
Appeal Decision

Site visit made on 8 May 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 31 May 2017

Appeal Ref: APP/X1545/W/17/3168271

Land adjacent Whispering Trees, Mayland Green, Mayland CM3 6BD

- 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 Wayne Stone against the decision of Maldon District Council.
 - The application Ref FUL/MAL/16/00445, dated 22 April 2016, was refused by notice dated 19 August 2016.
 - The development proposed is the construction of a one bedroom bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are as follows:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - Whether the proposal would provide a safe refuge for future occupants in the result of flooding.

Reasons

Character and appearance

3. The appeal site lies towards the southern end of Mayland, and consists of a grassed roughly triangular shaped site on Mayland Green. This is a fairly short looping road, cutting between the roads of Nipsells Chase and the busier Steeple Road to the south. The proposal seeks to construct a small 'T' shaped one bedroom bungalow on the site, which has as its southern border a canalised brook. Mayland Green forms the northern boundary, with Whispering Trees, a modern angular house with a distinctive triangular gable feature to its façade and a large catslide roof to the west. Evidence refers to various sheds and storage on the appeal site; at the time of my visit the site was clear, aside from a small ship container set in one corner. The grass was cut and the site did not have a negative effect upon the character of the area.
 4. I agree with a previous Inspector that Whispering Trees has a spacious setting; however such setting has been restricted by significant fencing along its northern boundary bordering the highway and the eastern boundary between the property and the appeal site, such that the property appears divorced from the appeal site, both physically and visually.
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5. Aside from Whispering Trees, Nipsells Chase contains a range of primarily 2 storey development, including a two storey block of flats opposite the junction of the road with Mayland Green. Mayland Green has a differing character, with the two storey housing on the corner of the Nipsells Chase junction and a further large block to the east giving way to single storey bungalows on both sides of the street. A small cul-de-sac set inside the road behind the appeal site also contains bungalows.
6. The proposed property would be set slightly closer to the road side than Whispering Trees and would be simple in design with blank east and west elevations and a functional façade. Little or no architectural detailing is shown on the proposed plans and as a result the property would appear very plain, in contrast to the other bungalows on the main stretch of the street which feature a range of elevational treatments including extensive use of render and differing roof forms.
7. Whilst the size of property proposed would appear relatively suitable for the size of the restricted site, this design, when combined with its siting slightly forward of the main façade of Whispering Trees would appear awkward in the street scene and out of character for the area, with its simple form clashing with the dominant roof slopes of the neighbouring dwelling. Such a design would be visible in views from the east on Maylands Green, as well as from the north along Nipsells Chase, where the contrast with Whispering Trees would be particularly apparent. Whilst I note evidence regarding other development in the area which may not be particularly sympathetic to the overall character and appearance of the area, such development does not justify further unsympathetic development.
8. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The proposal would be contrary to policies BE1 of the Replacement Local Plan¹ and D1 of the emerging Local Development Plan, which together state that development proposals will be permitted if they are compatible with their surroundings, and make a positive contribution in terms of architectural style, visual impact and respect and harmonise with the general character of the area in which they are set. In this context I note that the emerging Local Development Plan has not been adopted, and thus due to this stage of preparation I give limited weight to Policy D1.

Flooding

9. The Environment Agency (EA) note that the site is located within Flood Zones 1, 2 and 3 (FZ1, 2 & 3), with the majority of the site falling within FZ3. The National Planning Policy Framework (the Framework) requires that sequential tests be applied when choosing the location of new development aiming to promote development in low flood risk areas. There is dispute between the parties that the Council are able to demonstrate a five year supply of deliverable housing land.
10. A Flood Risk Assessment(FRA)² details that the site is tidally affected, due to its proximity to the North Sea. Raised defences are stated to protect the site to no more than a 1 in 13 year standard. Levels of the site vary and it is

¹ Maldon District Replacement Local Plan, November 2005.

² Flood Risk Assessment, gta civils ltd June 2012.

proposed to set finished floor levels (FFL) at 5.88m AOD, providing 0.3m freeboard above the predicted 200 years flood level of 5.58m AOD. The EA state that they are satisfied that the FRA provides the necessary information and raise no objection, subject to conditions to ensure the FRA mitigation is carried through into the construction of any proposal.

11. However, the FRA was submitted for a previous proposal on the site which sought consent for a two storey property with 2 upstairs bedrooms, study and bathrooms. The FRA notes that this upper level provides safe refuge in the event of a flood, and that as tidal flooding is transient and the waters would recede no more than 12 hours after the site floods the occupants could sit any flood out without putting strain on emergency services. However, the current scheme is for a single storey dwelling and the FRA has not been updated. Whilst the appellant notes that they could provide plans showing safe refuge in a loft area, no such plans have been submitted to me and consequently it is not clear whether such safe refuge is feasible in the proposed single storey bungalow.
12. I therefore consider that insufficient evidence exists to allow me to conclude that the proposal would provide a safe refuge for future occupants in the result of flooding. The proposal would in this respect be contrary to the Framework. Such lack of evidence adds weight to my overall decision.

Other Matters

13. The appellant raises various complaints regarding the conduct of the Council during both the application that is the subject of this appeal and a previous application. Such issues should be raised in the first instance through the Council's own internal complaints procedure.
14. I note the personal circumstances of the appellant, including submitted details of attempting to find a home for themselves and their two children. I also note the evidence relating to the levels of public support for the scheme and their clear standing in the local community. However, whilst I have considerable sympathy with such matters, I do not consider that they outweigh the effect of the proposal on the character and appearance of the area and the lack of evidence regarding flooding.
15. The appellant also states the ecological credentials of the proposal and as stated above also dispute the Council's supply of housing land; however, whilst this is noted the Framework states that good design is a key aspect of sustainable development and is indivisible from good planning. Due to the effect of the proposal upon the character of the area I do not consider that the scheme would constitute sustainable development when taken in the round and that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

16. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley INSPECTOR