



Appeal Decision

Hearing Held 26 January 2021

Unaccompanied site visit made on 2 February 2021

by L Fleming BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 04 March 2021

Appeal Ref: APP/P1940/W/20/3244533

2 Canterbury Way, Croxley Green, Rickmansworth, WD3 3SS

- 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 Mr Vince Millen against the decision of Three Rivers District Council.
- The application Ref 19/1923/OUT, dated 3 October 2019, was refused by notice dated 10 December 2019.
- The development proposed is 2 self build plots at land to the rear of 2 Canterbury Way, Croxley Green.

Decision

1. The appeal is dismissed.

Procedural Matters and Main Issues

2. The application was submitted in outline. However, the only matter reserved for future approval is landscaping. I have dealt with the appeal on that basis, treating the details relating to landscaping as illustrative only.
3. It is disputed whether or not the proposal would be self-build housing. The Self Building and Custom House Building Act 2015 states self-build and custom housebuilding means the building or completion by (a) individuals, (b) associations of individuals, or (c) persons working with or for individuals or associations of individuals, of houses to be occupied as homes by those individuals. It also states it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person. Furthermore, the relevant Planning Policy Guidance¹ says in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. Off-plan housing, homes purchased at the plan stage prior to construction and without input into the design and layout from the buyer, are not considered to meet the definition of self-build and custom housing.
4. I note the need for self-build dwellings in the area and the Council's record in providing sufficient plots. I also acknowledge the appellant's comments about the site specific circumstances, the need to provide sufficient certainty for self-builders and for valuation purposes and the use of planning passports.

¹ Paragraph: 016 Reference ID: 57-016-20210208

5. However, in my view, selecting the finishing materials and designing landscaping and fixtures such as kitchens and bathrooms within the parameters of approved layouts and elevational drawings is not having primary input into the final design and layout. Thus, I am not satisfied the proposal would meet the definition of self-build and the unilateral undertaking seeking to secure them as self-build, even if duly executed would not overcome this. Therefore, irrespective of the appellant's description, I have not treated the proposed dwellings as self-build and instead treated them as market housing.
6. Amended plans were submitted with the appeal showing a revised parking layout and an amended internal layout for both proposed dwellings. I have determined the appeal on the basis of these amended plans. As I am dismissing the appeal for other reasons, I am satisfied that no party has been prejudiced by my approach.
7. The main issues are:
 - the effects of the proposed development on the character and appearance of the area
 - the effects of the proposed development on the living conditions of the occupants of Nos 2 and 4 Canterbury Way, with particular regard to privacy and outlook
 - the effects of the proposed development on highways safety as a result of the proposed parking provision
 - whether the proposal should make appropriate provision for affordable housing
6. Only procedural matters and matters relating to affordable housing were dealt with at the hearing. Matters in relation to character and appearance, living conditions, highway safety and all other matters were dealt with by way of written representations. I am satisfied that no party has been prejudiced by my approach.

Reasons

Character and appearance

8. The appeal site forms part of the garden of No 2 Canterbury Way (No 2) a semi-detached two storey dwelling in a residential area characterised by similar dwellings, all set back from the road a similar distance with even spaces between them where they have not been filled by later additions over time. Overall, the area has a uniform and formal residential character and appearance.
9. I acknowledge that No 2 occupies a large plot and the existing landscaping, boundary treatments and any future landscaping would limit views of the proposed dwellings. I also accept the proposed plots would be comparable in size to others nearby and the density of development proposed would be similar to that in the area. I also note numerous properties nearby have driveways which lead to timber gates.
10. However, set back from the road with no road frontage, orientated informally around a shared long and winding driveway the proposed dwellings would

appear noticeably at odds with the prevailing pattern of development in the area.

11. The two large detached dwellings would be visible through the access drive, above and through the proposed gates, above the boundary treatment of the dwellings which face Dover Way as well as from the rear windows and gardens of the dwellings which surround the appeal site. Whilst the proposed green roofs and elevational planting would soften the proposed dwellings, they would appear as modern dwellings with planting on them, with their roofs visible from the road, in stark contrast with the roofs of other properties nearby.
12. Thus, irrespective of whether the proposal would be tandem development or not, through its conflicting layout and form, it would appear as an incongruous development which would cause significant harm to the relatively uniform and formal character and appearance of the area.
13. In reaching these conclusions I have considered the comments about a similar proposal nearby². However, the full details of that scheme are not before me. In any event it has no impact on the character or appearance of the area in the immediate vicinity of the appeal site.
14. For these reasons the proposal would cause significant harm to the character and appearance of the area. It would therefore conflict with Policies CP1 and CP12 of the CS, Policy DM1 of the Three Rivers District Council Development Management Policies Local Development Document (2013) (DMPLDD) and Policy CA1 of the Croxley Green Neighbourhood Plan 2017-2032 (2018) (CGNP). These policies taken together aim to ensure good design and that new development does not harm the character and appearance of an area. Insofar as these policies seek to achieve good design and safeguard character and appearance they are consistent with National Planning Policy Framework (the Framework).

Living conditions

15. The proposed dwellings would be single storey above ground, with rooms in their roof spaces. Views from the ground floor towards neighbouring dwellings would be restricted by boundary treatments. Whilst the proposed windows in the roof space gable ends would look towards Nos 2 and 4 Canterbury Way (Nos 2 & 4), those windows would be obscurely glazed and fixed shut. Other windows serving the proposed roof spaces for each dwelling would be roof lights which would not afford any direct views towards neighbouring dwellings. Furthermore, a suitable condition could be imposed to ensure these roof lights are set at an appropriate height to limit views from them.
16. Views towards the proposed dwellings from Nos 2 & 4 would be from an oblique angle where the relatively low height dwellings would be some distance away from the main rear elevations of Nos 2 & 4 such that they would not appear oppressive or overbearing.
17. For these reasons, I find the proposal would not harm the living conditions of the occupiers of Nos 2 & 4 with particular regard to outlook or privacy. In this regard it would therefore accord with Policies CP1 and CP12 of the CS and Policies DM1 and DM9 of the DMPLDD which taken together, aim to ensure

² Council Reference 16/1669/OUT

good design and that new development does not harm the living conditions of residents.

Highway safety (parking)

18. Policy CP12 of the CS seeks to secure safe and visually attractive parking areas. Policy DM13 of the DMPLDD states development should make provision for parking in accordance with parking standards. In accordance with those standards each proposed three bed dwelling would be required to have 2.25 off-street parking spaces, whereas each of the proposed new dwellings would have two allocated parking spaces, with one shared visitor parking space. Two new off-street parking spaces would be created in front of No 2 for the existing dwelling.
19. I note the Council's concerns and those of local residents with regard to parking in the area. However, it seems to me that the scheme would meet the Council's parking standards. Even if it did not, the Framework seeks to encourage sustainable development that reduces greenhouse gas emissions and gives people a real choice about how they travel and supports the use of sustainable modes of transport. The appeal site is located near facilities and public transport connections with frequent connections to services and employment.
20. The Highway Authority have also not objected, subject to the imposition of conditions. Even if the proposal would generate a demand for on-street parking greater than that provided on-site, on-street parking nearby is mainly unrestricted and the appellant's parking survey shows ample on-street parking to serve any demand which could not be met on site. Whilst, I acknowledge the comments about when the parking survey took place, there is no substantive evidence to the contrary, or any substantive evidence to suggest that if the demand could not be met on-site any shortfall met on-street would pose a risk to highway safety in the area.
21. Furthermore, although limited, there would be sufficient space around the proposed spaces to ensure they would be usable. The tracking diagram also indicates vehicles could safely move and turn within the appeal site. Consequently, I am satisfied vehicles could enter and leave the spaces serving the proposed dwellings in a forward gear. Whilst the new spaces created for No 2 would require movements in reverse gear, those spaces would be directly adjacent to the highway and benefit from a good level of visibility.
22. For these reasons, on the basis of the evidence before me, I am led to the conclusion that the proposal would not harm highway safety in the area as a result of the proposed parking provision. In this regard, it would therefore accord with the aims of Policies CP12 of the CS, Policy DM13 of the DMPLDD and the Framework which taken together seek to ensure that new development is served by appropriate parking provision and does not compromise highway safety.

Affordable Housing

23. The appellant disputes the need to provide affordable housing and there is no mechanism before me, to secure a commuted sum towards the provision of off-site affordable housing in accordance with Policy CP4 of the CS.

24. Policy CP4 of the CS makes clear that the Council will in view of the identified and pressing need for affordable housing in the district, seek an overall provision of around 45% of all new housing as affordable housing. It says, all new development resulting in a net gain of one or more dwellings will be expected to contribute to the provision of affordable housing. Furthermore, it makes clear the Council will in most cases require affordable housing provision to be made on site, but in relation to small sites delivering between one and nine dwellings, consider the use of commuted payments towards provision off-site. Such payments will be broadly equivalent in value to on-site provision but may vary depending on site circumstances and viability.
25. Policy CP4 of the CS is consistent with the requirements of paragraph 62 of the Framework. However, there is inconsistency with paragraph 63 which says that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The appeal proposal is not major development and is not in a designated rural area. There is also no evidence before me which seeks to demonstrate the requirements of Policy CP4 of the CS would prejudice the viability of the scheme. The proposal is therefore in direct conflict with Policy CP4 of the CS.
26. The Council are also some way short of being able to demonstrate a five-year supply of deliverable housing land, indeed the Housing Delivery Test 2020 measurement is 54%. Policy CP4 of the CS is a policy which is most important for my determination and must therefore be considered out of date. For this reason and its conflict with paragraph 63 of the Framework, I find the conflict with Policy CP4 of the CS should be afforded limited weight.
27. Numerous appeal decisions have been put before me where Inspectors have considered whether or not proposals which are not major development within the terms of the Framework should make provision for affordable housing in the district. I have taken account of all those decisions and the comments about the various Inspector's findings. I accept that at the time of the Bell Public House appeal³ only approximately 3.8% of affordable homes secured came from non-major developments. This and the appellant's other related evidence indicates generally that the Council rely on major development sites for the delivery of the majority of affordable homes in the district. Furthermore, on the basis of the evidence before me the level of non-major planning applications for housing received by the Council does not appear extraordinary.
28. However, paragraph 5.25 of the CS states average house prices are some of the highest in the Country outside London. Furthermore, informed by ONS data the Council's evidence states as of September 2017 the lowest quartile house price in the district was the sixth worst local authority out of 350 local authority areas. Various alternative figures based on different datasets were quoted in the evidence and put to me at the hearing. However, even if I accepted those alternative figures, housing affordability remains broadly as acute as it was when the CS was examined and adopted. Whilst I accept the consistent under delivery of homes in the district will have negative consequences for affordability, it also means that securing as many affordable homes as possible in the district is as important as ever.

³ Appeal Decision APP/P1940/W/19/3238285

29. Over the plan period there have been times when the Council have applied Policy CP4 of the CS and times when they have not. I accept that this may have implications for the delivery of non-major sites, perhaps encouraging whether or not developers will bring forward proposals. However, it cannot be the only factor which influences whether or not such sites are brought forward. Furthermore, there is no substantive evidence to suggest that if Policy CP4 of the CS was not applied it would significantly increase the supply of housing in the district. Moreover, Policy CP4 of the CS was subject to an assessment of viability alongside all other requirements through the Local Plan process. There is also no substantive evidence before me to suggest the requirements of Policy CP4 of the CS are making non-major housing proposals unviable generally at the current time.
30. Furthermore, the financial requirements and expectation that proposals will need to be supported by viability evidence where the requirements of Policy CP4 of CS cannot be viably met are clearly stated and I am not convinced the costs associated with preparing such evidence is prohibitive. Overall, on the basis of the evidence before me I am not convinced that the Council's application of Policy CP4 of the CS is directly discouraging developers from bringing forward small sites due to the need to provide or contribute towards affordable housing or demonstrate that it viably cannot.
31. Drawing together all of my findings in this issue, the proposal is in direct conflict with Policy CP4 of the CS, although for the reasons given, I attach limited weight to that conflict. However, housing affordability in the district is acute such that, based on the specific circumstances of this case and the evidence presented, I find on balance the proposal should make appropriate provision for affordable housing. As set out above, there is no mechanism before me to secure affordable housing, which would be a benefit of the scheme, and therefore this failure carries weight against the proposal. Although as set out in my conclusion below this matter is not determinative.

Other Matters

32. I acknowledge the comments about the Council's handling of the planning application and the appeal. Nevertheless, I must determine the appeal on its planning merits and these matters or any other raised do not alter my overall conclusions.

Conclusion

33. The presumption in favour of sustainable development is engaged, which means planning permission should be granted 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.
34. I have found no harm associated with living conditions or highway safety. There is no objection in principle to residential development on this site which is in a location which would give residents good access to a range of facilities without being car dependent. The scheme would deliver two new homes of a design which coincides with a need for bungalows in the area, as identified in the CGNP. There would also be associated economic benefits of construction, new customers for local services and a contribution to the local labour force. The dwellings would be energy efficient, incorporate renewable energy technology and have living roofs. I also note the appellant has a track record

in the delivery of housing, including affordable housing in the district and nationally. The proposal would also represent an efficient use of land in line with the Council's Housing Delivery Action Plan. I also note the ecological impact of safeguarding the badger set on adjacent land and the provision of the associated foraging area.

35. However, even acknowledging the scale of the shortfall of housing in the district, the proposal would only make a small contribution to housing supply and the local economy, as such the social and economic and any environmental benefits carry limited weight. Furthermore, there is no substantive evidence to suggest there would be any harmful effect on the badger set without the proposed development or mitigation measures.
36. On the other hand, the proposal would cause significant harm to the character and appearance of the area. The adverse impact of such is sufficient to significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework taken as a whole, consequently the presumption in favour of sustainable development is not a material consideration which weighs in favour of the proposal. The harm arising from failing to make appropriate provision for affordable housing, whilst not determinative would only add to the proposals adverse impact.
37. The proposal is in a location where the Local Plan encourages new homes. However, it is also in conflict with Local Plan policies which relate to character and appearance. This conflict is significant and in my view prevailing, such that on balance the proposal fails to accord with the development plan as a whole. There are no other considerations, including the provisions of the Framework, that outweigh that conflict. The appeal should therefore be dismissed.

L Fleming

INSPECTOR

APPEARANCES

FOR THE APPELLANT

B Lowry	Millen Homes Ltd
V Millen	Millen Homes Ltd

FOR THE COUNCIL

R Pinnock	Dentons Solicitors
A Ralton	Three Rivers District Council
S Volker	Three Rivers District Council
S O'Brien	Three Rivers District Council
L McCullagh	Three Rivers District Council
D Coates	Adams Integra

INTERESTED PARTIES

P Kustow	Resident
A Rajdev	Resident
D Craft	Resident