
Appeal Decision

Site visit made on 9 November 2020

By R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

Appeal Ref: APP/V1505/W/20/3252937

150 Great Berry Lane, Langdon Hills, Basildon, SS16 6BW

- 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 Pymont Homes Ltd against the decision of Basildon Borough Council.
 - The application Ref 19/01561/FULL, dated 7 November 2019, was refused by notice dated 19 February 2020.
 - The development proposed is demolition of existing dwelling and erection of 2no. new chalet dwellings and 1no. bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of 2no. new chalet dwellings and 1no. bungalow at 150 Great Berry Lane, Langdon Hills, Basildon, SS16 6BW in accordance with the terms of the application, Ref 19/01561/FULL, dated 7 November 2019 and the conditions in the schedule attached to this decision letter.

Application for costs

2. An application for costs was made by Pymont Homes Ltd against Basildon Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. Following the refusal of the appeal scheme the Council granted planning permission for the demolition of the existing dwelling and the erection of 2no. chalet bungalows fronting onto Great Berry Lane. At the time of my visit the demolition and site clearance works had been completed. This has had no bearing on my decision given that the Council's original reason for refusal related solely to the bungalow to the rear of the site.
4. Reference is made in the decision notice to Policy DES1 of the Emerging Local Plan. As the Emerging Local Plan has not yet been through public examination this Policy could be amended and as such I am unable to give it any significant weight.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. At the time of my visit the whole of the appeal site comprised a vacant plot of land, formerly occupied by a detached bungalow and associated outbuildings. It is located in a built up residential area and is bound by Great Berry Lane to the south and Shelley Avenue to the east. Detached bungalows and gardens adjoin the northern and western boundaries. The surrounding area is made up of a mixture of dwelling types, sizes, styles, ages and materials. The main characteristic of the area is its strong linear building lines comprising residential properties set behind front gardens and parking areas.
7. The approved chalet bungalows on plots 1 and 2 would front onto Great Berry Lane. It is generally accepted by all parties that these dwellings would be of similar scale and appearance to adjacent properties and would follow the same building line. Vehicular access to the integral garages and off road frontage parking for these two plots would be taken directly from Great Berry Lane.
8. Vehicular access to Shelley Avenue is via Macaulay Road. The northern end of Shelley Avenue appears to be adopted and publically maintained highway, which is properly surfaced and drained with kerbs, footpaths and street lighting. The southern part of the street, in front of the proposed bungalow and numbers 1-9 and 2-12 Shelley Avenue, appears to be an un-adopted private road, which is not properly surfaced and drained and which has no defined footpath. Lighting is provided on telegraph poles. I observed during my site visit that there are other similar unsurfaced access roads and narrow roads with bollards and restricted vehicular access within the area.
9. Although Shelley Avenue extends all the way through to Great Berry Lane, there are bollards and signs, restricting vehicular movements. However, it is evident from the information before me that the former bungalow on the appeal site did have vehicular access along Shelley Avenue, from Great Berry Lane, to a garage and car port at the rear of the site.
10. The proposed bungalow to the rear of the site would front onto the unsurfaced section of Shelley Avenue forming a continuation of the existing row of dwellings to the north. Its scale and appearance would be very similar to the adjacent hipped roof bungalows and its siting would respect the existing building line. Vehicular access would be along the unmade section of Shelley Avenue from Great Berry Lane. The bollards and signage would be relocated slightly further north, which would prevent traffic to and from the site using the route past existing bungalows on Shelley Avenue. As the bungalow would front directly onto an existing residential street, it would not in my view constitute backland development, despite the fact that the road in this particular case is un-adopted and has restricted vehicular access.
11. I acknowledge that the rear gardens of the proposed dwellings would be smaller than those of many others in the area. However, appropriate separations distances between dwellings would be achieved and an adequate area of outdoor garden space would be provided for future occupiers of the development. Moreover, I observed during my site visit that similar developments have successfully taken place at Great Berry Farm Chase (behind 193/195 Great Berry Lane) and Shakespeare Avenue (behind 166 Great Berry Lane).

12. I therefore conclude that the scale and design of the proposed dwellings would reflect that of existing dwellings adjacent to the site and that the siting of the dwellings would follow existing building lines along Great Berry Lane and Shelley Avenue. Despite the fact that the plot sizes and rear gardens would be smaller than some others in the area, the development would not appear cramped or incongruous in the street scene and would not be harmful to the character and appearance of area. The proposal therefore complies with Policy BAS BE12 of the Basildon District Local Plan Saved Policies (2007), which states that new residential development will be refused if it causes material harm to the character of the surrounding area, including the street scene.
13. It has also been brought to my attention that the Council is currently unable to demonstrate a five year supply of housing land. As I have not found any conflict with the development plan, planning permission should be granted without delay in accordance with paragraph 11(c) of the National Planning Policy Framework (the Framework) and there is no requirement for me to undertake the balancing exercise set out in paragraph 11(d) of the Framework.

Other Matters

14. In addition to the above, I have had regard to the concerns raised by local residents and note that the site is located uphill from 146 Great Berry Lane on slightly higher ground. However, given the single storey nature of the bungalow to the rear of the site, the presence of existing boundary fences and the separation distances between existing and proposed dwellings, I agree with the Council that the development would not have an adverse effect on the living conditions of nearby residents in terms of overlooking or overshadowing.
15. Each of the proposed dwellings would have its own off road parking for at least 2 cars and a condition can be imposed to ensure that the bollards and signage on Shelley Avenue are suitably re-positioned in a timely manner. Only the rear bungalow would be accessed along Shelley Lane and this would generate no more traffic than the rear access to the previous bungalow on the site. Accordingly, the proposal would be acceptable in terms of highway safety.
16. I have not been provided with any evidence of any flooding or drainage problems in the area and a condition could be imposed to prevent surface water drainage from running off the site and onto the highway or beyond. All drainage works would need to accord with current Building Regulation requirements.

Planning Obligations

17. The Appellants have submitted a signed and dated Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act. This deals with contributions relating to Recreational Disturbance, Avoidance and Mitigation (RAMS). I am satisfied that the obligations are related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme in line with paragraph 56 of the Framework.

Conditions

18. The Council has provided a list of suggested conditions. I have considered these having regard to the Appellant's comments, paragraph 55 of the

Framework and advice set out in the Planning Practice Guidance (PPG). I have amended and merged some of the conditions for clarity and to avoid repetition.

19. The statutory time limit condition and a condition listing the approved plans are necessary in the interests of certainty. Conditions relating to external materials, site levels, landscaping, boundary treatment and refuse/recycling facilities are appropriate in the interests of character and appearance.
20. Conditions to ensure that surface water does not discharge onto the highway, to agree details of the bollard and signage relocation and to ensure the new vehicular accesses and parking spaces are completed and available for use prior to occupation of the development are necessary in the interests of highway safety. I also consider that the conditions relating to the provision of electric vehicle charging points and travel packages are reasonable in terms of encouraging future residents of the development to use of sustainable means of transport.
21. The Appellant considers that the removal of permitted rights is unnecessary. Although I acknowledge that other properties in this area have not had these rights removed those other properties are generally on much larger plots of land with generous gardens. Given that the original plot of land that this appeal relates to is being sub-divided into 3 plots of land, 2 of which would contain 4 bedroomed family houses, it is in my view both reasonable and necessary to remove permitted development rights to enable the council to ensure that any future outbuildings or extensions do not adversely impact upon neighbours and to ensure that an adequate area of outdoor garden space is retained for future occupiers of the development.
22. A condition for obscure glazed non-opening windows in the side elevations is not considered necessary as these windows are to non-habitable rooms that would not overlook any private areas. Details of external lighting are also unnecessary for a development of this scale and nature.

Conclusion

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

Rachael Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 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: Drawing Nos. 001, 200_B, 201_B, 202 and 203_A.
- 3) No development above ground level shall take place until details of all materials to be used in the construction of the external surfaces of the development, including the access, parking areas and footpaths, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved materials.
- 4) Before construction commences on site details of existing site levels, and finished floor levels of the proposed dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) The dwellings hereby permitted shall not be occupied until the fencing and walls as detailed on the approved drawing 200_B have been erected.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no buildings, extensions or other alterations permitted by Classes A, B, C and E of Part 1 of Schedule 2 of the 2015 Order shall take place within the curtilage of any of the dwellings hereby approved without the prior written approval of the local planning authority.
- 7) No development above ground level shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of soft landscaping for the site. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of each dwelling. 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 unless the local planning authority gives written consent to any variation.
- 8) The dwellings hereby permitted shall not be occupied until refuse and recycling facilities have been provided on site, in accordance with details which shall be submitted to and approved in writing by the local planning authority.
- 9) The dwellings hereby permitted shall not be occupied until each has been provided with 2 car parking spaces within their plot, as shown on the drawing 200_B. The vehicle parking areas shall be retained in this form at all times. The vehicle parking areas shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the local planning authority. Each parking space shall have minimum dimensions of 2.9 metres by 5.5 metres.
- 10) Prior to occupation of any of the proposed dwellings, the vehicular accesses onto Great Berry Lane shall be constructed at right angles to the existing carriageway. The width of each access at its junction with the highway shall not be more than 6 metres and shall be provided with an appropriate dropped

kerb vehicular crossing of the footway as shown in principle on the drawing numbered 200_B.

- 11) There shall be no discharge of surface water from the site onto any highway.
- 12) Prior to occupation of the proposed development, the Developer shall be responsible for the provision of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. One Residential Travel Information Pack shall be provided for each dwelling.
- 13) The development hereby permitted shall not be occupied until details of the electric vehicle charging points to be provided for each of the proposed dwellings have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details, prior to the occupation of the development, and permanently retained thereafter.
- 14) The detached bungalow hereby permitted shall not be occupied until details of the proposed positions of the existing bollards and signage to be re-located within the track/footpath directly to the east of this dwelling, shall have been submitted to and agreed in writing by the local planning authority. The approved bungalow shall not be occupied until the approved details, i.e. re-location of the bollards and signage, have been carried out in full.