



Appeal Decision

Site visit made on 20 December 2023

by **David Smith BA(Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2024

Appeal Ref: APP/P1560/W/22/3313107

Land south west of Crockleford Grange, Bromley Road, Ardleigh, CO7 7SE

- 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 Bellway Homes and Nicola, Benjamin, Christopher, Eileen and Marcus Harrington against the decision of Tendring District Council.
 - The application Ref 21/02164/FUL, dated 15 December 2021, was refused by notice dated 18 November 2022.
 - The development proposed is construction of 14 dwellings, new access, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 14 dwellings, new access, landscaping and associated works at land south west of Crockleford Grange, Bromley Road, Ardleigh, CO7 7SE in accordance with the terms of the application, Ref 21/02164/FUL, dated 15 December 2021, subject to the conditions in the attached schedule.

Preliminary Matter

2. As part of the appeal an updated landscape master plan and detailed planting proposals were submitted. These had not previously been seen by the Council and no specific comments have been made in respect of them. Therefore, they do not form part of the proposal under consideration.

Main Issues

3. These are:
 - Whether the proposed dwellings would be in a suitable location having regard to relevant development plan and emerging policies, including those relating to the Tendring Colchester Borders Garden Community; and
 - The effect of the proposed dwellings on the setting of the listed buildings adjoining Hill Farm House and on a non-designated heritage asset.

Reasons

Location

4. The appeal site comprises a parcel of land on the southern side of Bromley Road. Immediately to the west and south is a new development of 145 dwellings that was allowed on appeal (Ref: APP/P1560/W/17/3185776) in 2018 and which is nearing completion. Access to the proposed houses would be gained through that site. To the east is Churn Wood which is a designated

- ancient woodland. Outline planning permission for three dwellings was given at appeal (Ref: APP/P1560/W/22/3311866) in 2023 on land directly to the north.
5. Ardleigh is categorised as a smaller rural settlement in the hierarchy set out in Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond (Section 2) (TDLP2). However, the proposed dwellings would be well outside the Ardleigh Settlement Development Boundary. In these circumstances, Policy SPL2 indicates that applications will be considered in relation to the pattern and scale of growth promoted through the settlement hierarchy in Policy SPL1 and other relevant plan policies.
 6. For all intents and purposes, the proposed dwellings would be on the edge of Colchester which has expanded eastwards along Bromley Road. Policy SP3 of Section 1 of the Local Plan (TDLP1) establishes that existing settlements will be the principal focus for additional growth across North Essex. Whilst outside Tendring, the city is also referred to in the supporting text of TDLP2 as a Strategic Urban Settlement for the purposes of the hierarchy. These settlements are the most sustainable locations for growth. Future residents would have good access to a range of facilities and services in this part of Colchester. These are within walking and cycling distance and there are connections to other areas by those means or by public transport.
 7. Therefore, the proposal would relate well to the pattern and scale of growth enshrined in the overall strategy for the distribution of housing. Policy SPL2 does not prohibit all development outside of settlement development boundaries. The fairly modest number of houses proposed would directly adjoin Colchester and would be acceptably located in relation to the objectives of relevant development plan policies. These findings are also consistent with those of the Inspector who decided the appeal on the land to the north and with the Council's decision to grant planning permission for four detached dwellings on land on the opposite side of Bromley Road.
 8. To the east of the appeal site, the Council is promoting the Tendring Colchester Borders Garden Community. It submitted a Development Plan Document (DPD) for examination in September 2023 setting out the detail of the Community. An Inspector has been appointed but no hearing dates set. In any event, the appeal site has been excluded from the Garden Community area to which the DPD relates. As a consequence, there would be no conflict with Policy SP8 of TDLP1 which establishes that planning permission will not be granted for development forming part of the Garden Community prior to the adoption of the DPD.
 9. The proposed development would be separated from the area of the Garden Community by the block of woodland. This would therefore avoid coalescence between the Community and the outskirts of Colchester. The houses would also be sited so as to retain a generous margin to the ancient woodland and so should not prejudice its value or important landscape function. As the appeal site is outside the site allocation boundary of the DPD, the proposal would not prejudice the comprehensive and holistic approach that is required for the new Community. Neither would it be within an identified Strategic Green Gap.
 10. The examination of the Ardleigh Neighbourhood Plan formally opened in July 2023. The Examiner has sent an interim note of findings which contains several questions and matters of clarification. A response to this has been made and further consultation has taken place whilst the examination is

paused. Policy GDP provides that new development outside of the Settlement Development Boundaries will not generally be permitted. Policy HP confirms that housing development in such locations will be strictly resisted. Whilst the Plan is in its latter stages it is not certain that the current wording of these policies will remain. Therefore, in deciding this appeal, the conflict with these emerging policies is a matter of limited negative weight.

11. The Council raises concern about accepting development outside a settlement boundary as creating a precedent. However, additional housing has already been accepted in the near vicinity. In any event, this is a rather unusual situation where the proposal would be closely associated with development on the edge of Colchester rather than an outlying part of Ardleigh where use of private vehicles would be inevitable. The proposed houses would represent a modest extension of the 145 houses that have been or are in the process of being built. The site is a suitable one for an additional 14 dwellings.
12. There would be accord with relevant development plan policies. The proposal would be consistent with the broad strategy for growth as it would be adjacent to a Strategic Urban Settlement. There would be no conflict with Policy SP8 concerning the Tendring Colchester Borders Garden Community and the proposal would not jeopardise the aspirations for this new Community in the DPD that is under examination. The proposed houses would be contrary to emerging Neighbourhood Plan policies but this material consideration does not outweigh the overall acceptability of the site for new housing.

Setting of listed buildings

13. Section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 sets out a general duty to have special regard to the desirability of preserving listed buildings or their settings. This is a matter of considerable importance and weight. The National Planning Policy Framework provides that great weight should be given to the conservation of heritage assets.
14. To the north-east of the appeal site is a complex of four Grade II listed buildings. These were originally the stock yard to Hill Farm House, which is a non-designated heritage asset. These eighteenth and nineteenth century vernacular buildings were historically within the same ownership as the farmhouse. They comprise a cart lodge, a cow byre and hayloft, a stable and cart lodge and a barn and linked cow byre.
15. The original appearance of two of the buildings has been affected by their conversion to residential use and there are domestic trappings within the central yard. Nevertheless, their agricultural origins are clearly discernible and, as well as their individual architectural qualities, a key feature of their significance is their collective value as a group of traditional buildings around a historic farmyard.
16. The small complex of timber framed and partly weatherboarded buildings is clearly seen from Bromley Road. Indeed, the context in which the buildings are experienced mainly comprises the adjoining farmhouse and the wooded backdrop. It is therefore the immediate surroundings that frame them and provide the setting in which they are understood. Originally they would have been in quite an isolated location but that has changed due to the development that has taken place on the opposite side of Bromley Road and to the east.

17. The appeal site was in the same ownership and occupancy as the four listed buildings in 1842. There is therefore a historical association. However, that link has been broken and is not readily appreciable. Indeed, owing to the intervening wood, visibility between the group at Hill Farm is limited to the northern end of the site from where the roofs of the larger residential buildings can be glimpsed. Given the physical relationship between the two there is little sense that the appeal site contributes positively to the significance of these heritage assets, including any role as a buffer between them and the recently built and permitted houses.
18. The proposal would introduce built form on the appeal site where there is currently none. The houses would be seen from within the grounds of the listed buildings. However, this would not alter the main way that their age, design and history, including their group value, is appreciated as this is from Bromley Road. Due to the changes that have taken place over time, the importance of the appeal site in underlining the former function of these buildings is now tenuous. In any event, the proposed dwellings would not hem in the former farm buildings or spoil the understanding of their significance.
19. As a result, even taking account of the cumulative impact arising from the new houses on the land immediately to the west, the proposal would not harm the significance of these heritage assets. The setting of the listed buildings would therefore be preserved.
20. As such, there would be no conflict with Policy PPL9 of TDLP2 which refers to respecting the significance of listed buildings, including any contribution made by their setting. Policy EP of the emerging Neighbourhood Plan indicates that development affecting the setting of a listed building should preserve or enhance its significance and this policy would also be complied with.
21. Hill Farm House appears to have been considerably altered. Its significance relates to its group value in conjunction with the listed buildings although, in its own right, the farmhouse has a low level of local heritage importance. The functional associations with the surrounding agricultural land have disappeared and it now appears as a dwelling. As such, the wider setting, including the appeal site, contributes little to its attributes.
22. There would be inter-visibility between the farmhouse and some of the proposed houses. However, they would not interrupt or interfere with the relationship between it and the historic farmstead which is the key aspect of its significance. As such, the indirect effect of the proposal would not detract from the qualities of this non-designated heritage asset or reduce its significance.
23. The proposed development would therefore accord with TDLP2 Policy SPL3 on sustainable design which refers to maintaining site features of heritage value and with Policy SP7 of TDLP1 which seeks to protect and enhance assets of historical value.

Other Matters

24. The Parish Council is concerned that the proposal would add to the impact of the 145 permitted houses on the local landscape, views, wildlife habitats and corridors. However, the visual consequences of the proposal would be modest given the number of new buildings proposed and the containment of the site by

- perimeter vegetation. In addition, it is not disputed that the proposal would lead to a net gain for biodiversity in line with the Framework.
25. There is anecdotal evidence of accidents and reports of near misses due to speeding traffic along Bromley Road. That may be a matter to address separately but there is no clear technical evidence that an extra 14 dwellings would have an unacceptable impact on highway safety.
26. There would be disruption and further traffic during the construction period but this would not be in perpetuity and there is no evidence that any resulting noise or fumes would adversely affect the environment or the health of nearby residents. No information has been provided to indicate that local services are already overstretched. Drainage issues could be covered by condition to avoid harm to Salary Brook.
27. The proposed development would not lead to a net loss of good quality green landscape features and there is no evidence to suggest that there would be a permanent loss of best and most versatile agricultural land. As such, there would be no conflict with emerging Neighbourhood Plan Policy EP.
28. The Council's supply of deliverable housing sites is 6.44 years and the expectations of the Housing Delivery Test have been met. However, this does not preclude suitable development sites from coming forward. The inclusion of four affordable housing units is compliant with local policy but there are 167 households on the register seeking housing in the village. The proposal would therefore be beneficial in catering for the needs of this group in the community.
29. The appeal site is within the zone of influence of the ecologically rich and diverse Essex Coast habitats sites. The proposed dwellings would be likely to increase recreational disturbance at these sites as future residents would be liable to travel to them. In combination with other development, the proposal would therefore lead to a likely significant effect on the designated features of the habitats sites.
30. In conjunction with other Essex authorities, the Council has adopted a Recreational Disturbance Avoidance and Mitigation Strategy. This sets out specific measures by which disturbance from increased recreation can be avoided and mitigated and which are to be funded by financial contributions. Policy SP2 of TDLP1 confirms this approach. A planning obligation dated 17 November 2022 has been completed which secures the requisite payment.
31. Harmful effects would therefore be prevented by means of effective mitigation. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the habitats sites. It would accord with Policy SP2 and the proposal would also comply with the Conservation of Habitats and Species Regulations.

Conditions

32. The approved plans should be specified in the interests of certainty. To ensure a satisfactory appearance, details of hard and soft landscaping (including permeable surfacing) are necessary. The internal access road, pedestrian visibility splays and the parking spaces should be provided in timely fashion so that the development functions properly and safely. The issue of a residential travel pack to residents is warranted to promote sustainable transport.

33. There is moderate evidence for the survival of medieval or later archaeological features, especially as the site is on higher ground above Salary Brook. Conditions are therefore required to ensure that the nature and significance of any affected heritage assets is determined by means of a staged investigation and the results published.
34. To safeguard the ground water environment and minimise the risk of flooding, conditions are required to secure details of surface water drainage during construction and for the lifetime of the development. This should include a maintenance and management schedule.
35. Measures to enhance the natural environment should also be undertaken as recommended in the Ecological Assessment given the policies to this effect in the Framework. For similar reasons a construction management strategy and details of any lighting should also be provided to ensure that biodiversity interests are not jeopardised.
36. Some of the details referred to by these conditions are required before construction starts as they would affect that process and so need to be agreed prior to commencement. Where necessary the wording of the suggested conditions has been adjusted for simplicity and clarity.
37. The Council seeks to improve the sustainability of the development by requiring that certain detailed measures be undertaken but some of these are covered by Building Regulations. Whilst national policy refers to meeting the challenge of climate change, no specific development plan policies are referred to which would warrant insistence on achieving them. The dwellings would be laid out in a conventional fashion. There is no clear justification, including the relationship with the listed buildings, to unilaterally restrict national permitted development rights for fences, extensions and outbuildings.

Conclusion

38. The proposal would accord with the development plan and there are no material considerations to outweigh that finding. Therefore, for the reasons given, the proposed development is acceptable and the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings listed below:
 - 930-PL-001 Site Layout Red Line Plan
 - 930-PL-002D Proposed Block Plan
 - 930-PL-003A Storey Heights Layout
 - 930-PL-004A Refuse Layout
 - 930-PL-005A Parking Layout
 - 930-PL-006A Material Layout
 - 930-PL-007 Ha79 House type - Floor Plans and Elevations
 - 930-PL-008 Ha83 House type - Floor Plans and Elevations
 - 930-PL-009 Chandler House type - Floor Plans and Elevations
 - 930-PL-010 Jeweller House type Sheet 1
 - 930-PL-011 Jeweller House type Sheet 2
 - 930-PL-012 Quilter House type - Floor Plans and Elevations
 - 930-PL-013 Thespian House type - Floor Plans and Elevations
 - 930-PL-014 Sculptor House type - Floor Plans
 - 930-PL-015 Sculptor House type - Elevations
 - 930-PL-016 Fuller House type - Floor Plans and Elevations
 - 930-PL-017 Single Garage - Floor Plans and Elevations
 - 930-PL-018 Double Garage A - Floor Plans and Elevations
 - 930-PL-019 Double Garage B - Floor Plans and Elevations
 - 930-PL 020 Sculpture House type Elevation (Weatherboard)
 - 930-PL-021 Street Elevation (1)
 - 930-PL-022 Street Elevation (2)
 - 930-PL-023A Site Plan
 - 930-PL-024A Amenity Layout
 - 930-PL-025 Full Site Layout Red Line
 - 930-PL-026A EV Charging Layout
 - 930-PL-027A Wider Coloured Site Layout
 - 930-PL-030 Affordable Housing Location Plan
 - PR221-01D Landscape Master Plan
 - 1902/07/3060B Drainage Strategy - Phase 2
 - 1902/07/7002C External Works - Phase 2
- 3) Each of the dwellings hereby permitted shall not be occupied until 1.5m by 1.5m pedestrian visibility splays (as measured from and along the highway boundary) have been provided on either side of the vehicular access that serves it. Thereafter the splays shall be kept free of any obstruction exceeding 0.6m in height.
- 4) Each of the dwellings hereby permitted shall not be occupied until the vehicle parking spaces to serve it have been provided in accordance with the approved drawings. Thereafter the parking spaces shall be retained for those purposes for use by occupiers of, and visitors to, the development.
- 5) Prior to the occupation of any of the dwellings hereby permitted (unless the local planning authority agrees in writing to a revised timetable) the internal access road shall be provided in accordance with the approved drawings.

- 6) Each of the dwellings hereby permitted shall not be occupied until a residential travel information pack has been provided for use by its occupiers. The contents of the pack shall be agreed in writing by the local planning authority prior to its provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.
- 7) No development above ground level shall take place until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of existing planting to be retained and measures for its protection, new planting, any changes in ground levels and permeable surfacing.
- 8) The approved landscaping scheme shall be carried out in accordance with a timetable agreed in writing by the local planning authority. Any trees or other 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 a similar size and species unless the local planning authority gives prior written consent to any variation.
- 9) No development above ground level shall take place until a biodiversity enhancement strategy has been submitted to and approved in writing by the local planning authority. The strategy shall contain details and locations of the mitigation and enhancement measures specified in the Ecological Assessment (SES, December 2021). The measures in the approved strategy shall be implemented in accordance with a timetable agreed in writing by the local planning authority and retained thereafter.
- 10) No development above ground level shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. Those details shall demonstrate how the lighting would be sensitive to bats and their foraging routes and should not prevent or disturb them from using their territory. The approved lighting shall be implemented in accordance with an agreed timescale and retained and operated as approved thereafter.
- 11) No development shall take place until a construction environmental management plan for biodiversity has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - 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;
 - d) A precautionary method statement for great crested newt, small mammals, and reptiles;
 - e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - f) The times during construction when specialist ecologists need to be present on site to oversee works;
 - g) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
 - h) Use of protective fences, exclusion barriers and warning signs; and
 - i) Containment, control and removal of any invasive non-native species present on site.

The approved construction environmental management plan for biodiversity shall be adhered to and implemented throughout the construction period.

- 12) No development or preliminary groundworks of any kind shall take place until a scheme of archaeological evaluation, including a timetable, has been submitted to and approved in writing by the local planning authority. The evaluation shall be carried out as approved.
- 13) No development or preliminary groundworks of any kind shall take place until a written report on the results of the archaeological evaluation undertaken pursuant to condition 12) has been submitted to the local planning authority and written confirmation provided by the local planning authority that no further investigation work is required. Should the local planning authority require further investigation and works, no development shall take place until a written scheme of investigation has been submitted to and approved in writing by the local planning authority. The scheme of investigation shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;
 - c) Details of the provision to be made for analysis of the site investigation and recording;
 - d) Details (including a timetable) of the publication and dissemination of the analysis and records of the site investigation;
 - e) Details (including a timetable) of any archive deposition of the analysis and records of the site investigation; and
 - f) Nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

The written scheme of investigation shall be carried out as approved.

- 14) No development shall take place until a detailed surface water drainage scheme for the construction period and for the lifetime of the development has been submitted to and approved in writing by the local planning authority. The scheme shall detail how surface water and storm water will be managed and be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the site. It shall:
- a) Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b) Include a timetable for its implementation; and
 - c) Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.