
Appeal Decision

Site visit made on 27 March 2017

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/X1545/W/16/3161178

Land to the rear of The Hollies, Stoney Hills, Burnham on Crouch CM0 8QA

- 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 J Lois and Mr N Cooper (Amex Estates Ltd) against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00408, dated 6 April 2016, was refused by notice dated 23 June 2016.
 - The development proposed is the erection of three dwellings on land to the north of The Hollies and associated access from Stoney Hills.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings on land to the north of The Hollies and associated access from Stoney Hills at Land to the rear of The Hollies, Stoney Hills, Burnham on Crouch CM0 8QA in accordance with the terms of the application, Ref FUL/MAL/16/00408, dated 6 April 2016, subject to the conditions in the following schedule.

Main Issue

2. The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site forms part of the rear garden of The Hollies, a detached dwelling set within a substantial plot on the north side of Stoney Hills. There are residential properties on either side and opposite the site. To the rear of the site is open countryside.
4. Outline planning permission was granted on appeal in 2015 for the construction of three houses to the rear of The Hollies¹. The Inspector in that appeal found that on the basis of the illustrative layout provided, three houses could be laid out and accessed in a manner in keeping with the area. Since the proposal subject of this appeal was refused by the Council, outline planning permission was granted in October 2016 for three detached dwellings with access and layout agreed².
5. The layout of the three proposed dwellings would be broadly similar to that shown on the illustrative layout provided in the earlier appeal, except that the

¹ Ref. APP/X1545/W/15/3005711

² Ref. OUT/MAL/16/00849

site access road would be along the eastern rather than the western boundary, and thus the position and footprint of the three dwellings would be reversed to face the access road. In addition the dwellings on plots 1 and 2 would be several metres closer together and the front building line of these two properties would not be staggered. Nonetheless, these changes are relatively minor in nature and would not make a significant impact on the street scene. Given the secluded position of the dwellings the difference between these two schemes would be barely perceptible from Stoney Hills.

6. Furthermore, the eaves and ridge heights of the two storey dwellings would be consistent with that of neighbouring two storey properties. The dwelling on Plot 3 at the northern end of the appeal site would be 1.5 storeys. Together with the greater separation of built development from the northern site boundary due to the relocated garage, compared with the earlier appeal scheme, this would provide an appropriate transition to the open countryside beyond the appeal site, and would leave the wider landscape setting unharmed.
7. The Hollies lies within a particularly large plot compared with most properties within Stoney Hills. It is exceeded in size only by that of Marbles to the east, which contains a detached dwelling and a number of large outbuildings. Although the appeal site area is slightly smaller compared with that of the allowed appeal, The Hollies would retain a rear garden of about 15m in depth, and the density of the development would be about 7 dwellings per hectare. This would be comparable with recent developments in the vicinity, such as Land adjacent to Mirfield, where the density is 8.9 dwellings per hectare. Consequently the proposal would not be cramped.
8. The Council is concerned that three trees shown as retained on the illustrative site plan for the original outline scheme³ are not shown on the site plan for the present appeal as being retained. Whilst I acknowledge that the Inspector in the earlier appeal referred to the potential for some of the existing planting within the site to be retained and supplanted,⁴ he also noted that the role of existing planting was alluded to rather than specified in detail by both main parties and that landscaping was to be considered as a reserved matter. I also note that the trees are not covered by a protection order.
9. The loss of a single tree along the northern boundary would not significantly undermine its verdant character, and the two trees shown within the centre of the site do not make a particularly important contribution to the street scene within Stoney Hills. Moreover, the existing substantial mature landscape along the west, north and east site boundaries would be maintained and strengthened and this would be secured by condition, to safeguard the character and appearance of the area. As such the development would be assimilated satisfactorily into its surroundings.
10. There is a mix of two storey dwellings and bungalows in the vicinity, with no dominant architectural style. The Council contend that the proposed dwellings do not have any particular architectural merit, but the National Planning Policy Framework is clear that it is not for local planning authorities to attempt to impose architectural styles or particular tastes, and due to the variety of house

³ Two trees in the centre of the site between plots 1 and 2 and a tree on the northern boundary of the site

⁴ APP/X1545/W/15/3005711 paragraph 7

designs within the locality, the proposed dwellings would not be markedly out of character with other properties in the area.

11. Taking all of the above into account, I conclude that the proposal would not harm the character and appearance of the surrounding area. Thus it would accord with Policies BE1 and CC6 of the Maldon District Replacement Local Plan (2005) which, respectively, require developments to be compatible with their surroundings and preserve the natural beauty tranquillity, amenity and traditional quality of the District's landscape. It would also comply with Policy D1 of the Council's submission replacement local plan Main Modifications (LDP) (2017), which requires that the height, scale, massing and nature of developments respect and enhance the area. As this document has been subject to examination I can afford it significant weight.

Other Matters

12. There are concerns with the condition of Stoney Hills as an unmade road but this is a private matter between the parties concerned and outside the scope of this appeal.
13. Details of the sewerage arrangements and surface water drainage can be provided by condition, in the interests of public health and to ensure adequate surface water drainage. I have also had regard to concerns with the capacity of local infrastructure to support the development. Nonetheless, future occupants would have access to day to day facilities, including primary and secondary schools and public transport, and the Council did not express any specific concerns in this respect.

Conditions

14. I have found that the proposal would be acceptable subject to certain conditions, framed with regard to the Planning Practice Guidance. In addition to those conditions referred to above I have specified the approved plans, and shall require written details and samples of external materials, gates, fences, walls, railings and piers, and hard and soft landscaping works, to safeguard the character and amenity of surrounding area.
15. However, no justification has been provided for a restriction on fences, walls, gates and outbuildings and I am not convinced that this would be necessary, particularly as details of the above would be approved by the local planning authority in any event, and the individual plots are of sufficient size to accommodate outbuildings to serve the dwelling without harming the visual amenity of the area. Similarly, as this is a minor residential scheme and there would be substantial screening around the site boundaries a restriction on external lighting is not justified.
16. Parking and turning areas and means of access are to be constructed prior to the occupation of any dwelling and retained as such thereafter, including the use of the garages only for domestic parking, all in the interests of highway safety.

Conclusion

17. For the reasons set out above I conclude that the appeal should be allowed.

Claire Victory INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan; SK/170116/1 Site and Block Plan; SK/170116/2 Plot 1 Elevations and Floor Plans; SK/170116/3 Plot 2 Elevations and Floor Plans; SK/170116/4 Plot 3 Elevations and Floor Plans.
- 3) No development shall take place until written details and samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the materials and details as approved.
- 4) No development shall commence until details of the siting, height, design and materials of the treatment of all boundaries including gates, fences, walls, railings and piers have been submitted to and approved in writing by the Local Planning Authority. The screening as approved shall be constructed prior to the first use/occupation of the development to which it relates and be retained as such thereafter.
- 5) No works or development shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted, noting the species, stock size, proposed numbers/densities and details of the planting scheme's implementation, aftercare and maintenance programme. The hard landscape works shall be carried out as approved prior to the beneficial occupation of the development hereby approved unless otherwise first agreed in writing by the Local Planning Authority. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise first agreed in writing by the Local Planning Authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the Local Planning Authority gives its written consent to any variation.
- 6) Prior to the commencement of the development details of the surface water and foul drainage scheme to serve the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 7) The parking areas and means of access thereto as shown on the approved site plan which is attached to and forms part of this permission shall be constructed, surfaced, laid out and made available for use in accordance with the approved scheme prior to the occupation of any dwelling and retained for such purposes thereafter.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other amending, revoking or re-enacting that Order) and Section 55 of the Town and Country Planning Act 1990, or as may be subsequently amended or re-enacted, the garages for each dwelling hereby permitted shall be used only for the parking of vehicles and storage of domestic items incidental to the enjoyment of the associated dwelling and for no other commercial, business or domestic use.