

Appeal Decision

Site visit made on 24 January 2023

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2023

Appeal Ref: APP/X1545/W/22/3305860

Little House, 8 Witham Road, Wickham Bishops CM8 3NQ

- 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 R Stoakes against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00560, dated 22 April 2022, was refused by notice dated 4 July 2022.
 - The development proposed is demolition of existing dwelling and erection of a two storey detached replacement dwelling and a detached bungalow with associated access, parking and amenity.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

Reasons

3. The appeal property is a detached chalet bungalow with garden to front and rear, located in a semi-rural village setting. There are a number of other detached dwellings on the same side of Witham Road with woodland on the opposite side. The western boundary of the appeal site is next to a private drive, Paddock Chase, running off Witham Road, which includes a small number of dwellings positioned behind the dwellings with frontages on the main road.
 4. Policy D1 of the Maldon District Approved Local Development Plan 2014-2029 (2017) (the LDP) concerns design quality and the built environment. It requires development to respect and enhance the character and local context, and make a positive contribution against a number of criteria, including architectural style and height, size, scale, form, massing and proportion; and layout, orientation and density. Policy H4 of the LDP, concerning the effective use of land, requires that replacement dwellings should meet a number of criteria, including that the proposed replacement is of an appropriate scale to the plot and its setting in the landscape; and is of a design appropriate to its setting.
 5. No 8 is one of a small group of four dwellings between Paddock Chase and Wellands, also running off Witham Road, which have frontages on the main
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road. As such, this small group of dwellings defines the character and appearance of built development within the street scene along this part of the main road. No 2 on the other side of Paddock Chase is more detached from this group of dwellings, due to the separation of the private drive and the extensive screening along the boundaries of Paddock Chase and No 2's road frontage.

6. Nos 14, 12 and 10 are varied in size and design, ranging from, respectively, a large detached bungalow, a large chalet bungalow and a substantive dwelling of two storey scale with rooms in the roof space. These properties are laid out on a staggered building line, with No 14 furthest forward on its plot and No 10 next to the appeal site set furthest back. The appeal property is positioned in the middle of its plot on a broadly consistent building line with No 12.
7. Due to the distances between properties and screening by trees and other vegetation, the appeal property is seen most directly in relation to its immediate neighbour, No 10. While they are of significantly different scale and appearance, both dwellings present a spacious, open aspect to the street scene resulting from the significant set-back from the road frontage. This layout contributes to the verdant character of the area, resulting from the generous front gardens and planting on one side of the road and woodland on the other.
8. The proposed two storey replacement dwelling would be of similar scale to No 10 and, given this fact and the variety of dwelling types within the street scene, it would not be uncharacteristic in terms of its individual design and appearance. However, as a result of the proposed subdivision of the plot, the dwelling would be positioned considerably further forward than the existing dwelling and No 10. The only directly comparable dwelling in this position is No 14, but this is a bungalow and therefore of more limited height. The forward position of the two storey dwelling would, therefore, be uncharacteristic in relation to the street scene as a whole and particularly due to the stark contrast with the set-back of No 10 from the road frontage. Consequently, the replacement dwelling would appear as a dominant and uncharacteristic built form in the street scene that would harmfully undermine the otherwise spacious character and appearance of the area.
9. The trees to the front of the plot would have a limited screening effect and, therefore, would not overcome the harmful effects of the prominent dwelling, particularly when not in leaf as at the time of the inspection. While additional planting could be required by condition, such planting should not be viewed as desirable simply to conceal an otherwise harmful form of development. The appellant contends that No 10 is a replacement for a dwelling that was much further forward on the appeal site and that other dwellings such as No 14 were permitted forward of the historic building line. However, I am required to consider the appeal proposal as it pertains to present circumstances on the ground and, therefore, these matters cannot have a determinative influence on the decision.
10. Turning to the proposed bungalow, this would be positioned to the rear of the appeal site, between the replacement dwelling and an existing dwelling, 'The Oaks'. The new bungalow would have a frontage on and access to Paddock Chase and, therefore, together with 'The Oaks', would reflect the layout of the two dwellings opposite. It would not readily be seen from the main road

frontage and would not otherwise be a prominent or uncharacteristic addition in this location.

11. I note the Council's contention that the appeal site has a distinct and established rural character, and the differing views of the main parties about the influence of 'The Oaks' in this setting. However, the fact is that this dwelling is established and the appeal site is a relatively small area of domestic garden land within a setting where it is surrounded by other development. As the proposed bungalow reflects the scale and layout of surrounding development it would not result in material harm to the character and appearance of this setting.
12. Nonetheless, for the reasons given above, the two storey dwelling would have an unacceptably harmful effect on the character and appearance of the appeal site and the surrounding area. Consequently, the proposal is contrary to Policies D1 and H4 of the LDP, as described above. It is also contrary to the National Planning Policy Framework (the Framework), which promotes high quality design. The fact that the Council and Parish Council did not identify any conflict with the Wickham Bishops Neighbourhood Plan 2021 does not alter this conclusion.

Other Matters

13. I have had regard to the appellant's personal circumstances and acknowledge that the replacement dwelling and bungalow are required to address severe subsidence to the existing dwelling and the financial support to address this. However, this matter must be balanced with the harm that has been found. Taking my findings as a whole and on balance, this matter does not overcome the harm and conflict with development plan policies that would result from the proposal.
14. I acknowledge that there were no objections to the proposal, but this is insufficient reason to set aside the harm and conflict with the development plan. Concerns are raised about procedural issues with regard to the Council's handling of the planning application. However, these are properly for the Council to consider and are outside the scope of this appeal.
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions¹. It says that plans and decisions should apply a presumption in favour of sustainable development².
16. The Council states that it cannot identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework³. The appellant indicates that the last published evidence has the supply at 3.26 years, which is now possibly lower according to a recent unspecified appeal decision. Consequently, the policies which are most important for determining the application are out-of-date⁴ and permission

¹ Paragraph 2.

² Paragraph 11.

³ Paragraph 74.

⁴ Footnote 8 to paragraph 11d)

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 as a whole⁵.

17. The shortfall from the requisite five year supply is substantive and, therefore, the limited net gain of one dwelling, making use of previously-developed land, is important. Moreover, there would be some short-term economic benefit from the dwellings' construction and their occupants could help to support local services within the surrounding area. I accept also that the dwellings would meet an identified need, albeit not the greatest need for three-bedroom dwellings.
18. Conversely, the proposal would have an unacceptably harmful effect on the character and appearance of the appeal site and the surrounding area. It would thus be contrary to Policies D1 and H4 of the LDP, which in promoting high quality design and effective use of land are consistent with the Framework; and contrary to section 12 of the Framework itself, as it would fail to meet the Framework's requirement that development is sympathetic to local character⁶. I consider that such adverse impacts would significantly and demonstrably outweigh the benefits of this scheme, as assessed against the Framework as a whole. Hence the presumption in favour of sustainable development, as advocated at paragraph 11 of the Framework, does not apply.

Conclusion

19. The proposal is contrary to development plan policies and to the Framework as it would cause unacceptable harm. Despite the shortfall in housing provision, the presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁵ Paragraph 11d)ii.

⁶ Paragraph 130c).