

Your Reference:

Please Quote: PLG/42272

Date: 27th July 2016



Mr & Mrs Milwaine
Abbey Bottom Farm
Harwich Road
Wix
Essex
CO11 2RY

Land and Property Professionals

Robinson & Hall LLP
Broomvale Business Centre
Little Blakenham
Ipswich IP8 4JU



Dear Mr & Mrs Milwaine,

As discussed, please find attached a copy of the successful appeal decision. If you have any queries regarding the conditions and terms of the Inspector's letter, please let me know.

In the meantime, please find attached our invoice for handling this project, and trust this is satisfactory.

Yours sincerely



Peter Le Grys MA Dip.TP MRTPI
Principal Chartered Town Planner
For and on behalf of Robinson & Hall LLP

Direct line:
Mobile:
Email:



Partners*: A J Capel Ltd S W Home Ltd D J Jones Ltd R J Franklin Ltd D P Brooks Ltd C J Leney Ltd A H Barr Ltd A B R Jenkinson Ltd D J Sawford Ltd

Associates: S R W Smith BSc MRICS FAAV P K T Sewell MSc MRICS FAAV D R Watling BSc MRICS

Offices at Bedford, Buckingham, Colchester & Ipswich Registered office: 118 Bronham Road, Bedford MK40 2QN
Robinson & Hall LLP is a limited liability partnership, registered in England, number: CC310546 Regulated by RICS

*The term partner is used to refer to a member of the LLP, the director of a corporate member of the LLP, or a person of similar standing



Appeal Decision

Site visit made on 14 June 2016

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21st July 2016

Appeal Ref: APP/P1560/W/16/3146852

Abbey Bottom Farm, Harwich Road, Wix, Manningtree CO11 2RY

- 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 T Milwain against the decision of Tendring District Council.
 - The application Ref 15/01352, dated 2 September 2015, was refused by notice dated 27 November 2015.
 - The development proposed is the erection of a detached 3 bedroom dwelling to replace existing 4 bedroom pair inter-linked static caravans.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached 3 bedroom dwelling to replace existing 4 bedroom pair inter-linked static caravans at Abbey Bottom Farm, Harwich Road, Wix, Manningtree CO11 2RY in accordance with the terms of the application, Ref 15/01352, dated 2 September 2015 subject to the conditions set out in the schedule below.

Preliminary Matters

2. The Council's second reason for refusal related to a requirement for a Unilateral Undertaking for the provision of a financial contribution toward play and formal open space. Following the decision by the Court of Appeal in *West Berkshire and Reading Borough Council v. Secretary of State for Communities and Local Government* [2016] EWCA Civ 441 and subsequent amendments to the Planning Practice Guidance (PPG) I contacted the main parties for their views on whether this would have any bearing on the appeal. Consequentially, the Council has confirmed that in light of the above decision it no longer wishes to defend this reason for refusal. I have not, therefore, addressed this matter below.

Main Issues

3. The main issues are (i) the effect of the development on the character and appearance of the surrounding area and (ii) whether the proposal represents sustainable development.

Reasons

Character and appearance

4. The appeal site is situated to the rear of Abbey Bottom Farm, adjacent to two static caravans that would be removed as part of the development. Within the wider site sits a large detached gambrel roofed dwelling which is set well back from Harwich Road. There are a variety of house types, architectural styles and sizes in the vicinity of the site. Dwellings on either side of the road tend to follow a linear pattern, though I did note some breaks in this frontage, including a significant gap between the appeal site and the next row of housing leading toward the centre of the village. The site is separated from open fields to the north and west by a hedgerow and from dwellings to the east by a dense band of mature landscaping.
5. The existing dwelling on the site has already introduced development that is well set back to the rear of the linear pattern of much of the housing along Harwich Road. While this clearly differs from the prevailing character, I did not observe any particular harm as a result. Rather, I was minded that it reflected the rural and agricultural nature of the land around the site and its history as a small holding. Notwithstanding its siting away from the roadside, I also considered that the dwelling added positively to the variety of house types and styles that already exist in the area.
6. I find that the proposal would have a similarly benign effect. Views of the property would be well screened by the proposed landscaping, existing mature trees and vegetation in and around the site and, from some angles, by the existing dwellings on Harwich Road themselves. The building would also be seen in the context of the existing dwelling and the character of the site and not, in my view, the linear pattern leading to it. This is particularly the case when considering the pattern on this side of the road effectively terminates at this point for some distance before starting again. The modest scale and height of the building would also mean that it would not appear prominent or particularly incongruous in the street scene. I did observe some other examples of dwellings set back behind dwellings fronting the road. While these were also well screened, they confirmed my view that such development can take place without harm to the general character of the area.
7. The Council has raised no concerns with regard to the design of the dwelling itself, the materials proposed or the relationship with existing dwellings. I would agree with their conclusions on these matters. Accordingly, I find that the proposal would have an acceptable impact on the character and appearance of the area and be consistent with saved Adopted Local Plan¹ Policies QL9, QL10 and QL11 and Policy SD9 of the Draft Plan² which seek, amongst other things, to ensure that development exhibits a high quality of design which maintains or enhances local character and relates well to its surroundings. I also find that the proposal meets the overall objectives of Adopted Local Plan Policy HG13, which seeks to ensure backland development is not out of character with the area.

Sustainable development

8. The site currently lies outside a 'defined settlement development boundary' in the Adopted Local Plan. There is some conflict, therefore, with Adopted Local Plan Policy QL1 which resists development outside such locations and Policy

¹ Tendring District Local Plan Adopted December 2007

² Tendring District Local Plan: Proposed Submission Draft (2012) as amended by the Tendring District Local Plan: Pre-Submission Focussed Changes (2014).

HG13 which suggests that backland development is only acceptable within them, subject to other considerations. The Council has indicated, however, that the site has been included in the defined boundaries within the Draft Plan and that this is unlikely to change in any future iteration.

9. The Council acknowledges that it does not have a five year supply of deliverable housing sites as required by paragraph 47 of the National Planning Policy Framework (the Framework) and thus policies relating to the supply of housing, which would include both QL1 and HG13, should be considered out-of-date. Paragraph 14 states that where this is the case, planning permission for sustainable development should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
10. The Framework sets out the three dimensions of sustainable development as being economic, social and environmental. The Council has accepted that the development would meet the social and economic elements of sustainability and I have no evidence which suggests this is not the case. As I have found there to be no material harm to the character and appearance of the area, then I am satisfied that the development would also satisfy the environmental dimension of sustainability.
11. The impacts of the proposal, therefore, exist only in their conflict with the locational requirements of Policies QL1 and HG13. I find that significant weight should be given in this regard to the Council's stated intention of including the site within the defined settlement boundary. In light of this and the five year supply situation, I would conclude that there are sufficient material considerations to outweigh these criteria of the Local Plan in this instance.
12. I have not found any adverse impacts which would significantly and demonstrably outweigh the benefits of allowing the proposed development. I find therefore that the development constitutes sustainable development in line with paragraph 14 of the Framework.

Other Matters

13. The Council has expressed some concern that development here would lead to a precedent for other backland development in the area. I do not consider that this should be a significant concern. Both the Adopted and Draft Local Plans contain policies that set out criteria against which backland development can be considered. There is no objection in principle therefore to backland development and each case can continue to be judged on its own merits.

Conditions

14. In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawing as this provides certainty. The Council has referred to Plan No 45051/P/02 Revision A in its suggested conditions. However, as this was an informative diagram included within the appellants Flood Risk Assessment (FRA) which does not add any construction information over and above Plan No 1631-02 Revision D, I do not think it is necessary to include it within the condition.
15. I have included conditions on the nature and use of the access, parking and turning areas in the interests of highway safety. A condition relating to

landscaping is necessary and appropriate to ensure the permission is implemented fully in the interests of the character and appearance of the area.

16. The suggested conditions relating to floor levels and flooding emergency plan are inappropriate. Finished floor levels are identified on Plan 1631-02 Revision D and thus it is not necessary to repeat the requirement. In addition, the site is in Flood Zone 1 and the Council's officer report suggests that it accepts the FRA's conclusions that there would be safe refuge and access and egress from the site. Therefore, notwithstanding the proximity of the dwelling to an identified Flood Zone, I do not think it reasonable to expect the appellant to provide the information requested when no particular concerns have been raised by the local planning authority. Finally, I have included a condition requiring a Construction Method Statement in the interests of protecting the living conditions of nearby residents.

Conclusions

17. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1631-01 Revision B and 1631-02 Revision D other than as required by condition 4).
- 3) The landscaping scheme shown on Plan No. 1631-02 Revision D shall be implemented not later than the first planting season following commencement of the development and shall thereafter be retained and maintained for a period of five years. Any plant material removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced within the first available planting season and shall be retained and maintained.
- 4) Notwithstanding the details of the drive shown on the approved plans details of surfacing of the vehicular access and car parking/turning areas indicated on approved drawing no. 1631-02 Revision D shall be submitted to and approved in writing to the local planning authority in accordance with the approved details before the dwelling hereby permitted is occupied. The car parking/turning areas shall be retained in this form at all times and shall not be used for any purpose other than the parking/turning of vehicles related to the use of the development.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.