

Appeal Decision

Site visit made on 16 March 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022.

Appeal Reference: APP/P1560/W/21/3281960

Land at 'The Laurels', Parsonage Lane, Tendring CO16 0DE

- 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 Messrs Pemberton, Copping and Holben (Maison Investments Limited) against the decision of Tendring District Council.
 - The application (reference 20/00822/FUL, dated 12 June 2020) was refused by notice dated 19 April 2021.
 - The development proposed is described in the application form as the "erection of 3 no. bungalow dwellings".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three bungalows, at 'The Laurels', Parsonage Lane, Tendring CO16 0DE, in accordance with the terms of the application (reference 20/00822/FUL, dated 12 June 2020), subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. Paragraph 7.8 of the appellants' "Statement of Case" stated that "the appellants reserve the right to submit a claim for costs under a separate cover" and paragraph 3.2 of the appellants' "Final Comments" also alluded to a claim for costs. In the event, however, there is no formal application for an award of costs in relation to this appeal.

Preliminary points

3. Notwithstanding the description of the proposed development that was given in the application form, the nature of the proposal can more clearly be expressed as the erection of three bungalows.

Main issues

4. There are two main issues in this appeal. The first main issue is whether a safe means of access can be provided to the site. The second is the effect of the proposed development on the residential amenities of neighbours (whether unacceptable harm would be caused by reason of intrusion due to noise, fumes and headlights).

Reasons

5. The appeal site is located within a small residential enclave at Tendring Green, in which Parsonage Lane forms the northern side of a triangle of roads that have development on both sides of the roads but which are set in a wider landscape that is predominantly rural in nature. For the most part, the houses in the immediate vicinity of 'The Laurels' are traditionally designed, two-storey detached or semi-detached buildings with pitched roofs but there is a wide variety of house plans and the plots are not necessarily consistent in shape and layout.
6. 'The Laurels' is located on the southern frontage of Parsonage Lane, with a large but irregularly shaped plot that extends back into the centre of the space between the triangle of roads. The existing house stands on the frontage, between other houses, with a driveway at one side that provides access to the land at the rear. The house itself is a two-storey house to which a side extension has been added. There are some minor outbuildings behind the house, but the land at the rear is primarily laid to grass, as garden land, with a number of trees, mainly on or near to the boundaries of the site. At the front of the house, there is a small front garden with a wall and hedge close to the roadside.
7. Beyond the side and rear boundaries of the appeal site are the gardens of neighbouring houses with the closest house to the east, where it is clearly visible from the appeal site.
8. It is now proposed to erect three bungalows in the garden, with access from the existing driveway.
9. Under the broad heading "Promoting sustainable transport", Section 9 of the 'National Planning Policy Framework' (which was revised in July 2021) deals with a number of transport related issues. It continues to emphasise the importance of maintaining highway safety and convenience, aiming to ensure that *"safe and suitable access to the site can be achieved for all users"* although it also notes that *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*.
10. The 'National Planning Policy Framework' also emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, which includes protecting existing residential amenities.
11. An emphasis on the importance of both highway safety and good design is also to be found in the Development Plan. Policies QL10 and TR1a of the 'Tendring District Local Plan 2007' cover a number of "functional" requirements, including the need to achieve safe access, while Policy HG13 deals with specific requirements in relation to "backland development", including access requirements and impacts on neighbours.
12. Section 1 and Section 2 of the new 'Tendring District Local Plan 2013-2033 and Beyond', were adopted in January 2021 and January 2022, respectively. The

Policies in the earlier Local Plan are taken forward in the new Policies and they are not contentious in themselves. Policy SPL3 covers a range of design considerations and includes criteria relating to access requirements and impacts on neighbours, while Policy LP8 is specifically concerned with "backland residential development". In the new 'Local Plan', the site does not fall within a "Settlement Development Boundary" (which does not apply to Tendring Green).

13. Parsonage Lane is a short, straight minor road, between Heath Road (the B1035) and Chapel Lane, with some on-street parking, and I accept that traffic speeds are relatively low. There are numerous residential drives off the road. The proposed development would make use of the existing side access to the site, which opens onto the southern frontage of the public highway.
14. The final officer's report on the planning application reached a different conclusion to the two earlier reports and stated a requirement for "a 2.4m x 90m visibility splay to the site access". The Council's decision notice refers to a requirement for "a 2.4m x 33m visibility splay".
15. A detailed proposal for the access, involving the removal of the front hedge and decorative wall and based on a careful survey, has been submitted with the planning application. It would serve only four properties in total and would not be out of character with other accesses in the road. Bearing in mind the realistic traffic speeds that can be expected in Parsonage Lane, I am convinced that the proposed access would be wholly acceptable in highway terms and that it would achieve a safe means of access to the site.
16. Provided that the proposed access is constructed in accordance with the approved drawings, it is therefore unnecessary to further specify the dimensions of access details in conditions, although the use of unbound materials in proximity to the public highway ought to be precluded, to avoid the incursion of loose material into Parsonage Lane.
17. The new drive would enter the site alongside its western boundary, to serve the three new dwellings at the rear. There is a narrow gap between the site boundary and the neighbouring house to the west, while the neighbouring property also has a rear outbuilding adjacent to the improved drive. The new vehicle turning and parking area would be sited towards the middle of the site, however, away from the site boundaries.
18. The relationship between the vehicle accesses for the three new dwellings and other dwellings in the area would be comparable to many other examples in a modern residential layout. The turning and parking areas would be located away from the site boundaries, as well as being partially screened, to the east and south, by the new buildings themselves. The access drive would run alongside the boundary for part of its length but it would not be unduly intrusive (with careful boundary treatment).
19. In the light of all this, I am not persuaded that unacceptable harm would be caused as a result of intrusion due to noise, fumes and headlights (as the Council have asserted) and I am confident that the proposals do not conflict with the most relevant planning policies. Although the site does not lie within a formal development boundary, it is entirely surrounded by existing buildings

- and is eminently suitable for development, in principle, in the context of the Development Plan read as a whole.
20. The appeal site lies within an established settlement and is a “sustainable” location, in planning terms. The contribution that the appeal scheme would make to the provision of residential accommodation in the locality weighs in favour of the appeal. I have concluded that the project would not give rise to unsafe traffic conditions and would not cause unacceptable harm to the living conditions of nearby residents. Although there is no formal settlement boundary for Tendring Green, the site is surrounded by existing development and does not amount to an unusually awkward or cramped plot.
21. Hence, I am persuaded that the scheme before me would not be in conflict with the Development Plan as a whole, in principle, and that it can properly be permitted, subject to conditions. Although I have considered all the matters that have been raised in the representations (including correspondence subsequent to the site visit), I have found nothing to cause me to alter my decision.
22. I have, however, also considered the need for conditions. In imposing conditions, I have taken account of the conditions that have been suggested by the Council in the usual way (without prejudice to their main arguments in the appeal) and accepted by the appellants.
23. I have concluded that standard conditions are necessary, to define the planning permission and to ensure that quality is maintained. The approved drawings do not, however, include the submitted un-numbered Sewer Run Map and the un-numbered Wastewater Map since these are in the nature of background information, rather than being drawings that describe the proposed development. No doubt they will have to be addressed in practice, during the construction works.
24. As suggested by the Council, conditions have also been imposed relating to traffic and highways details, although the suggested conditions have been combined and simplified (in part to avoid duplication or confusion). On the other hand, I am not persuaded that specific further details of future bin stores and cycle storage are needed, bearing in mind the nature and size of the new plots.
25. I accept that certain permitted development rights ought to be removed, as indicated by the Council, to protect privacy and to ensure that the open nature of the proposed development is maintained in the future.
26. I also accept that a Construction Management Plan and a Residential Travel Information Pack are necessary and I have also imposed a condition in respect of archaeological investigation.
27. I am not, however, persuaded that extensive conditions related to ecological matters, as envisaged by the Council, are necessary in the circumstances of this site, to make the proposed development acceptable. In the light of the report that was submitted with the planning application, I have imposed a less detailed condition to cover this matter, although I have also included a control on exterior lighting, to mitigate the effect on wildlife.

28. Even so, I have formed the opinion that some enhancement of the boundary treatments (to include boundary planting) is necessary and desirable, to further mitigate any impact on neighbouring properties, and I have attached conditions to deal with this matter.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 1810/19/01H (Existing & Proposed Site Plan; Location Plan);
 - drawing number 1810/19/02A (Plot One – Proposed Floor Plans, Elevations and 3D Images);
 - drawing number 1810/19/03A (Plot Two – Proposed Floor Plans, Elevations and 3D Images);
 - drawing number 1810/19/04A (Plot Three – Proposed Floor Plans, Elevations and 3D Images);
 - drawing number 1810/19/06B (Proposed Access / Part Site Plan);
 - drawing number AS1180-01 (Topographical Survey).
3. Notwithstanding the information provided with the planning application, prior to first occupation of the dwelling hereby permitted, full details of boundary treatments shall have been submitted to and approved in writing by the local planning authority. All these works shall be carried out as finally approved in detail. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme approved by the local planning authority.
4. Any trees or plants which within a period of five 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, unless the local planning authority gives written consent to any variation.
5. Prior to first occupation of any of the dwellings hereby permitted, the areas shown on the approved plans as being dedicated to car parking and manoeuvring shall be laid out and brought into use as such, with a suitable crossover in the highway. They shall be retained and used for no other purpose thereafter.
6. Prior to the commencement of any other operations, the revised access shall be laid out and brought into use, as shown on the approved drawings. Nothing above 0.6 metre high shall be located or allowed to grow in the visibility splays shown on the drawings.
7. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
8. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Plan.
9. Prior to the first occupation of each of the dwellings hereby permitted, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by the

local planning authority, to include six one day travel vouchers for use with the relevant local public transport operator free of charge.

10. No development or preliminary groundworks of any kind shall take place until the applicant has secured and undertaken a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority. The applicant will submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the Planning Authority). This is to include post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and the submission of a publication report.

11. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the 'Preliminary Ecological Appraisal and Great Crested Newt Survey' (Robson Ecology, June 2020) as submitted with the planning application. This shall include the entire removal of the New Zealand Pygmyweed and *Cotoneaster horizontalis* present on site. The measures may include the appointment of an appropriately competent person, such as an ecological clerk of works (ECoW), to provide on-site ecological expertise during construction. The construction activities and works shall be carried out in accordance with the approved details.

12. No external lighting of any part of the development hereby approved shall be installed, other than in complete accordance with a scheme for external lighting that has previously been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any approved external lighting scheme.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no dormer windows or rooflights shall be inserted into to north facing roof slope of Plot 1 or the east facing roof slopes of Plots 1 or 2 without the express written approval of the local planning authority.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no gate, fence, wall or other means of enclosure shall be erected, constructed or placed on any part of the open green space which encompasses the west elevation of Plot 1 and the north elevation of Plot 3, without the express written approval of the local planning authority.