



Appeal Decision

Site Visit made on 14 June 2021

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 July 2021

Appeal Ref: APP/P1560/W/20/3265279

Fieldley House, Steam Mill Road, Bradfield, Manningtree, Essex CO11 2QX

- 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 Roman Homes Ltd against the decision of Tendring District Council.
 - The application Ref 19/01937/FUL, dated 12 December 2019, was refused by notice dated 22 June 2020.
 - The development proposed is described as 'Alterations and improvements to the existing two storey dwelling, formation of a private drive and the erection of three bungalows with associated parking facilities'.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and improvements to the existing two storey dwelling, formation of a private drive and the erection of three bungalows with associated parking facilities at Fieldley House, Steam Mill Road, Bradfield, Manningtree, Essex CO11 2QX, in accordance with the terms of the application, Ref: 19/01937/FUL, dated 12 December 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the decision notice and appeal form because the wording used reflects the amendments made to the proposal during the Council's assessment of the planning application.
3. Since the Council issued its decision it has adopted Section 1 of the Tendring Local Plan 2013 – 2033 (TLP), which contains several strategic policies. There is nothing of substance before me to indicate this change should have a material bearing on the outcome of this appeal.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site encompasses a large stable/store, a residential property known as Fieldley House and a small paddock flanked by hedges and trees. The existing dwelling is set back from the road behind a front garden and is situated in a discernible building line. The properties in this building line front onto Steam Mill Road and have residential gardens to the rear. This results in a frontage pattern of development with buildings framing the street.

6. The appeal scheme would result in three new homes being constructed behind the building line and in a backland location. This would jar with the clear frontage pattern of development along Steam Mill Road. In addition, there would be a long access road and the plots would be relatively small, failing to replicate the length or width of those in Steam Mill Road or Steam Mill Close. In this respect, they would be relatively cramped when compared to others nearby. However, for reasons I go into, this would be hard to perceive and the plots would not be cramped in isolation due to the provision of adequate amenity space and parking.
7. The development in Steam Mill Close is arranged in depth but this is a comprehensive addition accessed from a new road which the buildings all address. The presence of this development does not justify the appeal scheme.
8. Policy HG13 of the Tendring Local Plan 2007 specifically relates to backland development and states that this form of proposal will only be permitted where, amongst other things, it would be within a defined settlement and does not involve a tandem arrangement. The proposal would fail to meet both of these requirements and is therefore at odds with Policy HG13.
9. However, the Council have advised that the settlement boundary of the village is likely to be revised through the emerging local plan. The draft boundary would be extended to include the appeal site due, no doubt, to its location within the settlement as it is experienced on the ground. I therefore share the view of the Council that the location of the development outside the settlement boundary is a matter of limited weight against the proposal in this instance.
10. Although tandem in arrangement, there is no blanket ban on this type of development in national policy or guidance. Moreover, the proposal has been conceived so that the departure from the pattern of development would not be strident and would actually be quite subtle. In particular, the three dwellings would be modestly sized bungalows set back from the road. As a result, it would only be possible to achieve glimpsed views of the structures from public vantage points and mainly from directly outside the site.
11. Furthermore, there is already development in the site in the form of a large stable, which spans most of the width of the paddock and is of a similar size and location to where Plot 1 would be. The retention of existing boundary landscaping would also soften the presence of the development in views from nearby properties, which are either some distance away or with a reduced outlook due to a single storey scale. Retaining the existing boundary landscaping would also add a sense of maturity to the development.
12. The existing mature hawthorn hedge along the eastern boundary of the site, which from Land Registry plans appears to be outside the appellant's ownership, would be retained and protected during construction as would the hedge adjacent to Artington. The lack of any objection from the Council's Tree & Landscape Officer supports these findings.
13. The effect on the street scene of Steam Mill Road would be limited because the existing property, which would be retained, would screen much of the development. In addition, mature trees of amenity value would not be felled, and a new access would not have to be constructed because the existing long driveway to the stables could be extended and modified. Views along the access would be softened by positioning landscaping to the south of Plot 1 and

through the retention of most of the hedge with Artington. Removing the wall along the site frontage to accommodate visibility splays would benefit the street scene, especially if replaced with soft landscaping.

14. There is a public footpath to the north of the site, and it is proposed to erect a fence along this boundary. That would result in a hard interface and the loss of soft landscaping, which if retained would screen much of the development in views from the footpath. Thus, a landscaping condition could be imposed to require approval of the details of the northern boundary of the development. This would enable further consideration to be given to retaining the existing landscaping and providing a planted interface with the public footpath.
15. In conclusion, the proposed development would be at odds with Policy HG13 because it would be located outside the settlement boundary and would be a form of backland tandem development. However, for the reasons given, the proposal overall would not harm the character and appearance of the area. It would therefore adhere to the underlying aims of the policy as well as the aspirations in the National Planning Policy Framework that development is sympathetic to local character. As a result, the conflict with Policy HG13 carries only limited weight against the appeal scheme in this instance.
16. Policy LP8 of the emerging Tendring District Local Plan 2013 – 2033 and Beyond has similar requirements to Policy HG13 in that it seeks to avoid tandem development. Consequently, there would be conflict with this aim and this weighs against the scheme as a material consideration. Nevertheless, the proposal overall would not harm the character and appearance of the area despite the tandem arrangement and therefore the conflict with emerging Policy LP8 also carries only limited weight.

Other Matters

17. There would be adequate separation distance between the new and existing properties to ensure the new occupiers would not cause any harmful noise and disturbance, including from vehicle headlights. For similar reasons the proposal would not result in a harmful loss of light or outlook. I therefore share the view of the Council that the proposal would maintain and provide good living conditions.
18. The Local Highway Authority are satisfied the proposal would not prejudice highway safety and the balance of the evidence before me does not justify a departure from this expert view. Each dwelling would have two parking spaces, and this would be adequate given the number of bedrooms proposed.
19. I have seen nothing of substance, such as an evidenced based study, to demonstrate there are insufficient school places or that there is inadequate sewerage capacity or infrastructure generally. Surface water disposal would be primarily be dealt with through the building regulations in this instance. The appeal site is a closely grazed paddock and a well-managed domestic garden. I therefore share the view of the Council that there is unlikely to be harm to protected species. The existing hedgerows are the features most likely to support wildlife and they would be retained. Nothing of substance is before me to demonstrate the proposal would result in surface water flooding.
20. Given my findings and the specific nature of the site and proposal, the approval of the appeal scheme would not set an undesirable precedent. The safe

demolition of the apparently asbestos clad stable would be secured through other legislation. There is nothing of substance before me to suggest that an implication of the appeal scheme would be a fall in house prices to the extent and scale that this would be a matter of public interest. There is no obligation in planning policy for the appellant to demonstrate a need for the proposal or to deliver the housing below the market value.

21. The delivery of three modest bungalows would support housing supply and choice, but only to a limited extent and at a point in time when the Council are able to demonstrate a five-year housing land supply. Similarly, the construction and subsequent occupation of the dwellings would provide modest support to the construction industry and the vitality of a rural community. Overall, these would be benefits of limited weight in favour of the appeal scheme.
22. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance, the benefits of the proposal, although small in scope, would be sufficient to outweigh the limited conflict with the development plan.

Conditions and Planning Obligation

23. I have considered the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of certainty, minimising surface water flooding and preserving living conditions and the character and appearance of the area, to ensure the development is undertaken in accordance with the submitted drawings. For similar reasons a landscaping scheme and tree and hedge protection is required. I have however secured landscaping and an Arboricultural Method Statement (AMS) as standalone conditions in the interests of precision and enforceability and because the submitted AMS relates to the proposal before it was amended. A revised AMS could also address the presence of an adjoining Holly tree in the garden of Artington. The landscaping scheme would need to address the surface of the driveway as an element of hard landscaping. The Council would be able to assess whether a gravel surface would be appropriate given the noise that could occur from vehicles passing over it. The Council can also ensure that surface water from hard surfaces is properly addressed.
24. To secure highway safety it is necessary to impose conditions relating to visibility, turning, the width of the drive, the design of the access, surface water and the size of the garages. With garages of this size it is unnecessary to secure separate cycle parking. It may be that the provision of visibility splays would require work to land outside the appellant's control, but there is nothing before me to demonstrate there is no prospect of the appellant being able to reach agreement with the occupants of Artington and use their land to provide the required splays if necessary. A travel information pack is necessary in the interests of promoting sustainable transport.
25. Given the proximity of neighbouring dwellings, some of which are occupied by elderly residents, it is necessary to secure a construction management plan to minimise the disturbance that may be caused. I have altered the trigger point to avoid the need for a pre commencement condition. In this respect, the demolition works would be brief and would have limited effects. It is necessary to remove permitted development rights for roof extensions in the interests of safeguarding living conditions.

26. As the competent authority, I have carefully considered the Council's initial Habitat Regulations Assessment. The appeal site is located within a zone of influence placed around relevant European sites as established in the Essex Recreational Disturbance Avoidance and Mitigation Strategy (Essex RAMS). There is no dispute that the population growth resulting from new housing within this zone would likely result in an increase in harmful recreational disturbance at the European sites. Accordingly, and when following a precautionary approach, the proposal, in combination with other plans and projects, would be likely to have a significant adverse effect. Hence, an appropriate assessment, in accordance with the Habitat Regulations¹, is required to consider the implications of the proposal on the European sites in view of their conservation objectives.
27. The European sites have been designated because they include habitats that support rare bird species. The overarching conservation objectives for the relevant European sites is to avoid a deterioration of habitats and minimise disturbance, thereby ensuring the integrity of the sites is maintained. The appellant has confirmed a willingness to provide a financial contribution in line with the methodology in the Essex RAMS, which is supported by Natural England as the Statutory Nature Conservation Body. The contribution would be pooled with others and used for access management and monitoring at the European sites in line with the Essex RAMS.
28. The contribution would be secured through the submitted unilateral undertaking and would be directly related to the impacts of the proposal on the European sites. It is necessary to make the development acceptable and the contribution would be fairly and reasonably related in scale and kind to the development because it follows the methodology in the Essex RAMS. Moreover, there is no reason to doubt that the Council, as a responsible public body, will spend the money in the way it is intended. Accordingly, the contribution is an obligation that can be taken into account and therefore the proposal would not adversely affect the integrity of the European sites, the conditions of which need not deteriorate as a result of the proposal.
29. The planning obligation also includes clauses relating to the provision of a public open space contribution. This is necessary in order to adhere to the development plan and the contribution would be fairly and reasonably related in scale and kind to the development because it would follow a set methodology. I can therefore take the obligation into account. As a result, there would be no harm to the provision of open space.

Conclusion

30. The proposed development would not adhere to the development plan but material considerations, including the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan. Accordingly, the appeal should succeed.

Graham Chamberlain
INSPECTOR

¹ See Regulation 63 Conservation of Habitats and Species Regulations 2017 (as amended).

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: - 1945/1 – Site Plan, 1945-3-D and 1945-2-D – Amended Block Plans, 1945-8-A - Amended Elevations Plots 1 And 2, 1945-12-A – Amended Elevations Plot 3, 1945-9-A - Amended Floor Plans Plots 1 and 2, 1945-13-A - Amended Floor Plan Plot 3, 1945-7-A - Amended Garage Plans And Elevations Plots 1, 2 and 3, 1945-3-D - Amended Roof Plan, 1945-4-D - Amended Landscaping Plan, 1945-17 - Amended Existing Floor Plan (Main House) - 1945-18, Amended Existing Elevations (Main House), 1945-19 - Amended Existing Elevations (Main House), 1945-20 - Amended Proposed Floor Plans And Elevations (Main House).
3. Notwithstanding the submitted details on the approved plans, no development shall commence beyond demolition until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. Development shall be carried out in accordance with the approved details with all proposed landscaping being carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any existing or proposed trees or plants shown on the approved landscaping scheme 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.
4. No development beyond demolition shall occur until an Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority. The AMS shall include details of tree and hedge protection during construction. The development shall be implemented in accordance with the approved AMS.
5. Prior to occupation of the development, the highway access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and it shall be retained free of obstruction above 600mm at all times.
6. Prior to occupation of the development a vehicular turning facility within the site, of a design to be approved in writing by the Local Planning Authority, shall be constructed and surfaced and thereafter maintained free from obstruction at all times for that sole purpose.
7. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of Highway Boundary and provided with an appropriate dropped kerb crossing of the verge.

8. The vehicular access road shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided, but not be limited to, the following:
 - Provision of a size 5 turning head; and
 - No unbound material shall be used in the surface treatment throughout.
9. There shall be no discharge of surface water onto the Highway.
10. Notwithstanding the approved drawings, the single garages should have a minimum internal measurement of 7m x 3m and the proposed double garage should have a minimum internal measurement of 7m x 5.5m.
11. Prior to occupation of the proposed dwelling, the Developer shall be responsible for the provision and implementation 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 free of charge.
12. No development beyond site clearance shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for: i. the parking of vehicles of site operatives and visitors ii. loading and unloading of plant and materials iii. storage of plant and materials used in constructing the development iv. wheel and underbody washing facilities v. measures to reduce noise and dust during construction and vi the hours of construction.
13. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no dormers shall be inserted in the east-facing roofslopes of Plots 2 and 3 and neither the east or west- facing roofslopes of Plot 1 except in accordance with details which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.