



Appeal Decision

Site visit made on 6 January 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 February 2020

Appeal Ref: APP/W1525/W/19/3237828

The Gables, Priory Lane, Bicknacre, Chelmsford CM3 4EZ

- 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 GW Finch (Builders) Limited against the decision of Chelmsford City Council.
 - The application Ref 19/01173/FUL, dated 1 July 2019, was refused by notice dated 30 August 2019.
 - The development proposed is the demolition of existing detached chalet dwelling and erection of 3 no. detached bungalows with associated off-road parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The drawings listed on the decision notice are inconsistent and incomplete when compared to the full drawing set. It has subsequently been agreed between all parties that the drawing set for the appeal is Refs 3560/LP; 3560/6; 3560/10; 3560/12; 3560/13 and 3560/14, with supporting information drawings Refs SH-01 A, SP-03 A, ML-01 A and TP-01 A.
3. The Chelmsford Draft Local Plan is an emerging document. It underwent an Examination in Public and has been found to be 'sound' subject to modifications. The plan could be the subject of further modifications and therefore carries moderate weight at this stage.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area, and on biodiversity, specifically the effect on bats.

Reasons

Character and Appearance

5. The appeal site occupies a prominent corner plot. It currently comprises a vacant, 2-storey 'chalet' style bungalow of fairly substantial size, located broadly to the centre of the plot with generous set-backs to both road frontages. The dwelling is vacant and in a poor state of repair. The property does not front onto either road as such, with vehicular access from Hill View and the main pedestrian access and front door facing Priory Lane.

6. Priory Lane is a gravel road, characterised predominantly by bungalows set in relatively large plots. The character and appearance of this street are influenced by its fairly open and green feel, due to the majority of plots having open frontages, there are consistent front building lines set-back from the road on each side, and the presence of a number of trees. Hill View is of a more suburban character with more houses and less greenery, although there are two bungalows opposite the appeal site, set in narrower plots but with deep front gardens.
7. Three bungalows are proposed, all 3-bed units. Plot 1 fronts Priory Lane. Plot 3 fronts Hill View. Plot 2 is set on the corner. A mixture of brick and render is proposed, with cement slate tiles to the roofs. Side entrance doors are proposed to Plots 1 and 2, which are a feature, albeit not universal, of other properties along Priory Lane. All three plots are of similar architectural style to the existing bungalows along Priory Lane.
8. The architectural approach to Plots 1 and 3 is inoffensive and broadly acceptable in the context of the area. The broadly open boundary treatment to the streets would be acceptable in the context of a number of surrounding properties having open frontages. However, the design of the Plot 2 bungalow has a confused identity as it would be viewed as responding to the siting of Plot 1 along Priory Lane but with the layout and architectural detailing of the property placing its 'front' on Hill View. It therefore fails to adequately address this key corner location either in terms of siting or appearance.
9. The individual plot sizes are much smaller than the existing properties, particularly along Priory Lane. The proposed garden areas may meet the minimum policy standards, but they are too small as a proportion of the overall plots, particularly in comparison to the surrounding development. The garden to Plot 3 would also sit to the side rather than to the rear of the property which would also be out of character with the area. The projection forward of the established building line to Hill View is not of concern because the existing dwellings have stepped frontages that follow the contours of the road, which would be broadly matched by Plot 3. However, the siting of Plots 1 and 2 substantially forward of the strong established building line fronting Priory Lane would be harmful to the character and appearance of this road.
10. For the foregoing reasons, the proposed development would harm the character and appearance of the area, failing to comply with the relevant parts of Policy DC45 (Achieving High Quality Development) of the Core Strategy and Development Control Policies 2008 (CS) and Paras 127 and 130 of the National Planning Policy Framework (the Framework), as well as Emerging Policy MP1 of the Chelmsford Draft Local Plan 2019 (LP).

Biodiversity

11. A Preliminary Ecological Appraisal (EA) by a qualified ecologist was produced in February 2018. This concludes that there is a low probability of bats roosting in the existing building. As the building is to be demolished, if any bats are roosting then this habitat would be lost. The EA requests further bat surveys in order to form an ecological impact assessment of the site and to finalise the appropriate mitigation strategy. It also concludes that the likely appropriate mitigation strategy would be the provision of bat boxes and/or bat lofts, which are likely to be able to be accommodated as part of the proposal.

12. Bats are listed in Schedule 2 to The Habitats Regulations 2017 and are a European Protected Species. Circular 06/2005 says that it is essential that the effect of a development on protected species is established before planning permission is granted to ensure that any impacts and potential mitigation can be identified and fully understood. In this instance, although the EA concludes that the likelihood of bats is low and that mitigation by bat boxes and/or bat lofts is likely to be acceptable, these are not conclusive positions, and the survey was undertaken in February 2018 so the situation may have changed since then. It has therefore not been adequately demonstrated that there would not be harm to either bats or their habitat or that appropriate mitigation could be provided. The proposal therefore fails to comply with the relevant parts of Policy DC13 (Sites of Biodiversity and Geological Value) of the CS, and Para 175 of the Framework.

Other Matters

13. An appeal to previous refused application Ref 18/00324/FUL was dismissed on 17 May 2019. This was for three 2-storey dwellings on the site and was dismissed on the grounds of the effect on the character and appearance of the area and the effect on living conditions. I have taken this into account but I am not familiar with all of the details and only give it limited weight.
14. As the Council is content that its third refusal reason has now been overcome and given that it does not alter my overall decision, I have not found it necessary to consider the mitigation of any potential effect of the proposed development on the Blackwater Estuary European designated site any further.
15. There is an existing property directly to the south, along Priory Lane, with windows to habitable rooms facing the appeal site. Plot 3 would be set in close proximity to this fenestration but the impact in terms of overlooking and loss of privacy would be acceptable because the nearest window is obscure glazed, the other windows and door are at an oblique angle, and inter-visibility would be over the boundary fence. The impact in terms of sunlight and daylight would also be acceptable as it sits directly to the south of the site, and the proposal is only for bungalows. All other properties are sufficiently distant from the proposal that their living conditions would not be significantly harmed.
16. The Oak tree in front of Plot 1 is a tree protected by Tree Preservation Order No 57/85. No evidence is provided either way, but it is possible that the construction of the tarmac cross over and parking bays to Plot 1 would harm this tree. However, it is confirmed that the tree has been pollarded and is already of very poor quality. On this basis, and given that three replacement trees are proposed, the impact of the proposals on trees would be acceptable.
17. There have been a number of neighbour objections, largely relating to the effect of the proposal on the character and appearance of the area. These concerns are dealt with as appropriate throughout this report.

Conclusion

18. I conclude that the appeal should be dismissed.

O S Woodward

INSPECTOR