
Appeal Decision

Site visit made on 23 January 2018

by Alex Hutson MATP CMLI MArborA

an Inspector appointed by the Secretary of State

Decision date: 1 March 2018

Appeal Ref: APP/Z1510/W/17/3187037

Cobbs Fenn Workshop, Sible Hedingham, Halstead CO9 3RX

- 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 and Mrs Kim and Tanya Harding – Cardel and Grant against the decision of Braintree District Council.
 - The application Ref 17/01236/FUL, dated 4 July 2017, was refused by notice dated 30 August 2017.
 - The development proposed is completion of development of two partly erected buildings into a single residence composed of a main house building with an ancillary residential annex, both entirely comprised of residential living space.
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Decision

1. The appeal is allowed and planning permission is granted for completion of development of two partly erected buildings into a single residence composed of a main house building with an ancillary residential annex, both entirely comprised of residential living space at Cobbs Fenn Workshop, Sible Hedingham, Halstead CO9 3RX in accordance with the terms of the application, Ref 17/01236/FUL, dated 4 July 2017, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr and Mrs Kim and Tanya Harding – Cardel and Grant against Braintree District Council. This application is the subject of a separate Decision.

Preliminary matters

3. The Council accepts that it cannot demonstrate a five year housing land supply. Therefore, the fourth bullet point of Paragraph 14 of the National Planning Policy Framework (the Framework) is engaged. This requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
4. During the course of the appeal, the High Court issued a judgment¹ in respect of the interpretation of Paragraph 55 of the Framework. The Council makes reference to this in its appeal statement so I am satisfied that the appellant is aware of it and has had the opportunity to make any comments in respect of it.

¹ *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited* [2017] EWHC 2743 (Admin) dated 15 November 2017

5. I have also dealt with another appeal (Ref APP/Z1510/W/17/3179561) in respect of the appeal site. That appeal is the subject of a separate decision.
6. The appeal site, a plot of land of a substantial size, contains the recently constructed steel frames of two buildings, with the rest of the site comprising open ground. One of the buildings is sited in the northeastern part of the site and the other within the northwestern part. The appeal site has an extensive planning history. Of note is a planning permission granted in 2007² for the conversion of an existing joinery workshop to a dwelling with an associated and adjoining workshop. This consent has subsequently evolved over the years through other related planning permissions³, culminating in a standalone and extant planning permission in 2016⁴ for, effectively, the replacement of the original buildings with new ones to provide a dwelling with an adjoining joinery workshop and a separate store. The other appeal I have dealt with on the site, which I have allowed, is similar in many respects to the 2016 consent but widens the use of the workshop and store building for all Class B1 purposes.
7. It is my understanding that the steel frames I saw on the appeal site represent the commencement of development under the 2016 consent. It appears that some pre-commencement conditions imposed on this consent, including in respect of materials, landscaping, tree protection and a retaining wall, have not yet been discharged. On this basis, the Council raises the concern that the 2016 consent has not been lawfully implemented. However, the principle of buildings on the site, including for residential purposes and correlating with the dimensions and position of those I saw, has been established. In addition, whilst technically not implemented due to the outstanding discharge of some pre-commencement conditions, I have no substantive reasons to consider that these could not be discharged within the timeframe of the consent were the Council to take any enforcement action. Thus, the 2016 consent represents a valid fallback position to which I afford considerable weight. I recognise the matters surrounding the reported viability of this consent. However, the widening of the use of the workshop and store building for Class B1 purposes, whilst still questioned in viability terms, would be likely to provide greater return on what has already been invested. Thus, I also afford considerable weight to the fallback position of the development the subject of the other appeal I have dealt with in respect of the site.

Main issue

8. The main issue is whether the countryside location of the proposal is acceptable having regard to local and national planning policies.

Reasons

9. The appeal site lies outside of any settlement boundary and therefor lies within the countryside for planning policy purposes. Policy CS5 of the Braintree District Council Core Strategy 2011 (Core Strategy) seeks to limit development outside settlement boundaries to uses appropriate to the countryside, in order to protect and enhance landscape character, biodiversity, geodiversity and the amenity of the countryside. Saved Policy RLP2 of the Braintree District Local Plan Review 2005 (Local Plan Review) reflects this aim, though allows an

² Ref 06/02075/FUL

³ Including Ref 07/02021/FUL; Ref 08/01106/FUL; 08/01818/FUL; Ref 10/01182/FUL; Ref 12/01560/MMA; and Ref 14/00368/MMA

⁴ Ref 16/00638/FUL

exception for affordable housing. Policy CS7 of the Core Strategy requires, amongst other things, development to be provided in accessible locations to reduce the need to travel.

10. Paragraph 55 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that new isolated homes in the countryside should be avoided unless there are special circumstances.
11. The proposal would introduce a dwelling with an annexe onto the appeal site. The dwelling would effectively be contained within the partially erected building within the northeastern part of the site and the annexe within the partially erected building in the northwestern part.
12. The appeal site is located towards the end of a country lane. However, there are a number of dwellings along this lane, including some to the immediate north, northeast and southeast of the appeal site. Therefore, whilst the proposed dwelling would occupy a countryside location, it would be closely related to an existing cluster of development and would not be isolated in this context. Whilst I recognise that there are no essential services or facilities in the immediate vicinity of the appeal site, having regard to the aforementioned High Court judgment, this is not a determining factor in the consideration of whether a dwelling would be isolated or not.
13. Saying that, the settlement of Sible Hedingham, which contains a range of services and facilities, is only a short distance away. Given the lack of footpaths and lighting along the roads to this settlement, I accept that any future occupiers would be largely reliant on the use of a private motor vehicle to gain access to such services and facilities. Nonetheless, the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. In addition, the number of trips generated as the result of a single dwelling would be likely to be modest in any event and would be unlikely to be any greater than those generated under the extant planning permissions in respect of the appeal site.
14. On the basis of these factors, the proposal would not represent an isolated home in the countryside. In addition, the proposal would assist, albeit to a modest extent, with maintaining and enhancing the vitality of rural communities through the provision of housing and by any future occupiers supporting services and facilities within Sible Hedingham. The proposal would therefore accord with Paragraph 55 of the Framework. Furthermore, given the short journey time that it would take for any future occupiers to gain access to these services and facilities, albeit by means of private motor vehicle, this would reduce the need to travel longer distances by this method of transport. Moreover, and as mentioned above, the number of trips generated would be modest and not materially different when compared with the situation under other extant consents in respect of the appeal site, which include an element of residential development. I therefore find no material conflict with Policy CS7 of the Core Strategy.
15. As the proposal lies outside of a defined settlement boundary and would not be of a use that requires a countryside location, there would be some conflict with Policy CS5 of the Core Strategy and saved Policy RLP2 of the Local Plan Review. However, as the strict compliance with these policies would hinder the reduction in the Council's five year housing land supply shortfall, I afford

limited weight to such conflict. Moreover, the principle of residential development on the site has been established in any event. Furthermore, the Council's decision notice does not cite any specific harm to landscape character, biodiversity, geodiversity or the amenity of the countryside, which seem to me to be the matters which form the impetus behind these policies.

Other matters

16. The Council raises the concern that to allow wholly residential development in this location would set a precedent for other similar development the area. Nonetheless, each case must be determined on its own merits. Furthermore, no other specific sites with the same planning history or attributes as that of the appeal site have been brought to my attention. A concern is also raised that given the proportions of the main dwelling and annexe building, future applications may be made to convert them to further dwellings. However, this does not form part of the proposal before me and any such application would also need to be considered on its own merits.
17. The internal layout of a part of the main dwelling and of the annexe building has not been shown in any detail on the submitted plans. I note that the Council highlights that to facilitate the intended use of these elements of the proposal for residential purposes, some external changes, such as additional openings, would be likely to be required. Whilst this may be the case, I have no substantive reasons to consider that any such openings could not be undertaken in a manner sensitive to the overall design and appearance of the buildings.
18. I have had regard to the concerns of a number of interested parties including in respect of traffic, outlook, Special Landscape Areas (SLAs) and previous refusals⁵ for residential development on the site, some of which were dismissed on appeal. However, the Council has raised no concern in respect of traffic generation. On the basis of the evidence before me, and given that any increase in vehicular movements would be modest, I have no substantive reasons to take a different view. The proposed buildings would be no different to those consented under other extant permissions in respect of the appeal site. As such, they would have no greater effect on any views from neighbouring properties. Moreover, given the degree of separation between them and neighbouring properties, they would not appear overbearing for the occupiers of these properties and would not have a harmful effect on their outlook in any event.
19. I note that the appeal site falls within an area which has, in the past, been designated as a SLA. Nonetheless, the Council's officer report makes no reference to this or to any policies relating to SLAs. Without any compelling evidence to the contrary, it is therefore likely that any such designation and related policies are no longer in force. Proposals for residential development on the appeal site in 2004 and before this would have been considered under a different planning policy context. Moreover, the principle of some residential development, albeit in combination with other uses, has subsequently been established on the appeal site. Thus, the circumstances of these previous proposals are not helpfully comparable to those of the proposal I am to consider and their refusal or dismissal at appeal does not automatically mean that planning permission should be withheld in this instance. On the basis of

⁵ Including Ref 96/01207/FUL (Appeal Ref T/APP/Z1510/A/97/280857/P8); and Ref 04/00084/FUL

these factors, I do not consider that the abovementioned interested party concerns weigh against the proposal.

Conditions

20. I have had regard to the planning conditions suggested by the Council. I have amended some of these for clarity and conciseness and to reflect that the existing building frames on the appeal site would be used. In addition to the statutory time limit condition, a condition specifying the relevant plans is necessary as this provides certainty. Those conditions relating to tree protection, materials, landscaping and enclosures are necessary in the interests of character and appearance. A condition relating to a Habitat Management Plan is necessary in the interests of ecology. A condition relating to the ancillary use of the annexe building is necessary to prevent the creation of a separate planning unit. I also agree that a condition relating to working hours is necessary in the interests of neighbour living conditions.
21. However, I have not been provided with any exceptional circumstances to justify the removal of permitted development rights as suggested by the Council.

Planning balance and conclusion

22. The proposal would provide some short term construction jobs and would increase, to a slight degree, spending in the local area. It would make a contribution, albeit a modest one, to the supply of housing in the District and would occupy a location close to services and facilities within Sible Hedingham. Though these would need to be accessed by way of a private motor vehicle, the number of trips generated by a single dwelling would be modest, as would any journey times. The proposal would be located within the proximity of other dwellings and would not be or appear isolated. It would reuse previously developed land and would not give the impression of encroaching into open countryside. The buildings would reflect the size, scale and style of those consented under other extant planning permissions in respect of the site and would appear sympathetic to their surroundings. On the basis of these factors, the proposal would fulfil the economic, social and environmental roles of sustainable development as envisaged by Paragraph 7 of the Framework.
23. Whilst some conflict would arise with some local planning policies relating to settlement boundaries, I afford such conflict limited weight, given the Council's five year housing land supply position and the planning history of the site.
24. Accordingly, I conclude that there would be no adverse impacts that would significantly and demonstrably outweigh the benefits, albeit that the benefits would, in the wider scheme of things, be limited in scale. Consequently, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be allowed.

Alex Hutson

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: 130/LOC; 1508 210 Rev B; 1508 221 Rev B; 1508 222 Rev B; 1508 223 Rev B; 1508 231 Rev A; and 1508 232 Rev A.
- 3) No further development shall take place until details of tree protection in accordance with the relevant British Standards have been submitted to and approved in writing by the local planning authority. Tree protection shall be carried out in accordance with the approved details.
- 4) No further development shall take place until a Habitat Protection Plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Protection Plan.
- 5) Prior to their installation, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Prior to the occupation of the development hereby permitted, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The details shall include planting plans, a schedule of plants and trees (noting species, sizes and numbers), seeding and turfing treatment, hard surface materials and an implementation and management programme. The scheme of hard and soft landscaping shall be carried out in accordance with the approved details, implemented in accordance with the approved implementation programme and maintained in accordance with the approved management programme thereafter.

Any trees, shrubs or plants which are removed, die or become seriously damaged or diseased within five years of planting, shall be replaced within the next planting season by trees, shrubs or plants of the same size or species.
- 7) Prior to the occupation of the development hereby permitted, all enclosures, including the retaining wall along the north western boundary of the site, shall be erected in accordance with the approved plans and shall be permanently retained and maintained thereafter.
- 8) The annexe building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling.
- 9) Demolition, site clearance or construction works shall take place only between 0800-1800 hours on Mondays to Fridays and 0800-1300 hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.