

Appeal Decision

Site visit made on 30 August 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 29 September 2016

Appeal Ref: APP/W3520/W/16/3150604
Land off Chilton Way, Stowmarket, Suffolk

- 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 Laurence Homes against the decision of Mid Suffolk District Council.
 - The application Ref 3010/15, dated 21 August 2015, was refused by notice dated 6 January 2016.
 - The development proposed is residential development of up to 10 no. dwellings, associated highway, car parking and open space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all detailed matters reserved apart from the access. I have dealt with the appeal on that basis, treating the site layout and perspectives as illustrative except where they relate to the access.
3. As agreed by both main parties I have amended the description from that given on the planning application form to incorporate reference to 'up to 10 no. dwellings' as detailed on the illustrative plans.

Main Issues

4. The main issues are:
 - the effects of the proposed development on the character and appearance of the area;
 - whether having regard to local and national planning policy, the proposal would accord with current policies for the provision of open space and green infrastructure;
 - whether having regard to local and national planning policy any benefits of the proposed development are significantly and demonstrably outweighed by any adverse impacts (the planning balance).
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Reasons

Character and appearance

5. The appeal site is an area of undeveloped land which is partly in use as informal open space. It fronts onto Chilton Way, a spine road through a modern residential area.
6. To the east is Burns Drive, where the dwellings are orientated to face onto the appeal site and also provide a frontage to Chilton Way. To the west are the rear and side gardens of the dwellings on Walton Close, with a brick wall approximately 1.8 metres high extending some distance along Chilton Way.
7. Opposite the appeal site is timber fencing approximately 1.8 metres high marking the boundaries of the houses opposite, and extending for a significant length of the road. The dominance of boundary treatments in the Chilton Way frontage nearby, gives the area a relatively compact and enclosed residential character appearance.
8. The appeal site is a relatively large area of land, mainly laid to grass but scattered with mature trees and shrubs including hedging along its boundary with Chilton Way. Thus, the relatively open green space in contrast with the brick wall to the west and fencing opposite provides visual relief from the relatively hard boundary treatments along the Chilton Way frontage. Furthermore, it provides a soft and spacious outlook for the residents of the properties on Burns Drive.
9. Saved Policy SB3 of the Mid Suffolk Local Plan (1998) (LP) designates a wider area including the appeal site as a visually important open space (VIOS). I note that part of the VIOS has already been developed and the appeal site is identified on the LP proposals map as part of a 'Site with existing planning permission'. However, planning permission¹ granted for the wider development clearly requires open space to be retained as an integral part of the residential development.
10. I acknowledge that the illustrative plans show two detached dwellings with a frontage to Chilton Way, with space between them and set back from the road with small front gardens. Furthermore, I note that the illustrative layout shows a development which would incorporate planting and open spaces into a relatively spacious development when compared to the wider area.
11. However, the proposed development in place of the open green space would exacerbate the feeling of enclosure when viewed from Chilton Way and result in the loss of a space within the compact residential area which provides visual relief. Thus, I find the proposed development would be harmful to the character and appearance of the area.
12. Therefore for the reasons given, the proposal would be in conflict with the development plan and the National Planning Policy Framework (the Framework). It would specifically conflict with saved Policy SB3 of the LP, Policy 4.2 of the Stowmarket Area Action Plan (2013) (SAAP) and paragraphs 56 to 58 of the Framework which, taken together seek to ensure good design and that developments add to the overall quality of an area, respond to its local character and does not harm the quality of a VIOS.

¹ Council references 0189/06 and 19269/06

Open Space

13. The annex to the Framework defines open space as all open spaces of public value which offer important opportunities for sport and recreation and can act as a visual amenity. Furthermore, it defines green infrastructure as a network of multifunctional spaces capable of delivering a wide range of environmental and quality of life benefits for local communities. Moreover, paragraph 74 of the Framework makes clear that open space should not be built on unless it is surplus to requirements or would be replaced by equivalent or better provision.
14. A Unilateral Undertaking (UU) has been submitted which among others things, commits the appellant to provide and maintain some 1.048ha of open space to compensate for the loss of open space as a result of the proposed development. The proposed open space would be more than double the size of the appeal site. It would include a long and narrow strip of land which provides a green link through to a large public open space known as Chilton Fields. It would also include a wider area of land adjacent to Burns Drive which would incorporate a locally equipped area for play (LEAP) and an area of informal open space.
15. I acknowledge that the narrow strip of land linking to Chilton Fields is privately owned and not a public right of way. However, it is clearly already well used by residents as an established walkway to Chilton Fields. Whilst it is provided and maintained under the goodwill of the appellant, there is nothing before me to indicate that this would not remain the case for the foreseeable future, irrespective of the outcome of this appeal. Furthermore, even though the proposed LEAP would be larger than that approved it would still serve the same function and there is nothing before me to indicate that the LEAP already approved would not be implemented should the appeal fail.
16. I also note the opportunities associated with the wider development being undertaken to the north known as Chilton Leys. I acknowledge that the proposal would allow the Council to secure connectivity to the narrow strip of land which would provide a green walkway for the residents of Chilton Leys to access Chilton Fields and Chilton Way. I also note that a large area of open space is proposed as part of the Chilton Leys development, which would be adjacent to the narrow strip of land, thus providing opportunities for a larger contiguous area of open space.
17. However, I note from the evidence before me, that there would be other routes for the residents of Chilton Leys to use to connect to Chilton Fields and Chilton Way. Furthermore, the separation distance between the existing open space and that which would be provided as part of the Chilton Leys development would be relatively small and there are other large areas of open space nearby.
18. Overall, whilst I acknowledge that the proposed open space would be more than double the size of the area of open space which would be lost the majority of the additional land is provided by the walkway connecting to Chilton Fields which already exists and is currently available for residents to use. Furthermore, located away from Chilton Way a main spine road through the estate, the proposed open space would not be as visually prominent as the existing open space. Thus, it would not provide the same degree of visual space between the buildings in the area.

19. Moreover, the proposed open space would be set back from Chilton Way relatively deep into Burns Drive. In my view, the prominence of the existing open space in the Chilton Way spine road frontage has the effect of drawing attention to the space and thus drawing residents into it as part of the green infrastructure network. The proposed open space, would be barely noticeable from Chilton Way, thus it would not have this effect.
20. Overall, there is no substantive evidence before me which suggests the appeal site is surplus to requirements and for the reasons given I find that the proposal would not result in the replacement of open space which would be of equivalent or better provision.
21. Thus, for the reasons given, I find that the proposed development would be harmful to open space and green infrastructure in the area and would therefore conflict with the development plan and the Framework. It would specifically conflict with Policy SB3 of the LP, Policy 10.1 of the SAAP and paragraph 74 of the Framework, which taken together seek to ensure that open space which is not surplus to requirements is protected from development.

The Planning Balance

22. Both main parties agree that the Council is currently unable to demonstrate a five year supply of deliverable housing land in accordance with paragraph 49 of the Framework. Therefore insofar as relevant development plan policies seek to restrict the supply of housing they should be considered out of date and the proposal would need to be considered in accordance with the presumption in favour of sustainable development. In which case, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
23. However, saved Policy SB3 of the LP and Policies 4.2 and 10.1 of the SAAP seek to ensure that open space which is not surplus to requirements is protected from development and that new development positively responds to local character. Thus, in this regard they are not directly restrictive to housing supply and are broadly consistent with the good design and promoting healthy communities aims of the Framework.
24. I acknowledge the benefit of the scheme in providing ten more homes in the district, thus adding to the supply of housing in the area. I also note that these homes would be within the main built up area of Stowmarket, the principal town and largest settlement in the district where services and employment can be easily accessed. The scheme would also benefit the local economy as a result of the construction of the proposed dwellings and providing new customers and employees for local businesses. I have also considered the financial contribution to education infrastructure. However, the benefits of the scheme are significantly and demonstrably outweighed by the harm I have identified and consequently the proposal does not amount to a sustainable and acceptable form of development.

Other Matters

25. I note that the proposals were subject to lengthy pre application discussions. I also acknowledge that the planning application was refused contrary to an officer's recommendation to approve. However, the relevant planning

committee were entitled to reach their own planning judgement and I have determined the appeal on its merits.

Conclusion

26. For the reasons set out above and with regard to all other matters raised, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR