
Appeal Decision

Site visit made on 21 November 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 15th January 2018

Appeal Ref: APP/X1545/W/17/3181143

32A Green Lane, Burnham-On-Crouch CM0 8PT

- 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 Ronald Spooner and Mrs Marion Jackson against the decision of Maldon District Council.
 - The application Ref OUT/MAL/17/00204, dated 15 February 2017, was refused by notice dated 6 April 2017.
 - The development proposed is an "Outline planning application for the construction of 2 two storey homes".
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Decision

1. The appeal is allowed and planning permission is granted for an "Outline planning application for the construction of 2 two storey homes" at 32A Green Lane, Burnham-on-Crouch CM0 8PT in accordance with the terms of the application, Ref OUT/MAL/17/00204, dated 15 February 2017, subject to the following conditions on the attached Schedule A.

Procedural Matters

2. The application is outline with all matters reserved for further consideration. A block plan shows an illustrative layout of two dwellings, hardstandings and retained landscaping.
3. The Maldon District Approved Local Development Plan (LDP) 2014-2029 was adopted on 30 June 2017 and replaced the Maldon District Replacement Local Plan 2005. The relevant development plan policies are LDP policies S1, S2, S7, S8, D1 and H4 which were identified as emerging in the Council's officer's report on the application.
4. The Appellants' agent has submitted a recent Council committee report recommending planning permission for some bungalows in Burnham-On-Crouch. The Council choose to make no comments upon this when notified.

Main Issue

5. The main issue is whether the site would provide a suitable site for housing, having regard to the principles of sustainable housing development.

Reasons

6. The appeal site comprises an open area of mainly grassland with small single storey buildings, with hedges. There is farmland behind and in front of the plot. On one side of the appeal site, there is a new two storey dwelling being
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constructed whilst on the other side, there is a paddock with a dwelling beyond a pond. On the appeal site's side of the Green Lane, there are dwellings mainly fronting on the road with gaps being infilled with further development. The opposite side of the road comprises field, with some earth banked up.

7. LDP policy S1 states that the Council will take a positive approach in considering development proposals that reflects the presumption in favour of sustainable development by applying certain key principles. This includes a sustainable level of housing growth that will meet local needs and deliver a wide choice of high quality homes in the most sustainable locations. It also requires the need to maintain the rural character of the District and to minimise the need to travel and where travel is necessary, prioritise sustainable modes of transport and improve access for all the community.
8. In the interests of sustainable development, LDP policy S2 directs new strategic growth to major settlements and allocations, and a proportion of new development to rural villages. Sustainable economic development within rural villages will be supported through neighbourhood plans under LDP policy S7. Based on sustainable development principles, a settlement hierarchy is set out under LDP policy S8. Within defined settlement boundaries, sustainable development will also be supported and countryside protected for its landscape, natural resources and ecological value, as well as its intrinsic character and beauty.
9. Green Lane is an attractive semi-rural road with verges and trees, open areas of field along its length and behind it. There are a number of dwellings along it set in spacious plots set within landscaped surroundings. However, there has been recent infil development taking place along the stretch of road. In addition to the dwelling being constructed adjacent to the site, there are two dwellings recently completed further along from this beyond a dwelling at 34 Green Lane. There has also been a dwelling allowed at appeal within the paddock area on the other side of the appeal site. Under the LDP, there is a housing allocation to the south of Green Lane and there has also been a planning permission granted for 180 dwellings opposite the appeal plot. For all these reasons, the pattern of development along this part of Green Lane is in transition and resulting in an increasingly more urban character and appearance to it.
10. By virtue of this, the loss of a gap within the street frontage would not adversely affect character and appearance. There is a dispute as to whether the individual plots on the appeal site would be smaller than the two recently completed dwellings along Green Lane. Irrespective of this, the two appeal plots would be generous in size which would enable the two dwellings to be well separated from one another and neighbouring dwellings, with opportunities to retain and enhance landscaping. The layout shown on the illustrative plan shows an unimaginative layout for the proposed development but this could be improved upon at a reserved matter stage.
11. For all these reasons, the development would not harm the character and appearance of the surrounding area and would comply with those parts of policies S1, S2, S7 and S8 of LDP, which cover such considerations. Similarly, it would also comply with policies D1 and D4 of the LDP, which requires character and local context to be respected and enhanced, proposals to be considered on a site-by-site basis to take account of local circumstances,

context and their overall merit. Nevertheless, the appeal site would lie outside a defined settlement boundary under the LDP and therefore the proposal would in overall terms conflict with policies S1, S2, S7 and S8, and the development plan. Under LDP policy S8, permission can only be granted for certain types of rural development outside a settlement boundary which the appeal proposal would not fall within.

12. However, the Council accepts that the occupiers of the proposed dwellings would have reasonable access to facilities, public transport and services, which I concur with. For the reasons indicated, there would be no harm to the countryside character and intrinsic beauty. The development would be in a road in a state of transition, with a major development scheme opposite and recent infill development in close proximity. In this instance, the particular local circumstances are sufficient to outweigh the development plan conflict and the appeal site would be suitable for two dwellings under this outline application in this instance. They are material considerations that indicate that the decision should not be taken in accordance with the development plan.

Conditions

13. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance; for clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.
14. Conditions limiting the life of the planning permission and the requirements for the submission of reserved matters are necessary in accordance with planning legislation. The approved site plan has been specified in the interests of certainty. Conditions requiring surface water and foul water drainage, and contamination are necessary in the interests of preventing flooding, pollution and human health. Requiring adequate drainage provision before occupation necessitates details to be submitted and approved before development commences.
15. Given that many details will be considered at a reserved matters stage, conditions for boundary treatments, landscaping, and car parking provision are not necessary. Details of finished floor levels are also more appropriately required at the reserved matter stage. Finally, matters of storey height and size can also be considered at a subsequent reserved matter stage and are not fundamental at this stage. Thus, such conditions are not necessary.

Conclusion

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

Jonathon Parsons

INSPECTOR

SCHEDULE A

- 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 begins 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 begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved details: Location Plan (in so far as it indicates the size and location of the site).
- 5) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of land Contamination, CLR11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the local Planning Authority.

Following completion of measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the local planning authority.
- 6) Development shall not commence until details of the proposed means of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until drainage works have been constructed in accordance with the approved details.