



Appeal Decision

Site visit made on 13 June 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 3rd July 2017

Appeal Ref: APP/P1560/W/17/3169862

Homefield, Church Road, Brightlingsea, Essex CO7 0QT

- 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 Lynch (South East Developments) against the decision of Tendring District Council.
 - The application Ref 16/1385/FUL, dated 29 August 2016, was refused by notice dated 7 November 2016.
 - The development proposed is construction of 4 No bungalows and garages on land to rear of Homefield including a new garage to Homefield.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 4 No bungalows and garages on land to rear of Homefield including a new garage to Homefield at Homefield, Church Road, Brightlingsea, Essex CO7 0QT in accordance with the terms of the application, Ref 16/1385/FUL, dated 29 August 2016, subject to the conditions set out in the Schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr Lynch (South East Developments) against Tendring District Council. This application is the subject of a separate Decision.

Procedural Matter

3. On 16 June 2017 the Council published the latest iteration of its emerging Local Plan – the *Tendring District Local Plan: 2013-2033 and Beyond – Publication Draft*. This supersedes the *Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document - July 2016* referred to in the Council's statement. Having first sought the views of the appellant this decision takes account of the current position in respect of the emerging Local Plan.

Main Issues

4. The main issues are
 - The effect on the character and appearance of the surrounding area.
 - The effect on the living conditions of the occupiers of Homefield and Field House, with particular regard to noise and disturbance.

Reasons

Character and appearance

5. The proposal relates to a long rectangular back garden space located to the rear of two dwellings, Field House and Homefield, which face a private access leading onto the outer edge of a northward bend in Church Road.
Development along this south side of Church Road is linear in form comprising a frontage of quite large, detached suburban homes which run eastwards in a fairly close arrangement to an even building, each with good-sized back gardens.
6. The housing along this side of Church Road marks the edge of the built-up area in this north-western part of Brightlingsea's urban area and the settlement development boundary defined by the Tendring District Local Plan 2007 (LP) runs to the south. The appeal site lies outside this boundary but is within that defined by the emerging Tendring District Local Plan Preferred Options Publication Draft of June 2017¹ (ELP).
7. The appeal site is bound by playing fields to its west side, woodland to its south and the rear grounds to an adjacent rest home to the east. It is proposed to form a new access into the site, running between the sides of the two dwellings at the front, leading to a turning head. The four bungalows, which are of a somewhat unremarkable and conventional design, would be in a double-tandem arrangement, with the first two sited to the rear of Field House and Homefield respectively and the second pair sited beyond these and facing north onto the turning head.
8. The Council's concern in respect of character and appearance is that the proposal would comprise a contrived form of backland development which would conflict harmfully with the prevailing pattern of frontage development. Whilst there would be some conflict in this respect the development at the rear of the adjacent rest home already introduces some backland development in this location. As the proposal would be for bungalows, the development would have a limited visual impact from a street-scene perspective and viewed more distantly from the playing fields and open countryside to the west would be seen against the built-up edge of the town.
9. As set out in the Council's decision notice, LP policies QL9, QL10 and QL11 and ELP Policy SPL3 are all concerned with new development being designed to fit in with the character of the existing surroundings and to maintain and improve the quality of the built environment. This proposal would not relate particularly well with the existing pattern of development by being a contrasting form of backland development that would extend outwards into the undeveloped edge of the town and make no positive contribution to the character and appearance of its surroundings. Whilst the low-level form of the proposal would mitigate any significant degree of visual harm there would clearly be some conflict with the aims of these policies. LP policies QL9, QL10 and QL11 and ELP Policy SPL3 are generally consistent with National Planning Policy Framework (the Framework) and its core principle to always seek to secure high quality design and its policies in this respect set out in part 7.

¹ Tendring District Local Plan 2013-2033 and Beyond: Publication Draft - 16 June 2017.

Living conditions

10. Field House and Homefield are positioned such that the access to the proposed four bungalows would run very close to their side elevations. LP Policy HG13(ii) seeks to resist backland residential development where there would be an unreasonable loss of amenity to existing dwellings, which in this case the Council finds would result from the noise and disturbance caused by traffic movements. Although not referenced by the Council this policy would be consistent with the core principle in the Framework to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. As a consequence Policy HG13 is afforded significant weight in this decision.
11. To have an access serving four dwellings running between the existing properties would have some adverse impact upon the living conditions of the current occupiers. Consequently, there would be some conflict with the aims of Policy HG13 in this regard. No objections have been received from the current residents and future occupiers would have the benefit of consumer choice. However, these factors would not always amount to adequate justification for a proposal providing unsuitable living conditions for its neighbours.
12. In this case the appellant's Environmental Noise Assessment²(ENA), provided in support of the appeal, has concluded on the basis of the tests carried out that the proposal would not cause disturbance or have any significant noise impacts on the existing dwellings. The Council did not have the benefit of this later evidence in making its decision and in its rebuttal to the costs application no longer contests the second reason for refusal in respect of noise and disturbance.
13. Field House has a small obscured window and door to the side elevation and it is proposed to screen this elevation from the new access with a 2m high brick wall. The proposal would consequently result in only a limited amount of harm to the occupiers of this dwelling due to noise and disturbance. Homefield has a range of windows which face onto the new access. Notwithstanding the technical conclusions of the ENA in regard to the level of noise, I consider it quite evident that the introduction of an access serving four dwellings, resulting in the passage of vehicles within around 1m of these windows, would have moderately harmful impact of the quality of the living conditions offered to its occupiers by this bungalow, conflicting with the aims of LP Policy HG13(ii).

Other Matters

14. Consideration has been given to the other matters raised by interested parties. The access to the development crosses a footpath leading to the Colne Community School playing fields and where a pavilion car park has previously been refused on access grounds. Whilst this footpath is well used by school children there is no objection to this proposal from the highway authority. Notwithstanding the concerns expressed I can find no objection on highway grounds to the access arrangements proposed and the level of vehicular movements likely to be generated.
15. Regarding the development being adjacent to an area of ancient woodland designated a local wildlife site, I am persuaded on the basis of the Preliminary

² Environmental Noise Assessment – Homefield, Church Lane, Brightlingsea by Sharps Redmore Acoustic Consultants – 16 November 2016

Ecological Appraisal that, subject to the recommendation this makes, there would be no material harm to nature conservation interests arising from this proposal.

16. Following their construction I am satisfied that the occupation of these bungalows would result in no material harm to the living conditions of residents at the adjacent rest home.

Planning Balance

17. Whilst the Council's ELP has advanced with the June 2017 Publication Draft, which identifies land to address objectively assessed housing requirements in the District up to 2033, this remains subject to examination and as yet can only be afforded limited weight. I am not persuaded therefore that this alters the position that that current development plan policy does not provide the five year supply of housing land required under paragraph 47 of the Framework. Paragraph 49 goes on to state that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Furthermore, the LP is out-of-date in regard to its time frame of 2007 – 2011.
18. Where relevant development plan policies are out-of-date the presumption in favour of sustainable development set out in paragraph 14 of the Framework applies. This would mean granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. Paragraph 6 of the Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraphs 18 to 219, taken as a whole, comprise the Government's view as to what this means in practice. Based on the three strands to sustainable development the planning system performs economic, social and environmental roles which the Framework requires to be sought jointly and simultaneously.
20. The four bungalows would provide social benefits by contributing to the supply of housing. There would be local economic benefits derived from the construction and servicing of these bungalows and the support given by future occupiers to local shops and businesses. There would be environmental benefits in the dwellings being adjacent to the existing built-up area of Brightlingsea which would enable regularly required needs to be met by means other than through private car journeys and relieve the pressure for development in less accessible locations.
21. There would be limited harm caused to the character and appearance of the area and a moderate amount of harm to the present living conditions of occupiers of Homefield. These adverse impacts would not significantly and demonstrably outweigh the benefits found. Consequently, the proposal would gain the support of the presumption in favour of sustainable development as established by the Framework.

Conditions

22. I have considered the conditions suggested by the Council and included those necessary, reasonable and enforceable, with amendments made in the interests of conciseness. In addition to the standard time limited for

commencement (1), it is necessary in the interest of certainty that a condition specifies the plans to which approval is granted (2). To secure safe access to the dwellings, and adequate parking provision for each, these matters shall be provided for prior to occupation (3).

23. In the interest of recording any archaeology it is necessary that a condition secures this before the development is permitted to commence (4) and it is subsequently implemented (5). Similarly, in the interests of the character and appearance, a condition requires that a landscaping scheme be agreed before the development is permitted to commence (6) and that this is subsequently conditioned to be carried out (7).

Conclusion

24. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed subject to the conditions specified.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/P1560/W/17/3169862
Construction of 4 No bungalows and garages on land to rear of Homefield
including a new garage to Homefield at
Homefield, Church Road, Brightlingsea, Essex CO7 0QT

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 185711 – 806-loc, 185711 – 806-01A, 185711 – 806-02, 185711 – 806-03, 185711 – 806-04, 185711 – 806-05, 185711 – 806-06 and the recommendations of the Preliminary Ecological Appraisal and Bat Scoping Survey dated 31 August 2016.
- 3) The dwellings shall not be occupied until a means of access and parking for vehicles for each shall have been constructed in accordance with the approved plans and with no unbound materials within 6 metres of the highway boundary. The access and parking spaces shall be retained thereafter.
- 4) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 5) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 4.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

---End of Conditions---