



Appeal Decision

Site visit made on 21 February 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2022

Appeal Ref: APP/V1505/W/21/3283720

Land on the east side Of Newhouse Avenue, Wickford, SS12 0JZ

- 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 Vince Millen (Millen Homes Ltd) against the decision of Basildon Borough Council.
 - The application Ref 21/00762/FULL, dated 5 May 2021, was refused by notice dated 14 July 2021.
 - The development proposed is 4 detached 3 bedroom bungalows.
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Decision

1. The appeal is allowed and planning permission is granted for 4 detached 3 bedroom bungalows at land on the east side of Newhouse Avenue, Wickford, SS12 0JZ in accordance with the terms of the application, Ref 21/00762/FULL, dated 5 May 2021 subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council has confirmed that it has chosen to withdraw its emerging Local Plan. I have therefore determined this appeal in accordance with the Basildon District Local Plan 2007 and the National Planning Policy Framework.

Main Issues

3. The main issues are:
 - Whether the development proposed would constitute inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies,
 - Whether the development would provide acceptable living conditions for future occupiers, with particular regard to noise disturbance from neighbouring sites; and,
 - The effect on European Protected Sites.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt, and that the construction of new buildings in the Green Belt should be regarded as inappropriate, save for certain exceptions. One of the identified exceptions involves limited infilling in villages. No policies in the Basildon District Local

Plan 2007 (the LP) have been identified as being relevant to whether the appeal proposal would be inappropriate development, and therefore I have determined this issue solely with reference to the Framework.

5. The appeal site is an area of undeveloped grassland. It lies amid houses along Newhouse Avenue and London Road, as well as a farmyard and garden centre on neighbouring land, with the wider area falling within the village of Wickford.
6. The four proposed houses would occupy plots of similar width to other houses along Newhouse Avenue. They would be bungalows with accommodation in the roofs. Similar house types are present on the opposite side of Newhouse Avenue. The footprint of each house would be relatively modest, with sizable gaps between each neighbouring house, and between the side boundaries of the site and the facing elevations of the nearest houses. The scale of development is therefore in keeping with that of the surrounding area.
7. Given these considerations, the appeal proposal would amount to limited infilling in the village of Wickford. It would therefore not be inappropriate development, in accordance with the requirements of the Framework.

Noise

8. The appellant has provided a noise impact assessment with their appeal addressing the reason for refusal relating to noise and disturbance from neighbouring businesses. The assessment was carried out in accordance with the relevant British Standards 8233 and 4142 for noise levels in new buildings and for assessing industrial and commercial sound respectively.
9. The assessment found that typical noise levels within the site were low, with the main source of noise coming from traffic on London Road. The neighbouring commercial uses, which are sited close to existing houses, were not found to cause significant noise disturbance at the appeal site. The assessment concludes that dwellings of standard construction would experience noise levels substantially below the recommended levels set out in British Standard 8233, and I see no reason to disagree with this conclusion.
10. I am satisfied that the findings of the assessment are representative of noise levels at the site, and as a result the proposed development would provide acceptable living conditions for future occupiers. It would therefore accord with the requirements of Policy BAS BE12 of the LP. This requires that new residential development will be refused if, amongst other criteria, it causes material harm through noise or disturbance.

European protected sites

11. The appeal site lies within the zone of influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). New residential development within the zone is likely to have a cumulative significant effect on coastal habitat sites through recreational activities.
12. The Essex councils and Natural England have developed the RAMS with the aim that it deliver the mitigation necessary to avoid the likely significant effects of residential development across Essex. In this case, a financial contribution is sought to fund strategic off-site measures to increase resilience to recreational pressures. The appellant has provided a unilateral undertaking committing to make the payment for each of the proposed houses.

13. This contribution is necessary to make the development acceptable in planning terms. It is directly related to the scale of development, and it is fairly and reasonably related in scale and kind to the development. It therefore accords with Regulation 122 of the Community Infrastructure Levy Regulations and counts as mitigation towards increasing resilience of the coastal habitat sites. The development would not therefore result in a significant adverse effect on the integrity of the sites.

Other Matters

14. My attention has been drawn to previously refused schemes on this site, including an appeal relating to thirteen dwellings that was dismissed. I note that the proposal for thirteen dwellings was assessed against different criteria as it was not proposed as limited infilling. Given the different nature of the appeal proposal to that scheme, it carries very little weight in determining this case. An earlier application for four detached bungalows was also refused permission, but I have little information on that application or why it was refused. In any case, each appeal must be determined on its own merits, which I have done in this case.
15. I have considered the concerns raised by residents regarding the proposed development. Any disturbance arising from construction would be temporary, while hours of work are controlled under other legislation. The potential for increased wear on the surface of Newhouse Avenue is a private legal matter.
16. The development would result in the loss of part of the existing established hedgerow, which would be compensated for by additional planting. The impact on wildlife would be mitigated by biodiversity enhancement measures.
17. The appeal proposal would result in additional traffic on Newhouse Avenue from the new houses. However, the Council did not consider that this additional traffic would cause such additional congestion or disturbance that it would warrant refusing planning permission. I see no reason to disagree with this conclusion, given the number of existing properties that have an access onto this road.
18. Concerns regarding the potential for overlooking and loss of privacy to existing houses were not found by the Council to justify refusing permission. Given the separation distance between the existing and proposed houses and the presence of the hedgerow along the front boundary of the site, I see no reason to disagree with this conclusion.

Conditions

19. I have had regard to the conditions suggested by the Council and, where appropriate, amended the recommended wording in accordance with national Planning Practice Guidance.
20. I have imposed the standard commencement condition (1) and, for the sake of certainty, one specifying the approved plans (2).
21. I have imposed a condition requiring submission of details of external materials (3) as these are not specified on the approved plans. I have also imposed a condition relating to landscaping of the development site (4) and given that the proposals include the partial removal of an established hedgerow it is

appropriate that these details be submitted and agreed prior to any works commencing on site.

22. Conditions relating to the management of ecological impact and biodiversity enhancement (5, 6, 7) are reasonable and necessary as the appeal site is greenfield land with some habitat potential for protected species.
23. A condition requiring that the vehicle access be laid out to a safe standard (8) is reasonable and necessary as the development will create new traffic on a relatively narrow road. A further condition requiring that the surface of the access be finished in bound material (9) is necessary to ensure that unbound material does not spill into the highway and create unsafe conditions. In addition, as the road is narrow with multiple properties taking access from it, a condition requiring a construction traffic management plan (10) is necessary to ensure that parking associated with the development does not obstruct access to these neighbouring properties.
24. A condition requiring provision of a residential travel information pack (11) for the occupiers of the new houses is appropriate to encourage sustainable travel use on the part of occupiers of the approved dwellings.
25. I have not imposed a condition requiring a further noise impact assessment as one has been provided with the appeal.

Conclusion

26. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

Schedule of conditions for appeal ref: APP/V1505/W/21/3283720

Land On The East Side Of Newhouse Avenue, Wickford, SS12 0JZ

1. The development to which this permission relates must be commenced not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development hereby permitted shall be carried out only in accordance with the following approved drawings:

LRW 001 Revision 1 (Block Plan)
LRW 002 Revision 1 (Site Layout Plan)
LRW 003 Revision 1 (Site Survey)
LRW 004 Revision 1 (Location Plan)
LRW005 Revision 1 (Street Scene)
FLE 002 Revision 1 (Floor Plans P 1 & 2)
FLE 002 Revision 1 (Floor Plans P 3 & 4)
FLE 003 Revision 1 (Elevations P 1 & 2)
FLE 003 Revision 2 (Elevations P 3 & 4)
3. No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. The development hereby permitted shall not commence until there has been submitted to and approved by the local planning authority a scheme of landscaping which shall include details of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following occupation of the buildings, or completion of the development, whichever is sooner. Any trees or shrubs or other elements of landscaping dying within five years of planting, shall be replaced by the developers or their successors in title.
5. All mitigation and enhancements measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology Ltd, October 2019), as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
6. Prior to the commencement of development, a construction environmental management plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
 - a) Risk assessment of potentially damaging construction activities,
 - b) Identification of biodiversity protection zones
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements),
 - d) The location and timing of sensitive works to avoid harm to biodiversity features,

- e) The times during construction when specialist ecologists need to be present on site to oversee works,
- f) Responsible persons and lines of communication,
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and,
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

7. A Biodiversity Enhancement Strategy for protected and Priority species shall be submitted to and approved in writing by the local planning authority prior to commencement of works above ground level, following the recommendations made in the Preliminary Ecological Appraisal (Hybrid Ecology Ltd, October 2019). The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures,
- b) detailed designs to achieve stated objectives,
- c) locations of proposed enhancement measures by appropriate maps and plans,
- d) persons responsible for implementing the enhancement measures; and,
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

8. Prior to occupation of the development the vehicular access shall be constructed at right angles to the existing carriageway as shown in principle on planning application drawing number LRW 002 Revision 1. The width of the access at its junction with the highway shall not be less than 5.5 metres, shall be retained at that width for the first 6 metres within the site and shall be provided with an appropriate crossing to the Newhouse Avenue carriageway.
9. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
10. No construction works shall commence on site until a construction traffic management plan has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority. The development shall thereafter be carried out in accordance with the approved details. The principal areas of concern that should be addressed are site operative, delivery and visitor parking.
11. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution 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. These packs (including tickets) shall be provided by the Developer to each dwelling free of charge.

End of schedule