



Appeal Decision

Site Visit made on 25 October 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal Ref: APP/W1525/W/21/3278018

Oak Lodge Farm, Leighams Road, Bicknacre, Chelmsford, CM3 4HF

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.

The appeal is made by Mr and Mrs R Thomason against the decision of Chelmsford City Council.

The application Ref 21/00174/FUL, dated 26 January 2021, was refused by notice dated 12 April 2021.

The development proposed is demolition of existing building and erection of dwelling.

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and erection of new dwelling at Oak Lodge Farm, Leighams Road, Bicknacre, Chelmsford, CM3 4HF in accordance with the terms of the application, Ref 21/00174/FUL, dated 26 January 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:

Whether appeal proposal accords with the local plan policy regarding replacement buildings,

Whether the appeal site is in a suitable location, having regard to local and national policies concerning rural housing; and,

The effect of the development on European Designated Sites.

Reasons

Replacement building

3. Policy DM8 of the Chelmsford Local Plan 2020 (the LP) sets out criteria against which new buildings in the Rural Area will be assessed. These criteria require, amongst other things, that any replacement building is in the same use as the existing. The supporting text for the development states that housing developments in isolated locations are unlikely to meet the sustainability objectives of the LP and the National Planning Policy Framework (the Framework). The proposal is for a dwellinghouse to replace the existing agricultural building, and therefore the proposal fails to accord with Policy DM8.

Location

4. Policy S7 of the LP directs new development to the most sustainable locations in existing settlements in accordance with the designated settlement hierarchy. The appeal site is more than a kilometre from Bicknacre, the nearest identified settlement. It is 700 metres from the nearest bus stop in a rural location with no street lighting or footpaths in the area, and no nearby services or facilities to meet the day to day needs of future occupiers of the property.
5. The appeal site would therefore not be in a suitable location, having regard to local and national policies concerning rural housing.

European Designated Sites

6. The appeal site falls within the zones of influence for the Crouch and Roach Estuaries Special Protection Area and Ramsar site, the Blackwater Estuary Special Protection Area and Ramsar site and the Essex Estuaries Special Area of Conservation. New residential development within these zones of influence is likely to have a significant effect on the habitat sites through increased recreational pressures. As the competent authority it is necessary for me to carry out an appropriate assessment to ensure that no significant adverse effects would arise from the proposed development, either alone or together with other development in the area.
7. The Council, together with Natural England and other Essex authorities, have developed the Essex Coast Recreational Avoidance and Disturbance Mitigation Strategy (RAMS). Policy DM16 of the LP states that contributions from developments will be secured towards mitigation measures identified in the RAMS. These measures may include, as appropriate, provision of information and education, physical works to lessen the impact on habitats, the creation of new habitats, monitoring and improvement works and other measures.
8. The Council has confirmed that the appellants have paid the necessary contribution for a single dwelling under the RAMS. That contribution is necessary to make the development acceptable in planning terms, directly related to the scale of development and fairly and reasonably related in scale and kind to the development. It therefore accords with Regulation 122 of the Community Infrastructure Levy Regulations and would count as mitigation toward maintaining the integrity of the habitat sites.
9. The development would not therefore result in a significant adverse effect on the integrity of the European Designated Sites.

Planning Balance

10. There is conflict with the development plan arising from the nature of the development and location of the appeal site. However, there is a fallback position available to the appellants as the existing building can be converted to a dwelling under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. That fallback position has been established through a prior approval application to the Council, and the appellants have also submitted a building regulations application for works relating to the conversion. The existing and proposed buildings are similar in footprint and height.

11. Plainly, if that conversion had already been carried out, the conflict with Policy DM8 of the LP would not exist as the appeal proposal would be for the replacement of one dwelling with another. Similarly, a replacement dwelling on this site would functionally be no more or less well located for access to services and facilities than the approved conversion.
12. The appellants have stated their intent to carry out the conversion if this appeal were dismissed, and while it would not be their preferred option, I see no reason to doubt this intent. This would potentially cause harm to the mature trees immediately adjacent to the existing building which would not occur with the proposed development.
13. I am also mindful that, if the appellant were to carry out the works then at some point the existing building would become a dwelling, at which point it could be demolished and a replacement dwelling erected with no conflict with Policy DM8. This would achieve nothing more than is proposed in this appeal other than additional expense on the part of the appellant.
14. The Council have drawn to my attention a case at Little Waltham where an Inspector found that a Class Q consent in that instance did not carry sufficient weight to outweigh any conflict with the development plan. I do not have the full details of that case before me but note that the Inspector in that case found that harm would arise to the character of the site from the development, and that the site in that instance lay within the Green Wedge. A further case at Stock is also referred to, but in that instance the proposal was found to be inappropriate development in the Green Belt and would also have caused harm to the setting of a listed building. Given these differences, these decisions do not provide any useful comparisons to the case before me.
15. In this instance, the fallback position carries great weight that outweighs any harm arising from conflict with policy DM8 and from the location of the appeal site.

Conditions

16. I have considered the conditions suggested by the Council in light of the Framework and national Planning Practice Guidance (the PPG). Where necessary I have amended the wording of the conditions to more closely reflect the Framework and PPG. I have imposed the standard condition relating to commencement of the approved development, and a condition specifying the approved plans for the sake of certainty.
17. As the existing and proposed buildings would occupy wholly separate areas on the appeal site, it is necessary to impose a condition requiring the demolition of the existing building to prevent implementation of both the Class Q consent and this approval. As the building would likely be useful for secure storage during construction, the condition allows for it to be retained on site until the new house is substantially complete.
18. Conditions relating to external materials, landscaping, boundary treatments and on-site parking and surfacing are reasonable to ensure that the finished appearance of the development is acceptable, that it promotes biodiversity, meets the needs of future occupiers and would not impact on highway safety.

19. Conditions relating to the provision of electric vehicle charging and the management of water consumption are reasonable to ensure a sustainable development.

Conclusion

20. The existence of the Class Q consent is a material consideration that in this case leads me to determine this appeal otherwise than in accordance with the development plan.

21. Therefore, for the reasons set out above, the appeal succeeds.



INSPECTOR

Schedule of conditions for appeal ref: APP/W1525/W/21/3278018
Oak Lodge Farm, Leighams Road, Bicknacre, Chelmsford, CM3 4HF

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: THOMASON S1 20-01, THOMASON PROD1, 080121-Rev A
3. Within one month of completion of the new dwelling the existing building shown to be demolished on drawing no. THOMASON S1 20-01 shall be removed from the site.
4. Prior to their use, details of the materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
5. Details of the proposed treatment of all boundaries, including drawings of any gates, fences, walls, railings or piers, shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the boundary treatments have been provided in accordance with the approved details.
6. Details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently these works shall be carried out as approved prior to the first occupation of any part of the development or in the first available planting season following such occupation. The landscaping details to be submitted shall include:
 - a) Hard surfacing including pathways and driveways, other hard landscape features and materials;
 - b) Existing trees, hedges or other soft features to be retained;
 - c) Planting plans including specifications of species, sizes, planting centres, number and percentage mix;
 - d) Details of planting and other features to be provided to enhance the value of the development for biodiversity and wildlife.
7. The dwelling hereby permitted shall not be occupied until off-road parking spaces and vehicle turning areas has been laid out within the site in accordance with drawing No. THOMASON S1 20-01. This parking arrangement shall thereafter be kept available at all times for those purposes.
8. No unbound material shall be used in the surface treatment of the vehicular access hereby permitted within 6 metres of the highway boundary.
9. Prior to the first occupation of the dwelling hereby permitted, charging infrastructure for at least one electric vehicle shall be installed.
10. All new dwelling units as hereby approved shall be constructed to achieve increased water efficiency to a standard of no more than 110 litres of water per person per day in accordance with Building Regulations Approved Document Part G (2015 - as amended).

End of schedule of conditions