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## Appeal Decision

Site visit made on 9 September 2025

by **K Allen MEng (Hons) MArch PGCert ARB**

an Inspector appointed by the Secretary of State

Decision date: 24<sup>th</sup> September 2025

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**Appeal Ref: APP/W1525/W/25/3367892**

**Land north of hilltops, Howe Green, CHELMSFORD, CM2 7TN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Millen Land Group against the decision of Chelmsford City Council.
  - The application Ref is 25/00240/OUT.
  - The development proposed is 2 Custom/Self Build dwellings.
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### Decision

1. The appeal is allowed, and planning permission is granted for 2 Custom/Self Build dwellings at Land north of Hilltops, Howe Green, Chelmsford CM2 7TN in accordance with the terms of the application, Ref 25/00240/OUT subject to the conditions in the attached schedule.

### Preliminary Matters

2. The appeal scheme relates to an outline proposal with access, layout and scale to be considered at this stage and appearance and landscaping to be reserved for future consideration.

### Background and Main Issue

3. The planning application had three reasons for refusal. Reasons for refusal 1 and 2 related to the development being inappropriate development in the green belt and its effect on openness. Notwithstanding the above, the Council have now stated that there is a lack of self-build provision within the area and that subject to a planning obligation and appropriately worded condition they are satisfied that the development would meet the requirements of paragraph 155 of the National Planning Policy Framework (Framework).
4. A signed and dated planning obligation has been submitted with this appeal. I am satisfied that the unilateral undertaking alongside a suitably worded condition is sufficient to secure the development in line with the Self-build and Custom Housebuilding Act 2015.
5. As such, the main issue is the effect of the proposal on the natural environment

### Reasons

6. A Preliminary Ecological Appraisal (PEA) has been submitted with the appeal, which indicates that the appeal site has the potential to support breeding birds. Consequently, it provides a number of precautionary working methods and future mitigations necessary.

7. The Council accept this position but question other aspects of the PEA related to other protected species. Notwithstanding this, they are satisfied that subject to an updated PEA the proposal would not harm protected species. Subject to suitably worded conditions, I am satisfied that the proposal would adequately mitigate its effects on wildlife with existing trees protected, additional planting provided and various ecological enhancements made.
8. In addition to the above, the appeal site lies within the Essex Coast Zone of Influence (Zoi) as set out within The Essex Coast Recreational disturbance Avoidance & Mitigation Strategy Habitats Regulations Assessment Strategy document 2018-2038 (RAMS).
9. This Zoi encompass numerous SPAs, SACs and Ramsar Sites<sup>1</sup>, with varied qualifying features which can be summarised as including a variety of designated land, aquatic, coastal and other habitats that host a rich array of flora and fauna, including protected and important flora, invertebrates, mammals and amphibians, and over-wintering, migratory, breeding rare or vulnerable birds and internationally important assemblages.
10. The conservation objectives can be summarised as to maintain or restore the integrity of the sites by maintaining or restoring the extent, distribution, structure, function and supporting processes of the qualifying natural habitats and the habitats of the qualifying features and species, the population of the qualifying features, and the distribution of the qualifying features and species within the sites.
11. The Conservation of Habitat and Species Regulations 2017 (the Regulations) require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of these sites. The effects arising from the proposal need to be considered in combination with other development in the area and adopting a precautionary approach.
12. The RAMS states that an increase in recreational pressure on these sites is predicted to be linked with planned new residential development across multiple local authorities. Whilst the number of additional recreational visitors associated with each individual dwelling may be limited, in combination the planned level of residential development would have significant effects on the designated sites.
13. The appeal site is within Zoi where planned new residential development is likely to result in significant recreational pressure, which would have a likely significant effect on the interest features of the aforementioned sites. Therefore, I consider that the development would be likely to have an adverse effect on the integrity of the sites.
14. The 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. Since these include a range of habitat-based measures such as education, communication, and monitoring, and

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Essex Estuaries SAC, Hamford Water SAC, SPA and Ramsar, Stour and Orwell Estuaries SPA and Ramsar, Colne Estuary SPA and Ramsar, Blackwater Estuary SPA and Ramsar, Dengie SPA and Ramsar, Crouch and Roach Estuaries SPA and Ramsar, Foulness Estuary SPA and Ramsar, Benfleet and Southend Marshes SPA and Ramsar and Thames Estuary and Marshes SPA and Ramsar

have been endorsed by Natural England, I am satisfied that the measures would adequately mitigate any adverse effects of the proposal on the identified sites.

15. A signed and dated planning obligation requiring the appellant to pay £338.90 towards recreational impact avoidance and habitat mitigation has been submitted. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.
16. The contributions 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 contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the aforementioned sites, and I have taken account of the obligation in my considerations.
17. Overall, I conclude that the proposal would not harm the natural environment. It would accord with Policies S4 and DM16 of the Chelmsford Local Plan (May 2020) (CLP) where they require development to conserve and enhance the natural environment including the network of habitats and species.

### **Other Matters**

18. Additional concerns have been raised regarding highway safety, privacy, outlook and disruption from construction activities including noise, pollution and property damage. Sufficient parking and turning space will be provided on site with adequate visibility splays, as such the proposal would not harm highway safety. Due to the substantial separation distances between the proposed dwellings and the neighbouring properties, their positions towards the side boundaries and their single storey scale, the proposal would not detrimentally affect the living conditions of the surrounding residents. Whilst construction activities may cause some disruption, given the scale of the proposal, this would be for only a limited period of time. Further, any disruption caused could be dealt with via other legislations.

### **Conditions**

19. I have considered the conditions put forward by the Council against the Framework and where necessary I have amended the wording in the interests of effectiveness and precision.
20. In the interests of certainty and clarity, I have imposed the standard conditions relating to the approval of reserved matters, the commencement of development as well as the approved plans. A condition is required to ensure the development is delivered in line with the relevant self-build legislation.
21. Additional conditions related to materials and landscaping, including boundary treatments and refuse storage and planting are not necessary as these matters will be addressed as part of the reserved matters applications.
22. To ensure that the development is properly embedded within its surroundings and that existing trees and ecology are protected, conditions are required to secure finished levels and an arboricultural impact assessment. The development is not subject to the statutory biodiversity gain condition. Nevertheless, an updated preliminary ecological appraisal is necessary to secure adequate ecological enhancements and precautionary working methods in line with CLP Policy DM16.

23. Conditions are required to secure appropriate car parking provision and electrical vehicle charging for the lifetime of the development. To maintain highway safety and ensure adequate drainage, conditions related to surface treatments are necessary.
24. CLP Policy DM25 requires higher water efficiency standards in residential development than the national Building Regulations in order to reduce the use of natural resources, therefore a condition on water efficiency is necessary and reasonable
25. While Planning Practice Guidance states that conditions restricting the future use of permitted development rights often do not pass the test of reasonableness or necessity, given the sites location within the green belt and its edge of settlement location, in this instance, I am satisfied that it is necessary to prevent future enlargements, improvements or alterations in order to safeguard the character of the area.

### **Conclusion**

26. For the reasons given above, I conclude that the proposal would accord with the development plan as a whole and the Framework, and therefore the appeal is allowed.

*K Allen*

INSPECTOR

## Schedule of Conditions

- 1) Details of the appearance and landscaping, (herein called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: HGE 001, HGE 002, HGE 003, HGE 004, HGE 005, HGE 006, HGE ELFP 001, HGE SP 001 and HGE SS 01.
- 5) Each residential dwelling ('unit') in the development hereby approved shall be constructed as a self-build dwelling within the definition of self-build and custom build housing in the Self-built and Custom Housebuilding Act 2015.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s), in relation to existing ground levels and surrounding buildings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development shall take place until an Arboricultural Impact Assessment has been submitted to and approved in writing by the local planning authority. The assessment shall include details of:
  - a plan and schedule of every tree and hedge on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
  - any proposed pruning, felling or other work
  - A Tree Protection Plan;
  - An Arboricultural Method Statement, detailing construction methods within root protection zones, including geocellular confinement systems and specialist foundations;
  - Site access, temporary parking, storage of equipment and materials.The development shall be carried out in accordance with the approved details.
- 8) No development shall take place until an updated Preliminary Ecological Appraisal (PEA) has been submitted to and approved in writing by the local planning authority. The updated PEA shall include:
  - A low impact lighting scheme;
  - Precautionary working methods for badgers;
  - Precautionary working methods for reptiles;
  - Number and location of bat boxes;
  - Number and location of bird boxes

The development shall be carried out in accordance with the approved details, including recommended enhancements and mitigations.

- 9) Prior to first occupation of the development hereby approved, the car parking areas for a minimum of two vehicles per dwelling indicated on drawing number HE 002 shall be provided. The car parking spaces shall thereafter be retained for the parking of vehicles associated with the dwellings which they serve.
- 10) Prior to first occupation of the development hereby approved, charging infrastructure for electric vehicles shall be installed and retained at a rate of 1 charging point per dwelling.
- 11) The areas of hard surfacing hereby approved shall be constructed using a permeable surface or shall include drainage to prevent discharge of surface water onto the highway.
- 12) No unbound material shall be used in the surface treatment of the vehicular access hereby approved within 6 metres of the highway boundary.
- 13) The development hereby permitted shall be constructed to achieve the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement, or other alteration of the dwellinghouse as described in Schedule 2, Part 1, Classes A, B, C and D of the Order shall not be undertaken without the prior written permission of the local planning authority.

**\*\*\*End of Conditions\*\*\***