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## Appeal Decision

Site visit made on 7 February 2017

**by R W Allen B.Sc PGDip MRTPI**

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

**Decision date: 27 February 2017**

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**Appeal Ref: APP/X1545/W/16/3157183**

**Hillcrest House, 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 Mr & Mrs Mervyn Ridgewell against the decision of Maldon District Council.
  - The application Ref OUT/MAL/16/00196, dated 17 February 2016, was refused by notice dated 31 March 2016.
  - The development proposed is 3 new homes on land attached to Hillcrest House.
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### Decision

1. The appeal is allowed and outline planning permission is granted for 3 new homes on land attached to Hillcrest House at Hillcrest House, Stoney Hills, Burnham-on-Crouch, Essex CM0 8QA in accordance with the terms of the application, Ref OUT/MAL/16/00196, dated 17 February 2016, subject to the following conditions set out in the Schedule of Conditions at the end of this decision.

### Preliminary Matter

2. The appeal proposal is in outline form with all matters reserved for subsequent approval. Any other details shown which would be a reserved matter, such as the layout and access, I shall treat as being indicative only.

### Main Issues

3. The main issues are:
  - The effect of the proposed development on the character and appearance of the area; and
  - The effect of the proposed development on highway safety.

### Reasons

#### *Character and appearance*

4. The appeal site is the sizeable rear garden area to Hillcrest House, which is a detached property located on a corner plot. Open countryside surrounds the property on two sides with The Hollies, also a detached property with large rear garden, adjoining eastern boundary of the site.
  5. The original character of Stoney Hills was predominantly single dwellings within large plots. But, as evidenced by the appellant, changes have occurred over
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recent times that have resulted in the area adopting a less homogeneous or uniformed appearance. This is evident from a recently completed development of five dwellings on land adjacent to Mirfield, which lies diagonally opposite the appeal site. Moreover, further residential developments are consented on the adjoining site at The Hollies, as well as on land to the front of Marbles, and on land to the front, side and rear of Charnwood, all of which are within close proximity of the appeal site. Additionally, I observed a number of other new dwellings being constructed on plots slightly further afield but nonetheless within the vicinity of the appeal site.

6. Because of these changed circumstances, I do not find that the proposed development would appear out of keeping with the area. The indicative layout suggests that the proposed dwellings could successfully assimilate into its surroundings and be accommodated with sufficient space between them; and the provision of appropriate landscaping would ensure the appeal site would not appear cramped or as an overdevelopment of the site. Given the quantum of development planned for the vicinity and the separation of the site from the open countryside beyond and the opportunity for additional landscaping, I do not find that the proposed development would necessarily result in an urbanising effect, as the Council suggests.
7. I therefore find the proposed development would not harm the character and appearance of the area. I find no conflict with policies BE1 and CC6 of the Maldon District Replacement Local Plan 2005 (RLP). These state that that development must be design-led and that development in the countryside will only be permitted where no harm is caused to the open and rural character of the area.
8. It would also accord with policies D1 and S8 of the Maldon District Pre-Submission Local Development Plan 2014-2029 (LDP), which states that new development must respect and enhance the character of an area and protect the intrinsic character of the countryside. However, because the LDP has yet to complete its examination, I cannot give more than limited weight to these policies at the current time. LDP policy N2, also cited by the Council in this regard, relates to ecology and biodiversity, and the Council has not advanced any particular concerns in this regard. I therefore do not find the policy is relevant to the appeal.

#### *Highway safety*

9. I observed the road conditions at the appeal site, and to some extent I share the Council concerns that its unmade state is not particularly attractive for pedestrians or cyclists, and accordingly there may be an increased reliance on the private motor car from future occupiers of the proposed development. However, the Council accepts that the distance to the public highway and to local services and facilities is not unduly far, and navigation other than by private motor car would not necessarily be an insurmountable or undesirable means for the future occupiers of the proposed dwellings. Nevertheless, I am satisfied on the evidence before me that the proposed development would generate only a minimal increase in traffic along this road, and as such it would not amount to a significant detriment to highway safety.
10. I find that the proposed development would accord with RLP policy T2. This states that the layout for new developments will be permitted where appropriate provision for safe access to and from the highway. The Council

also cites RLP policy T1 in its objection on these grounds. However, as this policy relates to new development within defined development boundaries and to the delivery of sustainable transport networks, I find that it is not particularly relevant here.

### **Other Matters**

10. The Council states that it can demonstrate a five year housing land supply, which is not disputed by the appellant. However, notwithstanding references both in its officer's report and in the reason for refusal to RDP policies S2 and H1, it has not been made explicitly clear as to whether the Council objects to the principle of the proposed development having regard to the site's location outside of the settlement boundary.
11. Even if I was to accept that the Council were objecting on matters of principle, my overall conclusion on the appeal would not change. This is because RLP policies S2 and H1 which constrain the supply of new housing outside of settlement boundaries almost without exception, are in my judgement unduly restrictive and inconsistent with the Framework's general approach to significantly boosting the supply of housing. They are therefore out-of-date and I afford both policies little, if any, weight in my decision.
12. Because of this inconsistency, paragraph 14 of the National Planning Policy Framework (the Framework) would be engaged, and the existence of a five year housing land supply would not change this. In applying the tilted balance of bullet point 4(1), the absence of any significant harm arising from the proposed development that I have found above would accordingly not significantly and demonstrably outweigh the benefits the proposed development would bring. The proposal would amount to sustainable development in applying the Framework as a whole, and the balance would therefore lie in the scheme's favour. It would accord with LDP policy S1, albeit that little weight can be attached to the policy for the reasons given above, which reflects the Framework's presumption in favour of sustainable development.

### **Conditions**

13. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements. A condition relating to boundary treatments, which may not form part of a reserved matters submission, is necessary to ensure the appearance of the development would be satisfactory. A condition requiring details of surface water drainage is necessary in the interests of promoting sustainable drainage. A condition requiring details of parking is necessary to ensure the development would not cause significant unacceptable harm to the operation of the highway.
14. Conditions in relation to the submission of landscaping and materials are covered by the reserved matters and separate conditions are not necessary. As foul sewage drainage is controlled under other legislation, and as the Council has not identified any particular concern in this matter, I find a condition in this regard is unnecessary.

**Conclusion**

15. For the reasons given above I conclude that the appeal should be allowed.

*R Allen*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, 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 takes place 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 take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) Details pursuant to condition (1) shall show the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to the Local Planning Authority for approval in writing. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and shall thereafter be retained.
- 5) Details pursuant to condition (1) shall show provision for car parking within the site in accordance with the Council's adopted car parking standards. Prior to the occupation of the development the parking areas shall be constructed, surfaced, laid out and made available for such purposes in accordance with the approved scheme and retained as such thereafter.
- 6) No development shall take place until a scheme for the provision and implementation of surface water drainage incorporating sustainable urban drainage schemes has been submitted to the Local Planning Authority for approval in writing. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of any part of the development.