
Appeal Decision

Site visit made on 24 April 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 11th May 2017

Appeal Ref: APP/P1560/W/17/3166412

Holland House, Green End Lane, Great Holland, Essex CO13 0JA

- 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 & Mrs R Newton against the decision of Tendring District Council.
 - The application Ref 16/00793/FUL, dated 19 May 2016, was refused by notice dated 18 July 2016.
 - The development proposed is described as 'a detached dwelling fronting Green End Lane within part garden to Holland House'.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling fronting Green End Lane within part garden to Holland House at Holland House, Green End Lane, Great Holland, Essex CO13 0JA, in accordance with the terms of the application, Ref: 16/00793/FUL, dated 19 May 2016, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr & Mrs R Newton against Tendring District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal has been submitted with two site layout drawings, NHH-01 Revision B and NHH-01 Revision E. The appellants submitted Revision E as an amendment that was intended to supersede Revision B. The Council confirmed by email that it had accepted Revision E and its decision had been based on this drawing. I have likewise based my assessment on drawing NHH-01 Revision E. Both the Council and appellant were afforded an opportunity to provide submissions as to whether a planning condition would address the Council's highway safety concerns. The additional submissions have been taken into account.

Background and Main Issues

4. The Council are currently unable to demonstrate a five year supply of housing land. As a consequence, Paragraph 49 of the National Planning Policy Framework (the 'Framework') states that relevant policies for the supply of housing should not be considered up to date. Saved Policies QL9, QL10, QL11, HG3 and ENV1 of the Tendring District Local Plan 2007 (LP) can have the effect of limiting housing supply and should not therefore be considered up to date.
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5. In such circumstances Paragraph 14 of the Framework directs that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework or specific policies in the Framework indicate development should be restricted. The Council have not suggested that the latter applies so the planning balance in Paragraph 14 is engaged.
6. As a consequence, the main issues in this appeal are the effect of the proposed development on: 1) the character and appearance of the area; 2) highway safety with particular reference to visibility and sight lines; and 3) whether, in a planning balance, any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits.

Reasons

The effect on the character and appearance of the area

7. The appeal site encompasses part of the rear garden of Holland House, a detached property occupying a corner plot between the B1032 and Green End Lane. Green End Lane is rural in character due to the presence of road side hedges and trees interspersed with views over an arable landscape. Nevertheless, the western section of the road is viewed as part of the village of Great Holland, which is a linear settlement spread out along the B1032 where plots sizes tend to vary. This results in a mixed appearance to the street scene.
8. The appeal site occupies a gap between the domestic garage serving Holland House and the vehicle repair garage immediately to the east. In this respect the appeal scheme would have the appearance of a natural infilling of a disenable gap in the street scene and not an over development of the available space or a harmful encroachment into the countryside.
9. The proposed dwelling would be set back from the road behind a landscaped front garden. The revised layout also demonstrates that there would be space between the proposed dwelling and the boundaries of the plot and this would provide space for soft landscaping. The position of the dwelling and the space that would be available around it would ensure the proposal would not appear cramped or the plot undersized. A further point of note is that the frontage of the proposed plot would be similar to the new dwelling erected to the north of the appeal site in a section of former garden land that was once part of the curtilage of Holland House. The width of the frontage would also be similar to properties along the B1032 north west of Holland House. The proposal would thus integrate into the grain and pattern of surrounding development.
10. A property has been erected to the south of Holland House and the appeal scheme would be viewed in the context of this building. The new building appears to have a larger site coverage than the appeal scheme would and it is positioned closer to the road. As such, it would be inconsistent to find fault with the site coverage of the appeal scheme in light of the recently constructed dwelling across the road. Nothing has been provided to suggest circumstances have materially changed between the approval of this new dwelling and the submission of the appeal scheme now before me.
11. I therefore conclude that the proposal would not harm the character or appearance of the area. Thus, the proposal would adhere to Policies EN1, HG3, QL9, QL10 and QL11 of the LP and emerging Policy SPL3, LP3, LP4, LP7 and

LP8 of the Tendring District Local Plan 2013-2033 and beyond Preferred Options Consultation Document July 2016 (TLP), which seek to ensure that a development proposal reflects the character of the area and is well designed. These policies are consistent with Paragraphs 17 and 58 of the Framework.

The effect on highway safety

12. Green End Lane is a no through road and links a small number of dwellings, a vehicle repair garage and a farm with the B1032. There is nothing before me to suggest that existing traffic volumes in the road are anything but very light and that vehicle speeds are low, especially near the junction with the B1032.
13. Drawing NHH-01 Revision E demonstrates that adequate visibility splays can be provided. The splays will require some of the boundary hedge to be removed and cut back but additional landscaping can be provided to remedy this loss. The splays would be on land outside of the appeal site delineated by the red line on the site plan. However, the splays would be on land in the control of the appellants and therefore a planning condition could be imposed to ensure the splays are provided and retained. Consequently, it would be possible for motorists exiting the appeal site to see vehicles and pedestrians in the carriageway. The latter is particularly important given the absence of pavements and the proximity of a public right of way.
14. It may, on occasion, be necessary for motorists to reverse out of the appeal site but this would not harmfully impact upon highway safety because there is an apparently low traffic level along the lane and there would be adequate visibility splays in place. There is also reasonable forward visibility, particularly from east to west, so motorists in the road would be able to see and respond to vehicles reversing out of the appeal site. The absence of an on-site turning area is not therefore a reason to dismiss the appeal in this instance, especially as this is not a common feature of other properties along the lane.
15. The Highway Authority objected to the application when consulted by the Council due to the absence of visibility splays. However, their comments were based on the now superseded drawing (NHH-01 Revision B) and therefore its objection is not a determinative matter as the revised drawing demonstrates adequate visibility splays can be achieved and the access has been narrowed. It is also a noteworthy point that the dwelling approved opposite the appeal site, and supported by the Highway Authority, has shorter visibility splays than those proposed as part of the appeal scheme and no apparent harm has arisen from this arrangement.
16. I therefore conclude that the appeal scheme would not be detrimental to highway safety. As a consequence, the proposal would adhere to Policy TR1A of the LP, Policy DM1 of the Highway Authority's Development Management Policies 2011 and emerging Policy LP8 of the TLP, which seek to ensure development proposals provide safe and convenient vehicular and pedestrian access. This is consistent with Paragraph 32 of the Framework.

Whether any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits

17. As a new dwelling outside the village envelope the proposal would be contrary to the settlement policies of the development plan (Policy QL1 of the LP). An application should be determined in accordance with the development plan

unless material considerations indicate otherwise. In this instance the lack of a five year housing land supply is a significant material consideration that renders the settlement policies as out of date. Moreover, the settlement policies, including emerging Policy SPL2 of the TLP, should be afforded limited weight as they have likely contributed to the Council's inadequate housing land supply. Additionally, the Council have not suggested the proposed dwelling would be isolated. As such, the location of the dwelling outside of the village envelope is an adverse impact of limited weight against the proposal.

18. The proposal would not harm the character and appearance of the area or highway safety and no other harm has been alleged by the Council. However, the absence of harm is a neutral matter in the planning balance.
19. The proposal would, in a modest way, support the local economy through construction jobs and the circulation of funds. The proposal would also boost housing supply and support the vitality of the rural community. However, as only one dwelling is proposed these benefits are of a limited scale and are thus of limited weight. Nevertheless, when the adverse impacts are balanced against the benefits of the proposal the appeal scheme would not have adverse impacts that would significantly and demonstrably outweigh its benefits. As such, the proposal would be sustainable development for which the Framework carries a presumption in favour. Accordingly, the appeal should succeed.

Other Matters

20. I have not seen substantive evidence to suggest the wider road network could not accommodate the traffic movements associated with the appeal scheme, that the proposal would harm wildlife or that there is insufficient local infrastructure and jobs. Thus, my conclusions on the main issues are unaltered.

Conditions and Conclusion

21. I have had regard to the Planning Practice Guide and the Council's list of suggested conditions. In the interests of safeguarding the character of the area it is necessary for the development to be implemented (including materials) in accordance with the approved drawings with a landscaping scheme to be approved¹. The drawings condition has been amended to include NHH-01 Revision E. Permitted development rights should only be removed in exceptional circumstances, and the Council have not advanced any, so I have not imposed such a condition. In the interest of highway safety a condition has been imposed to ensure the provision and retention of visibility splays.
22. The appeal scheme would be contrary to aspects of the development plan. However, in this instance there are material considerations, principally my finding that the proposal would be sustainable development within the context of Paragraph 14 of the Framework, which indicate planning permission should be forthcoming. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

¹ This is a pre commencement condition as it refers to exiting landscaping that may require protection during site clearance works

Schedule of Conditions

1. The development hereby permitted shall be commenced within 3 years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Planning drawing NHH-01 Revision E.
3. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction".

The development shall be implemented in accordance with the approved landscaping scheme. Any trees or plants forming part of the approved landscaping scheme which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

4. The visibility splays detailed on drawing NHH-01 Revision E shall be provided prior to the first occupation of the dwelling hereby approved and shall be retained in the approved form thereafter. No structure or erection exceeding 0.6m in height shall be placed within the visibility splays and no shrubs, trees or vegetation shall be allowed to grow above 0.6m within the viability splays either.