.
18. For these reasons, as the competent authority it is necessary for me to conduct an appropriate assessment to determine the extent of those effects, whether they could be avoided or whether mitigation measures could remove or reduce the effects.

Appropriate Assessment

19. The proposed development is for a 1 bedroom holiday let; thus, the number of additional recreational visitors would be limited. However, in combination with other developments in the area, the effects on the designated sites could be substantial.
20. The affected sites are covered by the RAMS. This ensures that the cumulative impacts of additional visitors and population growth to the area, arising from new developments of housing and tourism, such as this development, to the European sites, will not result in any likely significant effects which cannot be mitigated.
21. The RAMS represents a strategic approach to mitigation, in partnership with several councils across the wider area and in conjunction with Natural England. It details mitigation measures for the avoidance and mitigation of recreational disturbance that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures to enhance habitats and divert activity away from the most vulnerable locations, alongside education and communication with recreational users, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the Habitats sites.
22. As the appellants have made a financial contribution to the Council to fund the Essex Coast RAMS and the Council is one of the public bodies responsible for administering the mitigation strategy, I am satisfied that the mitigation measures have been secured and would be used for their intended purposes. Furthermore, Natural England are satisfied that this payment would secure the deliverability of the mitigation measures set out in the Essex Coast RAMS.

Conclusion

23. Taking account of the mitigation provided in the form of a financial contribution, I conclude that the integrity of the identified SPA, SAC and Ramsar sites would not be harmed by the development. As such the proposal would accord with Policy ENV1 of the LP which seeks to conserve and enhance Colchester's natural and historic environment, countryside and coastline, requiring a financial contribution towards mitigation measures identified in the RAMS.

Other Matter

24. The appeal site is within the Dedham Vale National Landscape (DVNL), formerly known as the Dedham Vale Area of Outstanding Natural Beauty (AONB). The National Planning Policy Framework requires great weight to be given to conserving and enhancing the landscape and scenic beauty in these areas, which is the statutory purpose of such landscapes. I am mindful of my duties to further the purpose of conserving and enhancing the natural beauty of National Landscapes.
25. The Dedham Vale AONB Management Plan 2021-2026 outlines the special qualities of the DVNL which has been designated in part because of the natural beauty of the agricultural landscape consisting of a gently winding river, scattered woodlands, sunken rural lanes and historic timber buildings with the area retaining a rural charm and tranquillity.
26. The scale of the existing building would remain the same, its modest size and set back from the road ensures it is not prominent in any wider views. Moreover, the proposal would introduce timber weather boarding to all elevations. Given the limited external alterations and sympathetic use of materials I find that the proposal would conserve and enhance the natural beauty of the DVNL.

Conditions

27. The Council has provided a list of suggested conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
28. In addition to the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plan for the reason of certainty.
29. For reasons of highway safety, a condition providing sufficient bin storage is necessary. To safeguard the character of the countryside, a condition is necessary limiting the luminance of artificial lighting. In the interests of promoting alternative modes of transport, a condition requiring cycle storage is necessary. To ensure the approved development is not used as permanent residential accommodation which would otherwise not be permitted in this location, it is necessary to limit the time period in which the property can be occupied.

Conclusion

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

T Bennett

INSPECTOR

Schedule of Conditions

- 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 no 579-001.
- 3) Prior to the occupation of the proposed development the applicant shall provide a refuse/recycling bin store within 15m of the vehicular access within the site, which shall be maintained free from obstruction and retained thereafter.
- 4) The development shall not be occupied until such time as details of the provision for parking and storage of bicycles sufficient for all occupants of the proposed development, of a design that shall be approved in writing with the Local Planning Authority. The approved facility shall be provided prior to the first occupation of the proposed development hereby permitted and shall be maintained free from obstruction and retained for the storage of bicycles thereafter.
- 5) Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note (EZ1 AONB; EZ2 rural, small village or dark urban areas; EZ3 small town centres or urban locations; EZ4 town/city centres with high levels of night-time activity).
- 6) The holiday accommodation hereby permitted shall not be occupied continuously by any person(s) for any period exceeding 28 days in any 90 day period.

****End of conditions****