

Appeal Decision

Site visit made on 27 September 2016

by J Bell-Williamson MA MRTPI

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

Decision date: 19 October 2016

Appeal Ref: APP/X1545/W/16/3146160

Charwood, Stoney Hills, Burnham-on-Crouch, Essex CM0 8QA

- 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 Mrs Doris Grady against the decision of Maldon District Council.
 - The application Ref OUT/MAL/15/00978, dated 3 September 2015, was refused by notice dated 22 December 2015.
 - The development proposed is 4 two bedroom bungalows.
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Decision

1. The appeal is allowed and outline planning permission is granted for 4 two bedroom bungalows at Charwood, Stoney Hills, Burnham-on-Crouch, Essex CM0 8QA. The permission is granted in accordance with the terms of the application, Ref OUT/MAL/15/00978, dated 3 September 2015, subject to the conditions included in the Schedule at Annex A.

Preliminary Matters

2. The application is for outline planning permission with only access to be considered at this stage. The other matters, appearance, landscaping, layout and scale are reserved for subsequent approval. While a site plan submitted with the application shows the layout of the four bungalows and some landscaping (ref 1041/02A), this is marked as indicative and I have treated it as such in considering the appeal.
3. The main parties disagree about whether the Council can demonstrate a five-year supply of deliverable housing sites, as required by paragraph 47 of the National Planning Policy Framework (the Framework). Both parties refer to recent appeal decisions in support of their positions. However, only the appellant has provided the relevant decision and, unlike the Inspector in that earlier appeal, I have no other detailed evidence on which to reach a view. As a result, I have insufficient information to draw a firm conclusion on this matter and, therefore, I have not considered it further.

Main Issue

4. The Council indicates in its appeal statement that it is no longer able to defend the second reason for refusal of the application, concerning access and highway safety. Consequently, the main issue is, having regard to local and national policies, the suitability of the appeal site for the development proposed, taking
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particular account of the effect on the character and appearance of the site and surrounding area.

Reasons

5. The appeal site is an area of undeveloped open land to the rear of a two-storey detached dwelling, Charwood, situated in the north-east corner of a group of residential properties known as Stoney Hills, which are served by an unmade road of the same name. A public footpath runs along the western and part of the northern boundaries with open countryside to the north and east.
6. The site lies to the north of Burnham-on-Crouch and outside the settlement boundary defined in the development plan. Policy S2 of the adopted Maldon District Replacement Local Plan (the RLP) says that outside defined development boundaries the coast and countryside will be protected for their own sake; while Policy H1 of the RLP says that new housing will not be allowed outside development boundaries unless it complies with the other policies in the Local Plan. In this regard Policy BE1 says that development proposals will be permitted if they are compatible with their surroundings and, outside development boundaries, make a positive contribution to the landscape and open countryside. Policy CC6 requires the quality of the district's landscape to be conserved and enhanced. These policies are consistent with more recent guidance in the Framework, particularly the core planning principle of recognising the intrinsic character and beauty of the countryside (paragraph 17).
7. The Council also refers to policies in the submission Maldon District Local Development Plan (the LDP). The Secretary of State directed in June 2015 that the plan should be submitted to him for approval. The Council indicates that examination of the plan has resumed and the policies which have already been subject to public hearings are at an advanced state in their preparation. It contends, therefore, that due weight should be given to relevant policies in accordance with paragraph 216 of the Framework. However, it is not fully clear from the information provided what scope the current examination has and what bearing, if any, it might have with regard to the policies referred to by the Council. Moreover, in my reading of them, these draft policies in the LDP are not materially different in terms of the main issue in this case, than those relied upon from the RLP. Accordingly, for these reasons, I give the LDP policies limited weight for the purposes of this appeal and instead have relied on the RLP policies referred to by the Council.
8. The appeal site is directly adjacent to open countryside to the north and east, although these two boundaries are marked by the remains of outbuildings along the northern boundary and planting to much of the eastern boundary. These existing boundary treatments largely screen views into and out of the site from the countryside beyond. The northern boundary is contiguous with the residential curtilages of neighbouring properties to the west, while the eastern boundary continues alongside Charwood before cutting in to the south of this property. As such, the site is clearly delineated as part of the wider Stoney Hills area and its visual and physical association is with the neighbouring properties rather than the adjacent open countryside.

9. Both main parties refer to a range of recent decisions, a number made on appeal, that have resulted in additional residential development within Stoney Hills. As the Council indicates, many of these involve infill development of single dwellings on existing residential plots. In its view, the appeal site is more remote from these other sites and involves an uncharacteristic form of backland development in contrast to most recent development in the area. However, of particular significance in this regard is the recent appeal decision to permit three new dwellings on land to the rear of The Hollies to the west of the appeal site¹. The Council contends that at that time it could not demonstrate a five-year supply of deliverable housing sites, but in my view that was not determinative to the appeal's success as the Inspector's principal finding was that there would be no harm to the character and appearance of the area.
10. While the development in that case is contained by residential development either side, the decision does establish the principle of a greater intensity of development to the north of an established property, as is proposed in this case. Moreover, the dwellings in that case are two storey detached properties, while the small bungalows proposed here would be a more sensitive form of development for this site, adjacent as it is on two sides to open countryside. While detailed landscaping proposals do not form part of the current proposal, the existing planting to the east could be readily supplemented and new planting could replace the buildings on the northern boundary, such that the development would remain separate and screened from the surrounding countryside. This would reinforce the existing visual relationship that the site has with the Stoney Hills developed area.
11. The original character of Stoney Hills was predominantly single dwellings within large plots, but changes that have occurred over time have led to a less homogeneous appearance across the area. This is reflected in groups of dwellings, notably at land west of Mirfield and the three dwellings permitted at The Hollies. Consequently, the group of four small dwellings proposed would not be out of keeping with this mixed character of the wider area. The indicative layout suggests that four small bungalows could be accommodated with sufficient space between them and landscaping as appropriate so as not to appear cramped or an overdevelopment of the site. Given the separation of the site from the open countryside beyond and the opportunity for additional landscaping, I do not share the Council's concerns about the effects of domestic use.
12. The access road would add some further urbanisation to this part of the area, but it would be adjacent to a similar feature at the neighbouring property, Marbles. Moreover, as the Inspector in The Hollies decision observed, a number of dwellings in the surrounding area are accessed from private drives rather than fronting directly onto Stoney Hills (paragraph 9). I agree, therefore, that the proposal in this case would be accessed in a manner that is not out of keeping with the character of the area.
13. Views from the footpath that runs along the site's western boundary would change as the path would be close to the access road and some of the dwellings. However, at present the main purpose of this length of path is to

¹ APP/X1545/W/15/3005711 dated 20 August 2015.

provide access to countryside to the north and, aside from the open aspect of the appeal site, does not provide long distance views beyond the site due to the boundary screening. Indeed, the appeal proposal would provide opportunities to improve views from the path where it runs parallel to the site's northern boundary, through removal of the adjacent brick wall of the redundant outbuildings and replacement with more naturalistic boundary landscaping.

14. I have found that the proposal would be compatible with its surroundings and would conserve the landscape and open countryside, in accordance with the policies referred to from the RLP and Framework. While the Council refers to the proposal being unsustainable development, it has accepted that it would be sustainably located and I see no reason to disagree; furthermore, there is no evidence to suggest that it would result in harm to the other principles of sustainable development included in the Framework. In addition, it would make a small but positive contribution to the Framework's requirement to boost significantly the supply of housing and would widen housing choice through the provision of a number of bungalows. Taking these findings as a whole, I conclude that the appeal site is suitable for the development proposed, particularly as the proposal would not have an unacceptably harmful effect on the character and appearance of the site and surrounding area. As such, there is no conflict with the development plan policies referred to in paragraph six above.

Other Matters

15. Interested parties raise a number of other matters. I acknowledge that, given the amount of development that has occurred in the area, further construction traffic may be unwelcome to existing residents. However, this will occur for a temporary period and I have no substantive evidence to conclude that implementation of this development will result in harm to highway safety, or damage local roads or property as suggested. Similarly, there is no basis to suggest construction traffic will block access to the property known as Fairview as this is some distance further down Stoney Hills from the entrance to the site. I was able to observe the sightlines from the proposed access onto Stoney Hills during the inspection and based on this and the appeal submissions, there is no basis to conclude that use of the proposed dwellings will result in highway safety issues, with regard to the access or on-street parking.
16. I note that there is a local residents group that contributes to the maintenance of the local access road. I give limited weight in respect of this appeal to the question of whether future residents of the proposed bungalows should also contribute, given that this is a voluntary arrangement and I have found that the development would not be harmful, including with regard to the highways issues raised. The separation distance between Marbles and the proposed bungalows is sufficient to ensure that there would be no overlooking and loss of privacy to existing residents. While some trees to the boundary between properties may be lost during construction there is an opportunity to consider replacement or supplementary planting as part of the reserved matters. I am unaware of any substantive evidence of protected species or other wildlife habitats on the appeal site and, therefore, it would not be reasonable to impose a condition related to this.

17. I must give limited weight to any suggestion that the dwellings will not remain as bungalows, but over time will become two-storey dwellings; sufficient controls exist to ensure that this will not occur. Furthermore, this decision will not prevent any future development proposals in the area being considered on their individual merits. The alleged identity of the developer and any concerns about the effects of development on property values are properly not planning matters for this appeal.
18. Concerns are raised about sewer capacity during heavy rainfall. I agree in this regard with the Council's suggested condition for a sustainable drainage scheme to be submitted and approved to ensure that public health is protected. It appears that the neighbourhood plan referred to is not at a sufficiently advanced stage for me to accord it much weight and, in any case, I have not seen details of the matters referred to in the draft plan. Finally, while concerns are expressed about alleged shortcomings of development standards on other sites in the area, there is no basis for me to conclude that the development in this case will not be implemented in accordance with the agreed details and other statutory requirements.
19. Therefore, while I have had regard to all the matters raised by interested parties, for the above reasons these have not led me to reach a different conclusion or overall decision in this case.

Conditions

20. Of the Council's suggested conditions, aside from those already referred to above, I have imposed the standard reserved matters and time conditions. It is also necessary to include a condition to require development to be carried out in accordance with relevant plans showing the location and extent of the site.
21. A detailed landscaping condition as proposed is not necessary at this stage as this is a reserved matter, although I have amended the first condition to clarify that the treatment of existing landscaping on the site should be considered at reserved matters stage. The suggested conditions concerning materials and hard boundary treatments are more properly addressed at reserved matters stage under appearance and, therefore, I have omitted these. I agree that, given the proximity of the site to the public footpath, a condition is necessary to ensure that this remains open for use.

Conclusion

22. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

J Bell-Williamson

INSPECTOR

Annex A

Schedule – conditions

- 1) Details of the appearance, landscaping (including details of any planting to be retained and how it will be protected during construction), 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) Development shall be carried out in accordance with the following plans insofar as they show the location and extent of the site: 1041/01 and 1041/03.
- 5) The public's rights and ease of passage over Public Footpath No5 (Burnham on Crouch) shall be maintained free and unobstructed at all times.
- 6) Development shall not commence until a scheme for the provision and implementation of surface water drainage incorporating sustainable urban drainage measures (SuDS) has been submitted to and approved in writing by the local planning authority. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of the dwellings hereby permitted.