
Appeal Decision

Site visit made on 16 September 2016

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

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

Decision date: 27th September, 2016

Appeal Ref: APP/Z1510/W/16/3151465

275 Coggeshall Road, Braintree, Essex CM7 9EF

- 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. Jewitt against the decision of Braintree District Council.
 - The application Ref 16/0067/FUL, dated 12 January 2016, was refused by notice dated 28 April 2016.
 - The development proposed is erection of a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a new dwelling at 275 Coggeshall Road, Braintree, Essex CM7 9EF in accordance with the terms of the application, Ref 16/0067/FUL, dated 12 January 2016, and the plans submitted with it, subject to the following conditions set out in the schedule to this decision.

Main Issues

2. The main issues are the effect on the character and appearance of the area, and whether a contribution towards community facilities and infrastructure should be made.

Procedural matters

3. Since the appeal was initiated, there has been a material change in circumstances directly relevant to the appeal. A judgement in the Court of Appeal¹, dated 11 May 2016, has reinstated as national planning policy the Written Ministerial Statement (WMS) dated 28 November 2014 which defines the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale development. Government's Planning Practice Guidance, where it covers planning obligations, has been updated to reflect this change.

Reasons

Effect on the character and appearance of the area

4. The appeal site is located in a residential area of mixed character stretching out from Braintree Town Centre along the B1256. It is a relatively large and open

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

site sitting at the heart of a dense island of housing, comprising the modest recent housing on Warley Close which wraps it on three sides, and the larger, older buildings fronting Coggeshall Road. The site is set back from the street frontage at the end of a drive running between nos. 273 and 277 Coggeshall Road.

5. The host building is a modern, chalet-style bungalow with a steeply pitched roof. It sits towards the centre of the site, with a wide gravel strip to the west, garden to the east and to the north a large gravelled and landscaped area. The boundaries of the site are well planted with conifers and other trees and shrubs. There is a small single storey outhouse just to the north of the host dwelling, on the site of the proposed dwelling. The host dwelling is set back from the axis of the drive and is therefore only obliquely visible from Coggeshall Road along the drive. The sense of openness to the site is derived from the space around the host building, and obtained through glimpses from Coggeshall Road or Warley Place.
6. The appeal proposal is for the addition of a small single storey chalet dwelling adjacent to the existing. The new plot created would take up approximately half of the existing plot. The new dwelling would sit next to the host dwelling with a small degree of separation, but set away from the site boundaries on the other three sides with reasonably generous spaces around. Windows on the flank elevation of the host building have been blocked where they face the appeal site.
7. My attention has been drawn to the previously approved new dwelling (Ref 14/01587/FUL) in a similar form to that of the appeal proposal but attached to the host dwelling. Its modest scale and footprint on site were considered acceptable as it maintained the openness of the site and the visual relief it offers from the dense development around in Warley Close. The appeal proposal has an equivalent roof height, but differs in having accommodation in a roof storey and a larger footprint.
8. Notwithstanding these differences, the evidence put to me indicates that the increase in footprint of the appeal dwelling would be minor, and its siting would retain similarly generous separation from the boundaries of the site, particularly when compared to the houses and gardens in Warley Close. Separated from the host building by a very narrow gap, it would protrude further northwards by an equivalent small amount, and its rear elevation would be set a small distance further into the rear garden.
9. I consider that the differences between the approved scheme and the appeal scheme are marginal, and that it would therefore retain an adequate separation from the exterior boundaries of the appeal site and would thereby retain the sense of openness which characterises the site in its densely developed setting. I note the point made by the Council that it was the attached nature of the approved proposal which minimised any harmful impact, but consider that this was due to the fact that this form of development reduced the protrusion of the combined footprint of the two buildings into the open space around them rather than due to any intrinsic benefits of an attached addition. This does not therefore alter my conclusions on this issue.
10. My attention has also been drawn to a refused scheme for a detached house on the site (Ref 10/01187/FUL). The evidence in drawing Planning 005A indicates that the proposed detached dwelling in this case protrudes a considerably

greater distance towards the northern boundary of the site than either the approved or appeal schemes, and that it is therefore materially different from both. Again, I consider that it is the siting of the building on that case, rather than its detached nature, which would cause harm to the character of the area. I see nothing in the appeal decision relating to this case (APP/Z110/A/11/2144523) to alter my conclusion on this matter.

11. The appeal dwelling is set just behind the front building line of the host dwelling, and would not intrude into views from Coggeshall Street to create a sense of increased development on the site. It would be of relatively modest height, and the first floor accommodation would be lit by windows and rooflines rather than dormers. This would not create a particularly visually bulky structure at roof level. It would not, therefore, be particularly obtrusive in glimpses into the site from Warley Close and it would not therefore have a significant effect on the sense of openness of the site when viewed from outside.
12. For these reasons I consider that the appeal proposal would not have a harmful effect on the character and appearance of the area, and would not therefore conflict with Policy CS9 of the Braintree District Core Strategy 2011 (CS) which seeks development which respects and responds to the local context. It would not conflict with Policy RLP3 of the Braintree District Local Plan Review 2005 (LP) which seeks development which can take place without material detriment to the existing character of the settlement; nor with Policy RLP9 of the LP which seeks new residential development which creates a visually satisfactory environment and is in character with the site and relates to its surroundings; and not with Policy RLP90 of the LP which seeks development which is in harmony with the character and appearance of the surrounding area.

Whether a contribution towards community facilities and infrastructure should be made

13. Development plan policy at the time the planning application was determined required proposals for new residential development to provide improvements to community facilities and infrastructure appropriate to their location through the payment of a financial contribution. I am bound however to give considerable weight to the Written Ministerial Statement and Planning Practice Guidance, which now state that affordable housing and tariff style contributions should not be sought on developments of 10 units or less, or in some cases of 5 units or less.
14. I conclude therefore that the proposed development would not conflict with Policies CS10 and CS11 of the CS or Policy RLP138 of the LP which seek developer contributions towards the provision of public open space, or with national planning policy in the WMS and Planning Practice Guidance.

Other Matters

15. Given the size of the plot, the siting of the proposed new dwelling away from its external boundaries, and its height, it would not cause significant loss of sunlight or daylight to the occupiers of adjoining properties. The appeal proposal provides two car parking spaces for the host and new dwelling respectively, and given the sizes of these dwellings this appears adequate provision. The addition of a further small dwelling is not likely to give rise to unacceptable levels of noise and disturbance to occupiers of adjoining

properties by virtue of additional car movements along the drive. Concerns have been raised at the possible inadequacy of the existing drainage and sewer systems to cope with an additional dwelling, but no evidence has been put before me to support this view.

16. The presence of a newly erected high fence on the site has been drawn to my attention, but this is not part of the application before me, and not therefore a matter for my determination.

Conclusion

17. For the reasons given above, and taking into account matters raised, I conclude that the appeal should be allowed.

Conditions

- 18.** I have taken into account the conditions suggested by the Council. A condition requiring the implementation of the development in accordance with the approved plans is added in the interests of clarity. Details of the materials to be used in the construction of the external surfaces of the development are reserved by condition in the interests of securing an acceptable appearance. Details of landscaping and boundary treatments are required by condition also to secure an acceptable appearance. A condition is attached restricting the use of unbound materials on the surface material of the driveway to avoid displacement of loose material onto the highway in the interests of highway safety. Hours of construction are limited by condition and a construction method statement is required by condition in order to protect the living conditions of the occupiers of adjacent houses.

S J Buckingham

INSPECTOR

SCHEDULE

- 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: 001; 002 Version A; 003 Version A; and 004.
- 3) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) means of enclosure;
 - ii) boundary treatments;
 - iii) details of plant/tree types and sizes, plant numbers and distances;
 - iv) soil specification, seeding and turfing treatment;
 - v) colour and type of material for all hard surface areas and method of laying where appropriate.
 - vi) retained landscape features and proposals for their maintenance where relevant;

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied, in accordance with an agreed implementation programme.

- 5) No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.
- 6) Site clearance, demolition or construction works shall take place only between 08.00 to 18.00 on Monday to Friday, 08.00 and 13.00 on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) 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) piling works in connection with the development, including resultant noise and vibration levels;
 - ii) measures to control the emission of dust and dirt during construction;
 - iii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

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