
Appeal Decision

Site visit made on 13 July 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 03 August 2021.

Appeal Ref: APP/X1545/W/20/3263460

Land adjacent to 20 Chapel Lane, Tillingham, CM0 7TL

- 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 Mr Mike Otter against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/20/00577 dated 15 January 2020, was refused by notice dated 4 September 2020.
 - The development proposed is 2 new dwellings and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for 2 new dwellings and associated works on land adjacent to 20 Chapel Lane, Tillingham, CM0 7TL in accordance with the terms of the application, Ref FUL/MAL/00577, dated 15 January 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issue

2. The main issue in this case is the effect on the street scene and character and appearance of the area, in terms of scale, bulk, design and layout.

Reasons

3. The appeal site is located within the settlement boundary of Tillingham, but outside of the Tillingham Conservation Area. The site is currently open grass land with trees along the northern boundary and a hedge extending along the southern and part of the western boundaries. The eastern part of the site is bounded by a low boundary fence. Dwellings within the surrounding area are mixed in design and scale, with bungalows, chalet style and two-storey dwellings. The street scene is also made up of detached, semi-detached and terraced properties. Development is on both sides of the lane, with no evident front building line.
4. The starting point is the development plan. Since the site is within the settlement boundary, the proposal complies with policy S1 of the Maldon District Local Development Plan (LDP) which directs new residential development to be within established settlements. Tillingham is a 'smaller village' within the LDP with a range of services and opportunities for employment and therefore the principle of housing development is established as being within a sustainable location.
5. Policy D1 of the LDP seeks to ensure that all development will respect and enhance the character and local context. In relation to the issue in this case,

the most important elements of the policy are to make a positive contribution in terms of: a) architectural style, use of materials, detailed design features and construction methods; b) Height, size, scale, form, massing and proportion; c) Landscape setting, townscape setting and skylines; and d) Layout, orientation, and density. Other elements deal with such things as private amenity space, car parking, etc.

6. In terms of item a) architectural style, etc, in view of the mix of housing types in the lane, which include semi-detached and terraced housing, the pair of houses proposed is acceptable. Similarly the chalet style proposed, sitting between a chalet and a bungalow is unexceptionable. The materials come from a palette that is typical of the area and the design features and construction methods, such as the dormer windows, are also common to the locality. Item b) of the policy hardly needs further mention, since the height, scale, form, etc follow from the previous considerations. There are no particular points of note in relation to item c), whilst the layout, orientation and density follow from the neighbouring development.
7. Since there is no criticism by the council in terms of impact on neighbours, private amenity space, car parking provision, etc, there is no need for me to do more than remark that these matters are dealt with satisfactorily in the proposal.

Other matters

8. The question of the 5-year supply of housing land has been mentioned. However, since there is no policy objection to development in this sustainable location, and I am granting planning permission, there is no further comment necessary.
9. The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). It is the council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS Supplementary Planning Document requires that a tariff of £125.58 (index linked) is paid per dwelling unit, to be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. Since I am now the competent authority, I must ensure that necessary mitigation takes place. I have been advised that the applicant paid the £251.16 RAMS fee to the Council on 14 August 2020, and therefore the required mitigation has been provided for.
10. I have noted the comments made by the Tillingham Village Council and by other interested persons. I have dealt with the relevant development plan policy in my consideration of the main issue above; other matters are either not material or are not persuasive in this case.

Overall conclusions

11. In light of the matters that I have considered above, I conclude that there would be no adverse effect on the street scene and character and appearance

of the area, in terms of scale, bulk, design and layout, arising from the proposed development. I will therefore uphold the appeal.

Conditions

12. The council has suggested a number of conditions that it considers should be imposed on any planning permission. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with PPG I have amended some of the text. Condition 8 includes the submission of details that are either sufficiently illustrated in the proposal, such as parking layouts, or go beyond what is reasonably necessary for a scheme of this scale, for example 'other vehicle and pedestrian access and circulation areas' and 'minor artefacts and structures (e.g furniture, play equipment, refuse or other storage units, signs, lighting)'. I will therefore omit these elements of that condition.
13. I consider that the conditions in the schedule below should be imposed for the following reasons: condition 2 for clarity and the avoidance of doubt in respect of what is permitted; condition 3 to ensure that the details of the materials respond appropriately to the character and appearance of the area; condition 4 to ensure that the convenience and safety of users of the highway will be safeguarded; condition 5 to ensure that consideration and protection/mitigation can be given in respect of ecological value on the site; condition 6 to ensure retention and protection of trees for the benefit of nature conservation and the character and appearance of the area; condition 7 to ensure the soft and hard landscaping of the development enhances it and the surroundings; condition 8 to ensure the treatment of boundaries maintains privacy for adjoining occupiers and relates to the character and appearance of the area; condition 9 to ensure that facilities are provided on site to encourage sustainable modes of travel and appropriate disposal of waste; condition 10 to ensure the satisfactory drainage of the development in a sustainable form; condition 11 to ensure adequate parking is provided on site for the safety and convenience of road users; condition 12 to protect the privacy of neighbouring occupiers; and condition 13 to ensure that the public right of way is not impacted during the course of the development.
14. By email dated 12 August 2020, from the applicant to the council, agreement was given to the pre-commencement conditions proposed relating to a construction method statement, a walkover ecology survey and a tree protection plan. I am therefore able to impose conditions 4, 5 and 6.

Terrence Kemmann-Lane

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 and documents: NDCM07TL-BP1.0, NDCM07TL-SP1.0, NDCM07TL-DR1.2A, NDCM07TL-DR1.2B, NDCM07TL-DR1.2C, NDCM07TL-DR1.2D.
- 3) Prior to their use in the development hereby approved, written details and photographs of the materials to be used in the construction of the external surfaces, including windows and doors, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The statement 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 washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery, demolition and construction working hours.

The approved statement shall be adhered to throughout the construction period for the development.

- 5) Prior to the commencement of the development, details of the implementation of a walkover ecological survey by a qualified ecologist and the findings shall be submitted to and approved in writing by the local planning authority. If any protected species are found at the site, a scheme of ecological protection and mitigation shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall then be implemented in accordance with the approved details.
- 6) No works shall take place until a Tree Protection Plan has been submitted to and approved in writing by the local planning authority to clarify the means of protecting the Walnut tree within the application site and the Willow tree located within the curtilage of No.24 Chapel Lane, to the west of the site, during the construction of the development hereby approved. The Tree Protection Plan shall include a scheme of supervision visits to ensure the protection measures are adhered to and logged to demonstrate the trees have been protected. The Tree Protection Plan shall be in accordance with BS5837:2012 and shall be implemented prior to the commencement of the development and adhered throughout the construction process.

- 7) Full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority prior to any works occurring above ground level at the application site. These details shall include, for example:
- i. Proposes finished levels contours;
 - ii. Means of enclosure;
 - iii. Hard surfacing materials;
 - iv. Details of proposed schedules of species of trees and shrubs to be planted, planting layouts and planting numbers/densities.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved unless otherwise agreed in writing by the local planning authority. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place, unless the local planning authority gives its written consent to any variation.

The hard landscape works shall be carried out as approved prior to the first use / occupation of the development hereby approved and retained and maintained as such thereafter.

- 8) No works above ground level shall take place until details of the siting, height, design and materials of the treatment of all boundaries including hedging, gates, fences, walls, and railings have been submitted to and approved in writing by the local planning authority. The screening as approved shall be constructed prior to the first occupation of the development to which it relates and be retained as such thereafter.
- 9) Prior to the first occupation of the development hereby approved, details of the design and position of the cycle parking sheds and waste storage area shown on plan NDCM07TL-BP1.0 -Proposed block plan shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the occupation of the development.
- 10) No works above ground level shall take place until details of the surface water drainage scheme and foul drainage scheme to serve the development has been submitted to and agreed in writing by the local planning authority. The agreed scheme shall be implemented prior to the first occupation of the development.
- 11) No dwelling hereby approved shall be occupied until two car parking spaces have been laid out for each plot, in accordance with drawing NDCM07TL-BP1.0 – Proposed block plan and those spaces shall thereafter be kept available for such purposes in perpetuity.
- 12) Prior to the first occupation of the building hereby permitted, the first-floor windows in the west and east flank elevations of the dwellings shall be glazed with opaque glass and be of a non-openable design with the

exception of a top hung fanlight (which shall be at least 1.7m above internal floor level) and shall be retained as such thereafter.

- 13) The public's rights and ease of passage over footpath number 14 in Tillingham shall not be obstructed at any time by vehicles, plant, materials, etc, associated with the development.