



Appeal Decision

Site visit made on 22 December 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2021

Appeal Ref: APP/M1595/W/21/3268265

Montrose 168 Branksome Avenue, Stanford Le Hope, Essex SS17 8DE

- 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 D Darby, Cedarmill Developments Ltd against the decision of Thurrock Borough Council.
 - The application Ref 20/01505/FUL, dated 30 October 2020, was refused by notice dated 15 January 2021.
 - The development proposed is demolition of the existing bungalow and the construction of 4 new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing bungalow and the construction of 4 new dwellings at Montrose 168 Branksome Avenue, Stanford Le Hope, Essex SS17 8DE in accordance with the terms of the application Ref 20/01505/FUL dated 30 October 2020 subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the description of development stated on the planning application form. I note that it has been expressed differently including on the appeal form and the Council's decision notice, but I have no confirmation that the appellant agreed to the change.
3. The Council's decision notice indicates that the decision relates to plans including Proposed Plans ref 1564/P04F. However, the appellant advises that the stated revision is incorrect, and that the revision before the Council at the time of its decision was ref 1564/P04A. This is also the revision listed within the Council's officer report and suggested conditions, and I have therefore considered the appeal having regard to this drawing.
4. My attention has been drawn to previous appeals on the site where proposals for first 7 dwellings¹, and subsequently for 6 dwellings², have been considered. Both appeals were dismissed, with the Inspectors in each case finding that there would be harm to the character and appearance of the area. I have taken these previous decisions into account, although I have determined the appeal having regard to the individual merits of the development that is now before me.

Main Issue

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

¹ Appeal reference APP/M1595/W/18/3207492

² Appeal reference APP/M1595/W/19/3242008

Reasons

6. Closest to the appeal site, this side of Branksome Avenue includes a mix of detached bungalows and two-storey dwellings of varied appearance. The buildings are generally set back from the street on deep plots with generous rear gardens that are appreciable in views from Branksome Avenue between dwellings. This provides for an open backdrop to the frontage dwellings and contributes a distinctly spacious character to this part of the street. However, plots vary in width, and close-set pairs of semi-detached dwellings on relatively shallow plots to the opposite side of Branksome Avenue as well as cul-de-sacs running behind frontage dwellings nearby add some further variety to the character and urban grain of the wider area.
7. The appeal site is wider than the plots of the neighbouring dwellings at 166 and 170 Branksome Avenue, and extends to wrap around the rear garden to No 170. It includes a detached bungalow, as well as a detached garage and a small outbuilding, but is largely open, and I agree with the Inspector who considered the second appeal for development on the site that it contributes positively to the spacious character of this part of the street.
8. The appeal proposal includes the demolition of the existing buildings on the site, and the construction of 4 detached dwellings comprising a pair fronting the street (plots 1 and 2), with a second pair behind (plots 3 and 4) that would be served by an access between plot 2 and No 166.
9. The site is part of an area designated in the Core Strategy and Policies for Management of Development (as amended) 2015 (CS) as 'the Homesteads Ward'. The Council suggest that there would therefore be a fundamental, in principle, objection to intensification of use of this site and backland development, pointing to Annex A9 of the Thurrock Borough Local Plan 1997. This refers to past development that has changed the character of the Ward, and indicates that it is important to retain the remaining original character of the area. However, while Policy CSTP23 of the CS identifies areas within the borough where character is considered a key issue, including the Homesteads Ward, I have not been directed to a policy within the currently adopted development plan outlining that 'backland' development would necessarily be unacceptable. Instead, it seems to me that the acceptability of the proposal would be more appropriately informed by consideration of the merits of the development and how it would relate to its surroundings.
10. In this context and given examples of other 'backland' development that I observed in the vicinity of the site, the position of the dwellings on plots 3 and 4 to the rear of plots 1 and 2 would not be incongruous. I therefore see no reason to conclude differently from the Inspector in the second previous appeal who found that there would be no 'in-principle' objection to a backland type of development on the site. I further note that the Council does not object to the form, height or detailing of the proposed dwellings, nor to the indicative materials, and I am satisfied that the overall appearance and scale of the buildings would sit comfortably within the varied street scene.
11. Be that as it may, the replacement of a bungalow with 4 two-storey dwellings would result in a significant increase in the overall bulk and mass of built form on the site, and the presence of the dwellings on plots 3 and 4 in particular would result in a notable reduction in the existing spaciousness on the rear part of the site. Moreover, the buildings would each fill much of the width of their

plots, with the dwellings in each of the pairs set closer together than is typical on this part of Branksome Avenue. In my view, the resulting impression would be of the dwellings being somewhat cramped and squeezed onto the site, and I cannot agree with the appellant that the gaps between built form would provide for a well spaced out development. In combination, I find that these factors would harmfully erode the spacious quality of the immediate area.

12. That said, the dwellings would have rear gardens of reasonable sizes providing for a degree of spaciousness, and their proximity to one another would not be dissimilar to higher density development that is already present close by so as to stand out as exceptional in this area, lessening the harm. In addition, the set back of the development on the rear part of the site and screening by neighbouring buildings means that it would not be prominent in views from the street scene, and while it would be appreciable from neighbouring dwellings and gardens, these factors would temper the visual impact of the proposal.
13. Nevertheless, the development would detract from the existing spacious character of this part of Branksome Avenue, and I conclude that there would as a consequence be harm to the character and appearance of the area. The harm would be limited, but would conflict with Policies PMD2, CSTP22 and CSTP23 of the CS insofar as they emphasise the character of the Homesteads Ward as a key issue, and include requirements broadly for development to respond to local context and to contribute positively to the character of the surrounding area. I note additional reference by an interested party to sections of the 'Draft Site Specific Allocations and Policies Local Plan Further Issues and Options 2013', but from the evidence before me, these do not form part of the adopted development plan, and attract very limited weight.

Other Matters

14. I have taken into account representations by interested parties. The Council advise that the level of parking provision would be similar to that considered acceptable under previous proposals on the site, and there is no firm evidence before me of existing parking pressure in the area that would be harmfully exacerbated by the development. There is also no substantive evidence to indicate that additional vehicle movements associated with the proposal would harm highway or pedestrian safety. I note that the Council's Highways consultee has requested a financial contribution to fund a Traffic Regulation Order to prevent vehicles parking close to the site access, but this has not been sought by the Council, and from the evidence before me and my observations at my visit, I am not convinced that it would be necessary.
15. Given the orientation of the dwellings in relation to neighbouring properties, the arrangement of fenestration and the separation that would be provided, I do not consider that they would cause harmful overlooking or loss of privacy. The dwellings would be visible from neighbouring sites, but I am satisfied given their scale that there would be sufficient separation to ensure no significant loss of light or outlook, and the buildings would not be unacceptably dominant. I am also satisfied that the relatively limited levels of traffic and activity that would be associated with the number of dwellings proposed would not be out of keeping or cause undue noise or disturbance to neighbouring occupiers.
16. There is no substantive evidence to suggest that there is insufficient capacity in local services and utilities to meet needs generated by the development, that security for neighbouring properties or protected species would be adversely

affected, nor that suitable drainage could not be provided. Construction would cause some disruption, but this would be temporary and could be mitigated by careful construction management secured by an appropriately worded condition. Covenants on the site and any damage caused during construction would be a private legal matter between the parties involved.

17. My attention has been drawn to comments by Inspectors who have considered appeals for development on a site on Foxfield Drive nearby, but from the very limited details presented I am unable to draw any firm comparisons with the circumstances of the current appeal which I have in any case considered on its own merits.
18. I am satisfied that none of the other matters raised, either individually or collectively, would result in a level of harm that would justify dismissal of the appeal.

Thames Estuary and Marshes Special Protection Area

19. The appeal site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Zone of Influence for the Thames Estuary and Marshes Special Protection Area (SPA) which is classified for bird species that are rare and/or vulnerable in a European context. The Conservation of Habitat and Species Regulations 2017 impose a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment (AA).
20. The proposed dwellings would be likely to result in additional demand for recreation locally, and such activity within the SPA could cause disturbance to birds and their habitats. The increase from the development alone would be small, but it is likely that in combination with other developments, the proposal could have a significant impact on the integrity of the SPA.
21. However, the RAMS sets out a strategic approach across the wider Essex Coast area to mitigate such adverse impacts, and details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. These include a range of habitat-based measures, education, communication and monitoring, and the Council advises that a Delivery Officer is in post and is working to deliver measures. Natural England has endorsed this approach, and I am satisfied that the measures identified would adequately address any adverse effects of the proposal on the SPA.
22. The appellant has provided a Unilateral Undertaking (UU) under the provisions of section 106 of the Town and Country Planning Act 1990 which provides that the requisite tariff would be paid before the development is occupied. The Council confirms that the UU would secure the payment per dwelling required by the RAMS. This contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). As such, the contributions may be taken into account as mitigation to maintain the integrity of the SPA, and given the evidence before me, I am satisfied that the mitigation measures have been appropriately secured through the UU and would be used for their intended purpose.

23. In light of the above and following an AA, I find that the proposal would not adversely affect the integrity of the SPA.

Planning Balance

24. The proposal would result in conflict with Policies PMD2, CSTP22 and CSTP23 of the CS. Insofar as they are relevant to the appeal proposal, these policies are consistent with the expectations of the Framework which identifies achieving well-designed places as a key aspect of sustainable development and which includes requirements seeking development that is sympathetic to local character. Conflict with these policies therefore carries a reasonably significant amount of weight.
25. However, the appellant indicates that the results of the Housing Delivery Test 2020 show that housing delivery over the previous 3 years has been only 59% of the target level, and that the Council is also unable to demonstrate a 5-year supply of deliverable housing sites. The Council has not provided evidence to the contrary, and the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework is therefore engaged. This provides that 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.
26. The adverse impacts of the proposal result from the erosion of the spacious character of this part of Branksome Avenue. However, the magnitude of the consequent harm to the character and appearance of the area would be moderated by the diversity in layout and spacing between buildings that already exists in the wider area, and the relatively limited visual impact of the proposal on the street scene.
27. Set against this, the proposal would make effective use of a site within an existing settlement to provide a net gain of 3 dwellings. I acknowledge that the contribution to housing supply would be small, but the Framework identifies an objective to significantly boost the supply of housing. It further highlights that small and medium sized sites such as the appeal site can make an important contribution to meeting the housing requirement of an area. As a result, and in light of the past and present housing under-supply position which I have no firm evidence to demonstrate is likely to be addressed in the short-term, I consider the delivery of additional housing an important benefit, and it is a consideration of significant weight in favour of the proposal.
28. There would also be social and economic benefits associated with construction and occupation of the dwellings, and occupiers would have some access to local services and facilities helping to reduce the need to travel. These benefits would be limited given the modest scale of the development, but I nevertheless give them some weight.
29. In applying the presumption at paragraph 11(d) of the Framework, the starting point is that permission should be granted, and I find in this case that the modest adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies, and I find that it is a material consideration sufficient to outweigh the harm to the character and appearance of the area and the conflict with Policies PMD2, CSTP22 and CSTP23 of the CS.

Conditions

30. I have considered suggested conditions against the tests at paragraph 56 of the Framework and made minor amendments where necessary for clarity, brevity or to ensure compliance with the relevant tests.
31. In addition to the standard time limit, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. To safeguard the living conditions of neighbouring occupiers and highway safety, a condition to agree details of how construction will be managed is necessary. I also consider a condition to require an Arboricultural Method Statement as referred to by the Council's Landscape and Ecology Advisor to be necessary to safeguard neighbouring trees, including a protected Oak tree, in the interests of the character and appearance of the area. These are pre-commencement conditions as details need to be agreed before any works take place to ensure that they are satisfactory, and the appellant has provided written agreement to them.
32. Conditions to secure details of external materials and provision for landscaping are necessary to ensure a satisfactory appearance. I have also included conditions suggested by the Council's Highways Department to secure details of the access to the site, and the provision of visibility splays and access, parking and turning within the site in the interests of highway safety. I have however amended the suggested conditions to omit details that are not relevant to the appeal development, and to require visibility splays as they are indicated within the appellant's evidence which I have no substantive reason to consider would be inadequate or unsafe.

Conclusion

33. The proposal would conflict with the development plan, but material considerations, especially the presumption in the Framework, outweigh this conflict. For the reasons given above, I therefore conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 1564/01, 1564/02, 1564/P03H, 1564/P04A, 1564/P05A, 1564/P06A, 1564/P07A and 1564/P09A.
- 3) No demolition or construction works shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall contain or address the following matters:
 - a) hours of work for the construction of the development;
 - b) hours and duration of any piling operations;
 - c) vehicle haul routing in connection with construction, remediation and engineering operations;
 - d) wheel washing and sheeting of vehicles transporting loose aggregates or similar materials on or off site;
 - e) details of construction access or temporary access, and details of temporary parking requirements;
 - f) location and size of on-site compounds, including the design layout of any proposed temporary artificial lighting systems;
 - g) details of any temporary hardstandings;
 - h) details of temporary hoarding;
 - i) details of the method for the control of noise with reference to BS5228 together with a monitoring regime;
 - j) measures to reduce vibration and mitigate the impacts on sensitive receptors together with a monitoring regime; and
 - k) measures to reduce dust with air quality mitigation and monitoring.

Works on site shall only take place in accordance with the approved CEMP.

- 4) No demolition or construction works shall commence until an Arboricultural Method Statement detailing a scheme for the protection of trees on the site and on adjacent land which are to be retained has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include details of the retained trees and appropriate working methods in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced). The Arboricultural Method Statement shall be carried out as approved.
- 5) No development above proposed ground level shall take place until written details or samples of all materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The

development shall be carried out using the materials and details as approved.

- 6) No development above proposed ground level shall take place until full details of both hard and soft landscape works to be carried out have been submitted to and approved in writing by the Local Planning Authority. These details shall include the layout of the hard landscaped areas with the materials and finishes to be used and details of the soft landscape works including schedules of shrubs and trees to be planted noting the species, stock size, proposed numbers/densities; a programme of implementation; and an aftercare and maintenance programme.

The hard landscape works shall be carried out as approved prior to first occupation of the development hereby approved. The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the commencement of the development, unless otherwise in accordance with the agreed programme of implementation.

If within a period of five years from the date of planting, any tree or plant planted or its replacement, is removed, uprooted, destroyed, dies, or becomes seriously damaged or defective, it shall be replaced in that location with another tree or plant of the same species and size as that originally planted.

- 7) The development shall not be occupied until details of the layout, dimensions and construction specification of the proposed access to the highway have been submitted to and approved in writing by the Local Planning Authority, and the access has been provided in accordance with the approved details.
- 8) Before the access is first used, visibility splays of 2.4 metres x 43 metres shall be provided at the proposed access in accordance with the highways Technical Note (ref WIE14561.102.R.2.1.1.TN01 dated 5 January 2021) and appended drawing 0001 rev A07, and thereafter maintained at all times so that no obstruction is present within such area above the level of the adjoining highway carriageway.
- 9) The dwellings on plots 1 and 2 shall not be occupied until clear to ground level sight splays of 1.5 metres x 1.5 metres from the back of the footway have been provided to either side of the proposed access to their parking areas, and the splays shall thereafter be maintained at all times.
- 10) The development shall not be occupied until the access road within the site, turning and parking have been laid out in accordance with the approved plans and consolidated and surfaced. The access, turning and parking areas shall thereafter be kept available at all times for access, turning, and parking of vehicles respectively.

End of Schedule