



Appeal Decision

Site visit made on 7 November 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 25th November 2025

Appeal Ref: APP/X1545/W/25/3372702

Land adjacent to Oakleigh, Burnham Road, Althorne CM3 6BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr B White against Maldon District Council.
 - The application Ref is 25/00300/FUL.
 - The development proposed is erection of one, five-bedroom, self-build dwelling with associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one, five-bedroom, self-build dwelling with associated infrastructure at land adjacent to Oakleigh, Burnham Road, Althorne, CM3 6BY in accordance with the terms of the application, Ref 25/00300/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr B White against Maldon District Council. That application is the subject of a separate decision.

Procedural Matters

3. The appeal relates to a planning application that was not determined by the Council within the prescribed period. There is therefore no formal decision on the application, as the jurisdiction over making a decision was taken away from the Council when the appeal was lodged. However, the Council's submission identifies that it finds that the benefits of the development would outweigh any harms. No specific harms are identified by the Council.
4. The Council has confirmed that it supports the principle of development, given the location of the appeal site within the settlement boundary. It states that the proposal is acceptable having regard to the character and appearance of the area, the amenity of both neighbouring occupants and the future occupiers of the development, highway and parking matters, flooding, drainage and ecology, subject to conditions. The Council did not receive any objections to the planning application and no interested parties have commented on the appeal. The Council has not raised any conflict with relevant policies set out in the Maldon District Approved Local Development Plan 2014-2029 July 2017.
5. The appeal site is located within the zone of influence of Foulness Estuary Special Protection Area (SPA) and Ramsar, Crouch and Roach Estuaries SPA and Ramsar and Dengie SPA and Ramsar. These European sites are recognised for

their value as coastal habitats which support internationally important populations of bird species including breeding and non-breeding birds and are protected under the Conservation of Habitats and Species Regulations 2017 (the Regulations).

6. The proposed dwelling would be likely to increase disturbance to them as future residents would be likely to visit the coastline for recreation and leisure activities. In combination with other developments, the proposal would therefore lead to a likely significant effect on the European sites.
7. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy Supplementary Planning Document May 2020 (SPD) has been prepared. The SPD is endorsed by Natural England and sets out a strategic approach to mitigation which includes a tariff-based requirement to fund measures to mitigate the potential adverse effects on the qualifying features of the European sites.
8. It has been confirmed by both parties that the appellant has made a payment upfront in this regard. The Council is satisfied that appropriate mitigation has been secured. There is no evidence before me that a responsible and accountable public body would not spend the money as intended. Any potential adverse effects would therefore be mitigated and harmful effects on the European sites would be avoided. Following my appropriate assessment, I am satisfied that the proposal would not adversely affect the integrity of the European sites.
9. Under paragraph 15 of the new Schedule 7A of the Town and Country Planning Act 1990, all developments are now required to achieve a 10% net gain (the 'biodiversity objective'), unless one of the various exemptions applies. The appellant indicated on the planning application form that the proposal would be exempt from the biodiversity objective, due to the development being self-build. However, there was no mechanism submitted to secure the development as a self-build dwelling. The appellant has now submitted a Unilateral Undertaking (UU) which would secure the scheme as a self-build development. The Council has had the opportunity to comment on the submitted UU. I have considered the proposal on this basis.

Conditions and Planning Obligations

10. The Council has suggested 13 conditions in the event that the appeal be allowed. The Highway Authority has suggested an additional three conditions. I have considered these in light of the requirements of the National Planning Policy Framework (the Framework) and the advice set out in the Planning Practice Guidance, and made minor amendments to their wording where appropriate.
11. In addition to the standard time limit, a condition setting out the approved plans is necessary to provide certainty. A pre-commencement condition requiring a Construction Management Plan is necessary in the interests of the amenity of neighbouring occupiers.
12. Conditions are imposed to require external materials and enclosure details and hard and soft landscaping to ensure an appropriate visual appearance. Conditions requiring surface and foul water drainage schemes are necessary to ensure the site is properly drained. Conditions requiring a Biodiversity Enhancement Strategy, lighting details and that mitigation and works are carried out in accordance with the submitted Ecological Survey and Assessment are necessary in the interests of biodiversity. Conditions requiring that the access point is of a suitable width and

material are necessary in the interests of highway safety and a condition requiring cycle storage is necessary in the interests of promoting sustainable transport.

13. I have not imposed the suggested condition restricting permitted development rights for extensions and outbuildings. I have not been provided with any significant justification for this condition, nor has any evidence been provided which details why the limitations imposed by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) would not be sufficient to avoid any significant harm in this case. This approach is in accordance with paragraph 55 of the Framework which is clear that permitted development rights should not be withdrawn unless there is clear justification to do so.
14. I have not imposed a condition relating to the provision of a Travel Information Pack due to the development being a self-build dwelling.
15. I am content that the submitted UU would secure the scheme as a self-build development which is necessary to comply with the biodiversity objective exemptions. The Council has not objected to the UU or provided any comments on it. I find that the UU would be necessary to make the development acceptable, that it is directly related to the development and fairly and reasonably related in scale and kind. I have therefore taken the UU into account in my consideration of the appeal.
16. A number of informatives are suggested by the Council. I have not attached these to the list of conditions as they would have no legal weight. Nevertheless, I am satisfied that the appellant has seen these, given they were included in the Council's list of suggested conditions.

Conclusion

17. For the above reasons, the proposal accords with the development plan, when read as a whole. Material considerations do not indicate that a decision should be taken other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to conditions.

G Dring

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 numbers and documents: Location Plan, WBR-01 Rev B and Planning Design and Sustainability Statement.
- 3) No development shall commence, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include the following details:
 - a) The provision of parking for operatives and contractors;
 - b) The storage of plant and materials used in constructing the development;
 - c) Wheel washing and underbody washing facilities;
 - d) Measures to control the emission of dust, dirt and mud during construction;
 - e) A scheme to control noise and vibration during the construction phase, including details of any piling operations;
 - f) Hours of work – works shall only be undertaken between 0800 hours and 1800 hours on weekdays; between 0800 hours and 1300 hours on Saturdays; and not at any time on Sundays, Bank and Public Holidays;
 - g) Contact details for Site Manager and details of publication of such details to local residents.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 4) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted 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.
- 5) No development above ground level shall take place until details of all gates, fences, walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The details shall include scaled elevation and plan drawings illustrating their location, design, materials and finish. The enclosures as approved shall be provided prior to the occupation of the dwelling and shall be retained thereafter.
- 6) Prior to development above ground level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - 1) Hard surfacing materials;
 - 2) Details of proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities;
 - 3) Details of the planting scheme implementation programme including timescales and details of the aftercare and maintenance programme.

Details for hard surfacing shall ensure that a permeable surface treatment is provided to prevent compaction and allow water penetration of the sub-soil.

The development shall be carried out in accordance with the approved details and implementation timetable. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

- 7) No development works above ground level shall occur until details of the surface water drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development. The scheme shall ensure that for a minimum:
- a) The development should be able to manage water on site for 1 in 100 year events plus 40% climate change allowance.
 - b) Run-off from a greenfield site for all storm events that have a 100% chance of occurring each year (1 in 1 year event) inclusive of climate change should be no higher than 10/l/s and no lower than 1/l/s. The rate should be restricted to the 1 in 1 greenfield rate or equivalent greenfield rates with long term storage (minimum rate 1l/s) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield) or 50% betterment of existing run off rates on brownfield sites (provided this does not result in a runoff rate less than greenfield).

The Applicant is advised that in order to satisfy the soakaway condition the following details will be required: - details of the area to be drained, infiltration rate (as determined by BRE Digest 365), proposed length, width and depth of soakaway, groundwater level and whether it will be rubble filled.

Where the local planning authority accepts discharge to an adopted sewer network you will be required to provide written confirmation from the statutory undertaker that the discharge will be accepted.

- 8) No development works above ground level shall occur until details of the foul drainage scheme to serve the development shall be submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 9) Prior to any works above ground level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the Ecological Survey & Assessment for Land at Oakleigh Althorne (Essex Mammal Surveys, January 2025) 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;
- d) timetable for implementation;
- 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.

- 10) Prior to the installation of any external lighting, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and maintained thereafter in accordance with the approved scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

- 11) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey & Assessment for Land at Oakleigh Althorne (Essex Mammal Surveys, January 2025), as submitted with the planning application, and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g., an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 12) Prior to first occupation of the development and notwithstanding the details as shown on planning drawing no. WBR-01 Rev B, the existing vehicular access to the east of the site shall be reconstructed to a width of no more than 4 metres for at least the first 6 metres from the back edge of the carriageway and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.
- 13) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 14) Prior to first occupation of the development, cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

END OF SCHEDULE