



## Appeal Decision

Site Visit made on 13 October 2020

**by G Pannell BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9<sup>th</sup> November 2020**

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**Appeal Ref: APP/W1525/W/20/3250370**

**Maisonette Bicknacre Road, Danbury, CHELMSFORD, CM3 4ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Thames and Newcastle (Properties) Ltd against the decision of Chelmsford City Council.
  - The application Ref 19/01854/OUT, dated 28 November 2019, was refused by notice dated 11 March 2020.
  - The development proposed is Outline planning application (all matters reserved, except layout) for the demolition of the existing dwelling and erection of five dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the time of the original decision, the Council has adopted a new Local Plan – the Chelmsford Local Plan 2020 (LP). The Council has confirmed which new policies correspond with and replace the policies which the application was determined against. In accordance with planning law, I have determined the appeal on the basis of the current development plan.
3. The original application was made in outline with all matters reserved except for layout and I have had regard to drawing no's 0910-PL-200/A and 0910-PL-250/C. I have dealt with the appeal on this basis and I have treated drawing 0910-PL-255/B and any details not to be considered at this stage as being illustrative only.

### Main Issues

4. The main issues are:
  - the effect of the development on the character and appearance of the area; and,
  - whether the proposed development would provide acceptable living conditions for future occupants.

### Reasons

5. The appeal site is situated outside, but adjacent to the settlement boundary of Bicknacre. This part of the settlement is predominately linear, as evidenced by the tightly constrained settlement boundary, which separates this part of the village from the main settlement. The larger settlement of Bicknacre is of a

greater density with in-depth development a feature. The established pattern of development arises from dwellings being sited along the existing roads, with a variety of plot sizes, predominately of single plot depth. This adds positively to the character and appearance of the area.

6. The Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment 2006 (LCA) defines the appeal site as part of the F6 Woodham Wooded Farmland and describes the settlement pattern of the area as small villages, hamlets and dispersed farmsteads with large settlements in adjacent areas. In these areas it suggested that new development should respond to historic settlement patterns and be well integrated into the surrounding landscape.
7. Both parties accept that the site comprises previously developed land (PDL) and from the evidence before me I have no reason to disagree with this assessment. Policy DM8 of the LP states that development of PDL will be permitted where the proposal would not result in harm to the identified intrinsic character, appearance and beauty of the area. It also sets out a number of criteria upon which proposals should be assessed. These include size, scale massing and spread of new development compared to the existing and the visual impact of that development.
8. The appeal scheme would result in the construction of 5 dwellings, replacing the existing dwelling. The development would be served off a single access point with the dwellings arranged either side of the central spine road. The development would replace a range of outbuildings and structures which extend across the depth of the site. These buildings are of various types of construction and the majority are now in a state of disrepair.
9. These outbuildings, whilst extending across the depth of the site have limited prominence when viewed from Bicknacre Road and are ancillary to the host dwelling. The spread of the proposed development across the site would be greater than the existing buildings and would also include the introduction of a central spine road with associated parking and turning areas. Therefore, the visual impact of the proposed development would be greater than that which currently exists.
10. The proposed layout demonstrates how the site would accommodate 5 dwellings, with three dwellings set behind the frontage development. Having regard to the proposed access and spine road, I consider that the development to the rear, and in particular plot 4, would not be adequately screened by the existing tree belt and as a result, more than partial views of the rear part of the site would be possible. All these factors indicate that the layout is an urban form of development that is out of character with the rural setting of this part of Bicknacre Road.
11. I have been provided with details of an infill scheme along Priory Road, Bicknacre, which the appellant considers has similar characteristics to the appeal site. However, these dwellings would front onto Priory Road continuing the linear pattern of development within the locality, which is not the same as the proposals before me and therefore are not directly comparable.
12. In conclusion, the increase in the amount of built development on the site; the formal arrangement of the dwellings; and the density of development arranged in-depth across the site, would be at odds with the established linear pattern of

development. For these reasons, therefore, the proposed development would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area contrary to Policies DM8 and DM23 of the LP which requires development in rural areas to respond to its context and respect the character and appearance of the area in which it is located.

### *Living Conditions*

13. As set out above, the appeal is being considered as an outline application with layout to be considered. Layout is defined within article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) as the way in which the buildings within the development are provided, situated and orientated in relation to each other.
14. The proposed layout is indicated on drawing no 0910-PL-250/C and shows the positions of the dwellings and how they would be positioned both in relation to the site as a whole and their orientation in relation to each other.
15. Plot 4 and Plot 5 have both been shown as House Type A, and the details of the house types are submitted on drawing 0910-PL-255 rev B, which are annotated as indicative ground and floor plans. Although I have not relied upon this indicative plan, I accept that it is nevertheless useful in providing evidence that an acceptable scheme is capable of being devised at the reserved matters stage. In addition, I would need to be satisfied that reasonable levels of privacy could be achieved with the layout proposed, based on the nature of the site, the relationship with adjoining properties and the proposed amount of development as well as any guidance given by the indicative plans.
16. This drawing shows the internal layout of the two house types and the positioning of windows which would include first floor bedroom windows being placed on the opposite side elevations of Plot 4 and 5 which would lead to direct overlooking between the two bedrooms. I have also had regard to the potential for overlooking from Bedroom 2 of Plot 4 into the private amenity space of Plot 3
17. Taking account of the indicative internal layouts, Bedroom 2 and 3 within House Type A would be served by 2 windows and only 1 of these windows results in overlooking and therefore could be omitted. In addition, Bedroom 4 would have two external walls within which windows could be positioned. It has also been put to me that these windows could be high level or obscured, which is not a level of detail before me for consideration as part of the layout.
18. I am satisfied that the internal layout of the proposed dwellings would be considered further under the reserved matters of scale and appearance. Appearance is defined within the DMPO as the aspects of a building, which determines the visual impression, including the external built form. As such, I conclude that the window positions to avoid direct overlooking into neighbouring plots could be agreed at reserved matters stage through consideration of the appearance of the dwellings.
19. Therefore I am satisfied that from the layout shown on drawing no 0910-PL-250 rev C an acceptable development as described in the proposal could be devised based on the evidence provided, including the indicative plans, to provide acceptable living conditions for future occupants in accordance with

policies DM26 and DM29 of the LP which require development to provide suitable privacy and living environments for residential occupiers.

### **Other Matters**

20. The appeal site falls within a 'Zone of influence' for the European designated site of the Essex Estuaries Special Area of Conservation. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.
21. In this case, the Council has carried out a Habitats Regulations Assessment and considered proposed avoidance and mitigation measures. They concluded that with mitigation the project would not have an adverse effect on the integrity of the European sites. This mitigation would be secured by the unilateral undertaking which has been submitted with this appeal. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
22. I have taken into account that the development would result in additional dwellings, in an accessible location, that would contribute to housing supply in the area. I am also satisfied that the scheme would be low density and result in a more efficient use of the land. I have also had regard to the points made regarding how the development of the site would remove the existing buildings, which were used for the keeping of animals. However, these benefits are not of sufficient magnitude to outweigh my overall conclusion on the main issues.
23. It would also not result in harm to any defined heritage asset, nor a loss of any protected trees. However, this absence of harm is a neutral consideration that does not weigh either for or against the scheme.

### **Conclusion**

24. For the reasons given above I conclude that the appeal should be dismissed.

*G. Pannell*

INSPECTOR