



Appeal Decision

Site visit made on 14 November 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/N1540/W/23/3320106

62 Glebelands, Harlow CM20 2PB

- 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 Craig Walsh against the decision of Harlow District Council.
 - The application Ref HW/FUL/21/00656, dated 7 December 2021, was refused by notice dated 14 October 2022.
 - The development proposed is the erection of a two-storey detached dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referred to the amended paragraph numbers where necessary.
3. The present appeal scheme follows a previous appeal¹ at the site for a detached dwelling. While I have had regard to the previous appeal decision, I have determined the current proposal on its own merits.
4. During the consideration of the planning application, revised drawings were submitted. It was the revised drawings on which the Council determined the planning application. I have therefore determined the appeal on this basis.
5. The submitted documentation refers to a gate across Nettleswell Lane that would prevent access to the appeal site. However, at the time of my site visit, the gate had been removed.

Main Issues

6. The main issues are the effect of the proposed development on: (a) the character and appearance of the surrounding area, including the Mark Hall North Conservation Area; and (b) highway safety.

Reasons

Character and Appearance

7. The appeal site lies within the Glebelands estate that forms part of the Mark Hall North Conservation Area ('the CA'). I therefore have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas)

¹ Appeal Ref APP/N1540/W/18/3211990

Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CA is significant as one of the original neighbourhoods of Sir Frederick Gibberd's new town in which residential neighbourhoods are separated from each other and from commercial and industrial areas by 'Green Wedges'.

8. The majority of the Glebelands estate takes the form of original 'Harlow housing' comprising short terraces of two-storey properties constructed of brick with monopitch roofs. These properties are set within limited plots but are surrounded by open space. In contrast, 62 Glebelands and its immediate neighbours to the southwest, comprise two-storey detached dwellings with pitched roofs sited within substantial plots. They are characterised by mature trees and landscaping, and back onto allotments or Nettleswell Lane. Although different from the Harlow housing, these properties complement them and add to the character and appearance of the CA.
9. The appeal site originally formed the northwest corner of the garden to No 62. It is triangular and is bounded by Nettleswell Lane to the north. At the time of my site visit, it was overgrown with vegetation and contained several trees. Nettleswell Lane is predominantly used by walkers and cyclists and forms part of a larger wooded 'Green Wedge' to the north of the appeal site. While the built form of Glebelands is separated from the lane by a landscaped and wooded gap that includes rear gardens and the appeal site. Consequently, the lane's character and appearance is of a verdant corridor with limited views of the surrounding estate.
10. It is proposed to construct a detached 1.5-storey dwelling with access from Nettleswell Lane. The proposed dwelling would erode the existing undeveloped gap and would form an isolated outlier to the Glebelands estate. It would also introduce a backland form of development that is not a feature of the surrounding area. It would therefore appear incongruous and alien. Furthermore, the design of the proposed dwelling, although amended to have a pitched roof, would be more akin to a barn which would conflict with the character and appearance of the estate.
11. I have been directed to a dwelling further to the east of the appeal site, identified as 1 and 2 Bromley Farm Cottages by the Council, to justify that the proposed dwelling would not be isolated from the Glebelands estate. However, the information before me suggests that these cottages pre-date the construction of the estate, they are sited immediately adjacent to existing commercial buildings, and they are a significant distance from the appeal site. Therefore, they are not directly comparable to the appeal proposal. In any event, I must determine each case on its own merits.
12. I acknowledge that the siting and scale of the proposed dwelling has been altered/reduced from the two most recent planning applications², and that the retained trees and proposed planting could assist in screening the proposed dwelling from Nettleswell Lane. However, this would not overcome the harm I have found from the principle of siting a dwelling in this location. Furthermore, the proposed access onto Nettleswell Lane would afford users of the lane views of the proposed dwelling, and screening should not be used to obscure an otherwise unacceptable form of development.

² Planning Refs HW/FUL/18/00205 and HW/FUL/21/00130

13. For the reasons detailed above, the proposal would harm the significance of the CA and would not preserve or enhance its character or appearance. Consequently, it would cause less than substantial harm to the character and appearance of the CA. Therefore, in accordance with paragraph 207 of the Framework, I must weigh the harm against the public benefits of the proposal.
14. The provision of one additional dwelling would make a contribution, albeit moderate, to the Government's objective of significantly boosting the supply of new homes. The proposal would also provide a short-term employment through the construction of the development, and public benefits would arise from the additional support to the local community and its services from future occupiers. These public benefits would therefore carry moderate weight in favour of the scheme. Against these moderate public benefits, paragraph 205 of the Framework explains that great weight should be given to the conservation of the designated heritage asset. Consequently, the harm I have found in respect of the effect of the proposal on the significance of the CA would not be outweighed by the modest public benefits I have identified.
15. In reference to the first main issue, the proposal would adversely affect the character and appearance of the surrounding area, including the Mark Hall North Conservation Area. It would conflict with Policies PL1, PL8, PL12, H2, WE1 and WE5 of the Harlow Local Development Plan, adopted 2020 ('the DP') which, amongst other things, seek to ensure development protects, enhances or improves local distinctiveness; conserves or enhances heritage assets and their settings; and protects and enhances existing green infrastructure and landscaping. It would also conflict with the Harlow Design Guide Supplementary Planning Document, adopted 2011 ('the SPD') and Chapter 16 of the Framework that seeks to conserve and enhance the historic environment.
16. The Council's reason for refusal includes Policies PL5 and WE2 of the DP. However, these policies are in respect of development within the Green Belt, a Green Wedge or a Green Finger. As the appeal site falls outside of these designations, these policies are not applicable to this main issue.

Highway Safety

17. Nettleswell Lane is a narrow road that is accessed from Howard Way. However, at the time of my site visit, access was restricted along the length of the lane by a metal barrier close to its junction with Glebelands. The lane provides access to the adjacent allotments and allows pedestrian and cycle access through the Green Wedge which links to the town centre and the adjacent retail/commercial park. During my site visit, I witnessed both pedestrians and cyclists using the lane, which I suspect would be busier during commuting times and at weekends.
18. The section of lane closest to Howard Way provides vehicle access to the adjacent allotments. However, users of the allotments would likely walk or use their private car and the width of the lane would allow a car and a pedestrian to pass side-by-side. However, access to the appeal site by larger vehicles such as delivery and refuse vehicles or fire engines would require pedestrians and cyclists to stand off the road to allow them to pass. I accept that traffic movements associated with one dwelling would be low, however, there would be potential for conflict between the users of the lane and issues of highway safety.

19. The Council's Waste, Recycling and Street Scene Officer ('the WRSSO') has indicated potential issues in collecting waste receptacles from the proposed dwelling due to the distance vehicles are permitted to reverse. The appellant asserts that larger vehicles such as a delivery or refuse vehicle could turn within the appeal site and exit in a forward gear, however, this has not been evidenced with vehicle tracking drawings.
20. The appellant has indicated that they would be willing to enter into a legally binding agreement for future occupiers of the dwelling to have their waste collected privately. However, no planning obligation has been submitted with the appeal. While the appellant has stated that this could be conditioned should I be minded to allow the appeal, the Planning Practice Guidance states that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability, and a negatively worded condition limiting the development that can take place until a planning obligation has been entered into, is unlikely to be appropriate in the majority of cases. Only in exceptional circumstances, where there is clear evidence that the delivery of the development would otherwise be at serious risk (such as in the case of particularly complex development schemes) would a negatively worded condition be acceptable.³ The proposal before me would not meet this exception. Consequently, the use of a condition to secure a planning obligation would not meet the six tests for conditions as detailed at paragraph 56 of the Framework.
21. I have been directed to a dwelling further to the east of the appeal site (named as 1 and 2 Bromley Farm Cottages by the Council) that the appellant asserts is accessed from Nettleswell Drive. However, this has not been substantiated with evidence. Both sides of the lane are planted with trees which overhang the lane and would need initial and ongoing crown lifting to prevent overhanging branches from striking a waste collection vehicle. The majority of the trees grow on land that falls outside of the appeal site and I do not have a mechanism before me to ensure that the lane would remain free from obstruction for the lifetime of the development.
22. In reference to the second main issue, the proposal would have an adverse effect on highway safety. It would be contrary to Policies H2 and IN2 of the LDP which, amongst other things, seek to ensure that development would not cause a detrimental impact on the safety of all highway users including pedestrians, cyclists and horse riders; the development provides for adequate, safe and convenient servicing arrangements; and consideration has been given to the movement and turning of emergency and refuse vehicles.

Other Matters

23. The proposed dwelling would be both accessible and adaptable to meet the changing needs of occupants, and it is proposed that the development would include energy efficiency measures such as solar panels and rainwater harvesting. However, these are a requirement of the DP's policies. Furthermore, the provision of an electric vehicle charging point is covered by Building Regulations. The appellant suggests that the proposed dwelling would secure natural surveillance of Nettleswell Lane. However, there is no evidence to suggest that crime and disorder is a problem affecting the lane.

³ Paragraph: 010 Reference ID: 21a-010-20190723

24. I have been directed to a previous planning approval⁴ for a detached chalet bungalow on the appeal site. However, it dates from 2006 and therefore pre-dates the DP, the Framework and the SPD. Therefore, there has been a material change in policy circumstances since the 2006 approval. Accordingly, I attach limited weight to the fact that permission previously existed to construct a dwelling on the land.
25. While the Council's Consulting Arboricultural Officer and Essex County Council's Highways & Transportation department raise no objection to the proposal, these are neutral matters. The appellant has raised concern over a lack of communication with the Council and the turnover of planning officers dealing with the application. However, this has not prevented me from forming a view on the main issues.

Conclusion

26. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

⁴ Planning Ref HW/PL/06/00107