

# Appeal Decision

Site visit made on 13 September 2016

**by Graham M Garnham BA BPhil MRTPI**

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

**Decision date: 20 September 2016**

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**Appeal Ref: APP/P1560/W/16/3151923**

**Haroldene, 53 The Street, Kirby-le-Soken, Essex, CO13 0EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Huddleston against the decision of Tendring District Council.
  - The application Ref 15/01644/OUT, dated 27 October 2015, was refused by notice dated 4 January 2016.
  - The development proposed is single storey dwelling.
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## Decision

1. The appeal is allowed and planning permission is granted for a single storey dwelling at Haroldene, 53 The Street, Kirby-le-Soken, Essex, CO13 0EG in accordance with the terms of the application Ref 15/01644/OUT, dated 27 October 2015, subject to the conditions in the Schedule at the end of this decision.

## Procedural Matters

2. The application is made in outline, with approval of access being sought at this stage. A block plan illustrates how the site could accommodate the dwelling that is proposed.
3. Following a Court of Appeal case regarding the imposition of affordable housing requirements or tariff contributions on development schemes of 10 or less dwellings, the Council decided not to pursue its second reason for refusal. This concerned a financial contribution towards the provision of play and formal open space. Although the Council notified the appellant of this before the appeal was lodged, the appellant says that wasted time and expense was caused. However, no costs application is before me.

## Main Issue

4. I consider that this is whether the proposal would be a sustainable form of development having regard to its setting.

## Reasons

5. The appeal site is part of the side garden of no.53 The Street, a chalet bungalow occupying a large plot. It is towards the outskirts of the village, as built development becomes more sporadic and grades into the open
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countryside beyond. The sub-division would result in both dwellings having relatively narrow frontages compared to others nearby. Houses on the far side of the road have quite wide plots, but are sited close to the highway, reflecting an irregular building line. Plots to the east are significantly narrower with small houses facing onto the road. There is considerable variety of built form and layout locally. I consider that the proposal could be satisfactorily assimilated into these surroundings. Given the restricted height of the existing dwelling, the single storey height of the proposed dwelling, and the presence of considerable screening around the site, I consider further that the generally spacious character of the locality would not be compromised.

6. No.53 and the group of dwellings of which it is part are towards the end of the Kirby-le-Soken Conservation Area. This encompasses the largely linear older part of the village, and includes a wide variety of buildings. Subject to a suitable detailed design being presented at the reserved matters stage, and the modest scale of dwelling that is shown, I consider that the proposal would be in keeping with the conservation area, the character and appearance of which would thereby be preserved.
7. The Council's reason for refusal cites one adopted development plan policy, Policy QL1 of the Tendring District Local Plan (2007). This policy sets out the spatial strategy for the district, indicating that development will be concentrated within settlement development boundaries. The appeal site is outside the defined boundary of Kirby-le-Soken, where only development which is consistent with countryside policies will be permitted. However, the Council accepts that it is currently unable to demonstrate a 5 year supply of deliverable housing sites. Thus Policy QL1 is to be considered as not being up-to-date, further to paragraph 49 of the National Planning Policy Framework, and the presumption in favour of sustainable development provides the context for my decision.
8. In addressing the dimensions of sustainable development, the Council argues that the proposal would be an unplanned advance of urbanisation into the countryside, causing environmental harm. My assessment differs, and I have found that the proposal would sit well in its setting and preserve local heritage qualities. Although the social and economic benefits would be limited, the balance of sustainability is thus in favour of the development.
9. A further important material consideration is an appeal decision issued after the Council refused planning permission for this proposal. The site in question abuts this appeal site, and outline planning permission has been given for two dwellings (Ref APP/P1560/W/16/3146590, dated 25 July 2016). My colleague considered that that scheme could be acceptably assimilated within existing development along The Street, without harm to the landscape quality or character of the area. The scheme, if implemented, would consolidate the local ribbon of development and result in the appeal site being a small infill site within it. I consider that this decision reinforces my view that the present proposal would not give rise to material harm to the character and appearance of the area, and that the principle of the development at no.53 is acceptable.
10. The point of access for the appeal site is the existing entrance to no.53. The submitted drawing shows how removing a length of hedge, and setting back its replacement, would improve the line of sight for nearside traffic. The highways

authority has not objected to the proposal, subject to a number of conditions being imposed. There is a pinch point in the road just to the west, and no footway on either side of the road. Thus I consider that care is needed to ensure that no risk to highway safety is caused. Matters that need to be subject to control at this stage are the width of the access; the provision of visibility splays; a proper surface for the access; the setting back of any gates or garage by not less than 6 metres; and the provision of on-site turning space. I also agree with my colleague that at this particular location, a Construction Method Statement is needed to prevent construction traffic impeding the free flow of traffic. I am not persuaded that parking provision, storage for bicycles or means of enclosure need to be controlled at this time, as such things can be addressed at the reserved matters stage.

11. It is also necessary to impose a condition specifying the relevant drawing as this provides certainty.
12. Subject to these conditions, I conclude that the proposal would be a sustainable form of development having regard to its setting.
13. There is therefore no reason to withhold planning permission and I allow the appeal.

*G Garnham*

INSPECTOR

### **Schedule of Planning Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins 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 begin 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 plan: drawing no. TDC-0315-1-01 revision A.
- 5) Before the dwelling hereby permitted is first occupied, the proposed vehicular access shall be reconstructed to a width of 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge, the specification of which shall be agreed in writing beforehand with the local planning authority.
- 6) Before the proposed vehicular access as reconstructed is brought into use, vehicular visibility splays as detailed on drawing no. TDC-0315-1-01 revision A shall be provided on both sides of the centre line of the access and shall thereafter be maintained in perpetuity free of obstruction to the ground.

*/continued: Conditions no. 7-10*

- 7) No unbound materials shall be used in the surface treatment of the approved vehicular access within 6 metres of the highway boundary.
- 8) Any gates erected at the vehicular access and any garage with a vehicular door facing the highway shall be sited at a minimum of 6 metres from the highway boundary, and gates shall be inward opening only.
- 9) Before the development hereby permitted begins, details of the layout of on-site vehicular turning space for motor cars for both dwellings shall be submitted to and approved in writing by the local planning authority. The approved turning space shall be provided before the dwelling hereby approved is first occupied, and shall thereafter be maintained and retained for that purpose.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors;
  - ii. loading and unloading plant and materials;
  - iii. storage of plant and materials used in constructing the development; and
  - iv. wheel washing facilities.

The approved Construction Method Statement shall be adhered to throughout the construction period of the development.