

Appeal Decision

Site visit made on 14 February 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 13 March 2017

Appeal Ref: APP/Z1510/W/16/3160932

65 Brain Valley Avenue, Black Notley, Essex CM77 8LT

- 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 Rae Bliss against the decision of Braintree District Council.
 - The application Ref 16/00168/FUL, dated 30 January 2016, was refused by notice dated 28 April 2016.
 - The development proposed is demolition of existing dwelling and erection of a pair of semi-detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwelling and erection of a pair of semi-detached dwellings at 65 Brain Valley Avenue, Black Notley, Essex CM77 8LT in accordance with the terms of the application, Ref 16/00168/FUL, dated 30 January 2016, subject to the conditions set out at the end of this decision.

Procedural Matter

2. The application was refused for two reasons. The second reason related to the lack of a unilateral undertaking for a financial contribution for open space provision. However, the Council confirms in its letter dated 25 January 2017 that it can no longer request such a contribution for developments of fewer than 10 dwellings. As a consequence, I have limited my assessment of this appeal to the first reason for refusal.
3. The appellant has submitted an additional drawing (CC/11) that did not form part of the planning application, which shows a different layout of building and parking. However, this drawing does not appear to have been subject to public consultation and so I have not taken it into account when determining this appeal. Should the appellant wish to pursue an amended scheme, then the most appropriate approach would be to submit a fresh planning application.

Main Issue

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

Reasons

5. Brain Valley Avenue consists of two storey semi-detached properties up to and including No 63 and then becomes a line of bungalows from the appeal site at No 65 onwards. Properties along the entire road are closely sited to each other and are set back from the road with a generally consistent building line. Car
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- parking to the side of each property is commonplace along Brain Valley Avenue, along with large areas of hard surfacing in front of some properties.
6. The appeal site comprises a detached bungalow on a wide plot. It is located on a bend in the road and marks the transition point between dwelling types. However, due to the bend, the existing bungalow is orientated close alongside the semi-detached properties of Nos 61 and 63 rather than near to the next bungalow. The front elevations of the existing bungalow and Nos 61 and 63 are clearly visible from the south-east along the two-storey properties section of Brain Valley Avenue, with the bungalow less obvious in views from the north-west from the bungalow section of the road. As such, the existing bungalow is set apart from the remaining bungalows and appears somewhat odd in the street scene due to the height difference with Nos 61 and 63.
 7. The proposed development would result in a marked change in the character and appearance of the appeal site in terms of the height of building. However, the development would closely follow the front and rear building lines of Nos 61 and 63 with a similar sized gap to the side as existing. The scale and design of the proposed development would be similar to Nos 61 and 63 and would not look odd in the street scene when viewed from the south-east. The transition from two storey dwellings to bungalows would shift to between the appeal site and No 67, but given the bend in the road this would not result in much harm to the character and appearance of the road to the north-west.
 8. Although two semi-detached properties would have less garden space each than the existing bungalow, a reasonable and similar amount of open space would remain around the proposed development. The provision of four car parking spaces between the development and No 67 would represent a larger area of hard surfacing and parking than existing, but would not greatly erode the openness of the street scene given hard surfacing elsewhere. While the parking provision for both properties would be to one side of the development only, this is no different to the layout of parking at the existing bungalow and so the negative effect this would have on the street scene would be small.
 9. In conclusion, the proposed development would have an acceptable effect on the character and appearance of the surrounding area. Therefore, it would accord with Policies RLP3, RLP9 and RLP90 of the Braintree District Local Plan Review 2005 and Policy CS9 of the Braintree Core Strategy 2011. Amongst other things, these policies seek development that promotes and secures the highest standards of design and layout, protects the character of the existing street scene and reflects local distinctiveness in terms of matters such as scale, siting and design. The schemes would also meet with the aims of the National Planning Policy Framework (NPPF) in ensuring good design.

Other Matters

10. The drawings show the first floor rear windows obscure glazed, which would be reasonable for the bathrooms they serve and can be secured by condition. This would avoid negative effects on privacy between the development and the side elevation and rear garden of No 67. A small landing window on the side elevation of the development would look towards a window on the side elevation of No 63, but this could also be obscure glazed for privacy reasons. The orientation of the development to the east of the house and garden of No 67 would have some effect on sunlight in the morning, but there would be sufficient distance between the development and the boundary of No 67 to

avoid any significant overshadowing and loss of light for neighbouring occupiers.

11. I note concerns regarding noise and disturbance arising from construction works, but the Council has suggested a number of planning conditions to help mitigate negative effects. The bend in the road does limit highway visibility to some extent and would present some safety and access issues for construction vehicles and future users of the development. However, it is a residential side street rather than a through road and so traffic flows and speeds are unlikely to be high and effects on highway safety would not be significant. In terms of cycle storage, while no details are provided there would be sufficient space within the site for such purposes.
12. I appreciate that bungalows offer an important type of accommodation, but do not have much information on the level of local provision and, moreover, the loss of one bungalow would not have a significant effect. I also note that Black Notley is apparently already due to see an increase of 2,000 dwellings, but this does not automatically rule out any other proposal for housing. Finally, I have little information to verify concerns regarding drains and potential damage to properties from construction works, but such matters could be covered under separate processes outside of the planning system.

Conditions

13. Conditions 1 and 2 setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. Conditions 3, 6, 7 and 8 are necessary to limit the effects of construction works on the living conditions of occupiers of neighbouring properties. Condition 3 is a pre-commencement condition to ensure that measures are agreed and incorporated into the construction process from the start. Conditions 4, 10 and 11 are necessary to ensure a satisfactory form of development including means of enclosure between properties, while Condition 5 is necessary in terms of highway safety. Condition 9 is necessary in the interests of privacy, while removing permitted development rights for extensions and outbuildings in Condition 12 is necessary to better control future development of the two dwellings in the interests of character and appearance and living conditions.

Conclusion

14. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Applying paragraphs 49 and 14 of the NPPF as a consequence, there are no adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of providing a net gain of one dwelling, or any policies in the NPPF that indicate development should be restricted. Thus, the presumption in favour of sustainable development applies to grant planning permission.
15. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

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 following approved plans: CC/7 Rev A, CC/8 Rev A, CC/9 Rev A and CC/10.
- 3) Development shall not be commenced until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority and shall be adhered to throughout the site clearance and construction process.
- 4) No above ground construction works shall take place until samples of the materials to be used in the external surfaces of the development 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 and thereafter retained.
- 5) No unbound material shall be used in the surface finish of the parking area within 6 metres of the highway boundary of the site.
- 6) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days.
- 7) No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.
- 8) No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.
- 9) Prior to the first occupation of the development, the windows on the first floor rear elevation facing 67 Brain Valley Avenue and the first floor side elevation facing 63 Brain Valley Avenue shall have been fitted with obscured glazing. Once installed the obscured glazing shall be retained thereafter.
- 10) Prior to the first occupation of the development, details of all gates, fences, walls or other means of enclosure shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the development and thereafter retained.
- 11) Prior to the first occupation of the development, a scheme of hard and soft landscaping shall be submitted to and agreed in writing by the Local Planning Authority. All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the development. Any trees or plants which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with others of a similar size and species in the next planting season.

- 12) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement or alteration of the dwellings or provision of any building within the curtilage of the dwellings, as permitted by Class A, B, C & E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.