



Appeal Decision

Site visit made on 23 September 2025

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 October 2025

Appeal Ref: APP/P1560/W/25/3368477

Apple Blossom Paddocks, Brightlingsea Road, Thorrington, Essex CO7 8JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Ms Karen Pawsey against the decision of Tendring District Council.
 - The application Ref DC/25/00591/VOC, dated 19 April 2025, was refused by notice dated 17 June 2025.
 - The application sought planning permission for construction of 1 new dwelling in lieu of prior approval for 1 dwelling, subject of application 23/01430/COUNOT, without complying with a condition attached to planning permission Ref DC/24/00969/VOC, dated 12 August 2024.
 - The condition in dispute is No. 2 which states that: "The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition. 24/00149/FUL: Drawing Numbers ABP/0012, ABP/0020, 0014d, and 0019, and the documents titled 'Foul Drainage Assessment Form', 'Statement of Demolition of Original Buildings', 'Preliminary Ecological Appraisal' and 'Bats Emergence and Re-Emergence Survey'. 24/00969/VOC: Drawing Number ABP/0024, and the documents titled 'Revised Proposed Elevations - AR-1', 'Revised Proposed Elevations - AR-2', 'Revised Proposed Elevations - AR-3', and 'Revised Proposed Elevations - AR-4'
 - The reason given for the condition is: "For the avoidance of doubt and in the interests of proper phased planning of the development."
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Decision

1. The appeal is allowed, and planning permission is granted for 1 new dwelling in lieu of prior approval for 1 dwelling, subject of application 23/01430/COUNOT, in accordance with the application reference 25/00591/VOC, dated 19 April 2025, and subject to the conditions set out in the schedule at the end of this decision.

Background and Main Issue

2. The appeal proposal stems from an original determination by the Local Planning Authority (LPA) in 2023 under Class Q of the General Permitted Development Order (GPDO) that a proposed conversion of a very modest set of original

buildings (with a footprint of 52sqm) into a dwelling was permitted development and did not require prior approval. The appellant subsequently secured planning permission to construct a similarly scaled modest dwelling in lieu of the Prior Approval scheme subject to various conditions including approved plans and ultimately removing the structures that enabled permitted development under Class Q of the GPDO. This approved scheme positioned the proposed dwelling moderately to the east and away from the boundary to the dwellings to the west.

3. Having obtained planning permission for a new dwelling under reference DC/24/00149/FUL the appellant has subsequently gained approval to amend the design of the dwelling through a variation of the originally approved plans (under ref DC/24/00969/VOC). This proposal consolidated the footprint of the dwelling into a recognisable rectangular shape resulting in an increase to some 79sqm but retaining a very shallow pitched roof.
4. The appeal proposal before me is a proposal to further amend the design of the dwelling by increasing the footprint of the single storey dwelling, which the LPA has measured at 134sqm and to amend the roof design with a hipped roof and a resultant higher ridge line. The proposed positioning of the dwelling within the appellants land holding is similar to that already approved. Whilst the principle of a new dwelling at the appeal location has been established, the LPA's single concern is the scale and appearance of what is now proposed.
5. As set out above, there is a history of planning permissions, including a S73 approval to vary the disputed the condition from the original permission for a new dwelling. For the avoidance of doubt, the appellant has applied to vary the condition to the extant S73 permission (ref DC/24/00969/VOC). The LPA assessed the proposal on this basis, and my decision banner reflects this.
6. Consequently, the main issue in this appeal is the effect that varying the condition would have on the character and appearance of the surrounding area.

Reasoning

7. The appeal site is located in a transitional area between a defined linear arrangement of housing fronting onto Brightlingsea Road to the west and larger, open parcels of arable farmland to the north and east. A tree belt to the north and intervening parcels of grassland and hedging visually separates the appeal site from the adjacent open farmland. Notwithstanding the tall conifer hedge between the appeal site and dwellings on Brightlingsea Road to the west, there is some intervisibility with this nearby built form, particularly to the newly constructed and sizeable domestic outbuilding at Briars Patch.
8. The wider transitional area accommodating the appeal site is characterised by a scattered configuration of larger dwellinghouses at depth behind Brightlingsea Road to the south. These dwellings and their various sizeable outbuildings (generally with tall, pitched roof forms) are set within larger plots where gateways, boundary treatments and other domestic paraphernalia further blur the distinction between settlement and countryside. In particular, the existing large, detached two storeys dwelling at 'Conifer House' to the south is highly visible at the appeal location. More immediately, to the south of the site are the remnants of a former plant nursery use including redundant polytunnel frames, which further add to the mixed character of the appeal location. Overall, sizeable built development and the general degree of human activity,

- have significantly weakened the rural character in this contained back land area.
9. The proposed increased footprint and height and massing of the hipped roof form would result in a sizeable residential dwelling. This would markedly contrast to the existing consents which have sought to align the design to the modest scale and appearance of the original buildings. However, for the reasons above the proposed dwelling would be experienced within the transitional context described above and in close proximity to the larger dwelling at 'Conifer House' and the recent sizeable domestic outbuilding at Briars Patch. It would not be visible from public vantage points in the surrounding countryside or from within Brightlingsea Road. Whilst I recognise the proposal would go far beyond what was originally envisaged for the site, the proposed scale and massing of the single dwelling would not result in significant urbanisation. Nor would it harmfully erode what is already a relatively weak rural character at the appeal location as described above.
 10. The proposed hipped roof form is not uncommon and has been similarly deployed on the adjacent sizeable outbuilding to the rear of Briars Patch. I observed other examples of similar roof forms in this part of Thorrington. Within the wider back land of the appeal location tall, pitched roof forms can be readily observed. Whilst, the proposed roof form would add to the bulk of the building, making it more prominent within this back land area, for the reasons set out above that would not be significantly harmful or urbanising.
 11. I therefore conclude that the appeal proposal, in terms of varying the condition, would not adversely affect the character and appearance of the surrounding area. Accordingly, the appeal proposal would accord with Policies SP7, SPL3, LP4 and PPL3 of the Tendring District Local Plan 2013-2033 Sections 1 and 2 in that it would not cause undue harm to the character and appearance of the surrounding area and would relate well to its site and surroundings.

Conclusion and conditions

12. I have had regard to all other matters raised, but there is nothing to lead me to conclude other than that the appeal should be allowed for the reasons given.
13. In allowing the appeal under Section 73 the outcome is to grant a new permission. As such it is necessary to reimpose those undisputed conditions provided in the LPAs statement of case for this appeal. These various conditions are all necessary and meet the required tests. In particular, the appeal location is within a short distance of protected habitats where additional recreational disturbance from a net new dwelling would have an adverse effect on the qualifying features of these habitats. I am satisfied that an effective mechanism exists to mitigate the effect, primarily through the payment of a proportionate financial contribution. Accordingly, condition 3 would form an effective means to secure this. It is imperative that this condition would be necessarily required to be discharged prior to commencement to ensure protected habitats of the highest value are lawfully conserved.

David Spencer

Inspector.

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than 28th May 2027.
- 2) The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

24/00149/FUL:

Documents titled 'Foul Drainage Assessment Form', 'Statement of Demolition of Original

Buildings', 'Preliminary Ecological Appraisal' and 'Bats Emergence and Re-Emergence

Survey'.

25/00591/VOC:

Drawing Numbers ABP/0040, ABP 45, ABP 46 and 47.

- 3) Prior to the commencement of any works to the hereby approved dwelling, detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites have been submitted to and received written approval from 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. Please note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees. For any on site mitigation proposals approved, it shall be carried out in full and thereafter shall be maintained as approved.
- 4) No development shall commence above slab level until a scheme for the provision and implementation of water, energy and resource efficiency measures for the lifetime of the development shall be submitted to and

approved, in writing, by the Local Planning Authority. The scheme shall include as a minimum:-

- An electric car charging point per dwelling;
- Agreement of a scheme for water conservation including greywater recycling and rainwater capture/re-use for new dwellings;
- Agreement of a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day;
- Agreement of heating the dwelling;
- Agreement of scheme for waste reduction; and
- Provision of a fibre optic broadband connection to the best possible speed installed on an open access basis and directly accessed from the nearest exchange, incorporating the use of resistant tubing. (If the applicant is unable to achieve this standard of connection, and can evidence through consultation that this would not be possible, practical or economically viable an alternative superfast (i.e. will provide speeds greater than 30mbps) wireless service will be considered.)

The scheme shall be fully implemented prior to the first occupancy of the development unless otherwise agreed in writing by the Local Planning Authority. The scheme shall be constructed and the measures provided and made available for use as may be agreed and thereafter shall be maintained.

- 5) Prior to demolition of the existing agricultural building, all mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (MM Environmental Ltd, March 2024) and Bats Emergence and Re-Emergence Survey (MM Environmental Ltd, May 2024) and thereafter maintained as approved.
- 6) Notwithstanding details received, prior to first occupation of the hereby approved development, a Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs or product descriptions to achieve stated objectives;
 - c) locations, orientations, and heights of proposed enhancement measures by appropriate maps and plans;
 - e) persons responsible for implementing the enhancement measures;
 - f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

- 7) Prior to first occupation of the hereby approved dwellinghouse, the existing agricultural building (subject of 23/01430/COUNOT and shown as being

demolished on drawing ABP/0012) the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

- 8) Prior to the commencement of development details of the construction methodology and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-
- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
 - b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
 - c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
 - d) Details of any protection measures for footpaths and trees surrounding the site.
 - e) Details of any means of access to the site during construction.
 - f) Details of the scheduled timing/phasing of development for the overall construction period.
 - g) Details of measures to control the emission of dust and dirt during construction, and including details of any wheel washing to be undertaken, management and location it is intended to take place.
 - h) Details of the siting of any on site compounds and portaloo's.
 - i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
 - j) Site waste management plan (that shall include reuse and recycling of materials)
 - k) Scheme for sustainable construction management to ensure effective water and energy use.
 - l) Scheme of review of complaints from neighbours.
 - m) Registration and details of a Considerate Constructors Scheme
 - n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs).
- The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.
- 9) If during construction/demolition works evidence of potential contamination is encountered, works shall cease, and the site fully assessed to enable an

appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed.

Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build, then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Schedule Ends.