



Appeal Decision

Site visit made on 14 May 2019

by N Smith BA (hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal Ref: APP/Z1510/W/18/3217084

Former Hunwicks Engineering Site, land adjacent 32 & 34 Kings Road, Halstead, CO9 1HA

- 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 AR Clarke (Builders) Ltd against the decision of Braintree District Council.
 - The application Ref 18/01119/FUL, dated 18 June 2018, was refused by notice dated 17 August 2018.
 - The development proposed is construction of seven dwellings comprising four x three bed houses, two x 2 bed houses and one x 1 bed flat.
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Decision

1. The appeal is allowed and planning permission is granted for construction of seven dwellings comprising four x three bed houses, two x 2 bed houses and one x 1 bed flat at Former Hunwicks Engineering Site, land adjacent 32 & 34 Kings Road, Halstead, CO9 1HA in accordance with the terms of the application, Ref 18/01119/FUL, dated 18 June 2018, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this letter.

Application for costs

2. An application for costs was made by AR Clarke (Builders) Ltd against Braintree District Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have plan number 1729-05 revision J before me, which appears to have been provided after the Council determined the planning application. There is nothing before me to explain if or how this changes the scheme that the Council considered, whether any consultation has taken place on it or what the views of the main parties are on it. Accordingly, I have considered it no further.

Main Issues

4. The main issues are:
 - Whether the development would result in an acceptable standard of living accommodation for future occupiers, with regard to the amount of internal and external space provided;

- Whether the development would provide an appropriate amount of car parking; and
- Whether an acceptable level of affordable housing would be provided at the site and whether financial contributions should be required.

Reasons

Living conditions

5. The appeal proposal would see a terrace of seven properties built at the site. Whilst this scheme, at the time that it was submitted to the Council, was clearly intended to form part of a larger development, development at the remainder of the wider site is not before me. The Council's concerns in respect of the quality of accommodation provided by these seven units is that the majority of them would not have enough internal space or garden.
6. Turning first to the internal space that would be provided, the Council is concerned that a number of the bedrooms and the majority of the three-bedroom properties overall (when assuming that study rooms may be used as additional bedrooms by future occupiers), would have floor areas below that set out in the National Described Space Standards (NDSS). Shortfalls would, though, be quite modest in most cases against the standard for a three-bedroom dwelling for four people, which is 84m².
7. The Council does not have a development plan reflecting the NDSS and so whilst they might be used as a useful guide, I do not apply significant weight to them. All of the properties appear to me to be of a reasonable size, with useable rooms and enough space to provide for furniture and circulation. Some of the bedrooms are on the smaller side, but likely be suitable by children or as a home office or store. Overall, I consider the internal arrangements that would be provided to be acceptable for future occupiers.
8. All of the properties would be served by gardens with six of the seven being above 50m². The Council refers me to the Essex Design Guide standard of a minimum of 100m² for houses with three or more bedrooms, which none of the houses would meet. However, that guidance does allow for exceptions to this provision. One of which is proximity to communal open space. I saw on my visit that the site is very near to a large, public park, which would supplement on-site garden space.
9. Six of the seven properties would have well laid out, usable garden areas that could be used for sitting out, play and drying washing. The garden for Flat 7 would be smaller, and narrow, but the Design Guide acknowledges that smaller flats may have a lesser reliance on outdoor space. Overall, and when taken together with the large park opposite the site, I am satisfied that future residents would have suitable access to outdoor space to meet their needs.
10. Accordingly, I consider that the standard of living accommodation for future occupiers would be acceptable, in accordance with Policy C9 of the Braintree District Council Core Strategy 2011 (the CS) and Saved Policy RLP90 of the Braintree Local Plan 2005 (the LP), in so far as they seek to secure an acceptable quality of living accommodation for future occupiers of developments.

Car parking

11. There is dispute between the parties as to how many bedrooms the development would create and what parking standards should be applied to it, but it appears as though in the worst case scenario (where Flat 7 is taken to have two bedrooms and the Essex Parking Standards 2009 are applied), the shortfall would be one space.
12. I saw on my visit, which was carried out at around the middle of the day that on-street parking was well utilised, but it was not problematic for me to park within a short walk of the site safely. Paragraph 109 of the Framework is clear that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. There is no evidence before me that demonstrates that one additional car parking on-street in the area would result in either of those impacts. Accordingly, I find that an appropriate amount of car parking would be provided, and that the development would be consistent with Policy CS9 of the CS and Saved Policy RLP90 of the LP, in so far as they seek to secure an appropriate amount of car parking.

Affordable housing and financial contributions

13. The number of units proposed at the appeal site is seven, which falls below the threshold for providing affordable housing. It was clearly the appellant's intention that the appeal development should form part of a larger development of the wider site. That is not in dispute.
14. The Council's concern is that when taken together, a greater number of affordable units should be provided than if the two parts of the site are assessed in isolation. In effect, affordable housing provision would be reduced by a phased approach to the development.
15. I generally agree with the Council's position on this matter as it is framed in its officer's report. However, I am subsequently advised that an application for the development of the larger part of the wider site has been refused by the Council. There is no evidence before me to suggest that an appeal against that refusal has been lodged or that a new application has been submitted. In those circumstances, it would not be reasonable or appropriate of me to attach an affordable housing requirement to this phase of the scheme, in the absence of comfort that the development of the larger phase of the development will take place. Accordingly, I find that the amount of affordable housing that would be provided at the site would be acceptable, in accordance with policies CS2, CS10 and CS11 of the CS, in so far as they seek to secure affordable housing.
16. The Council also makes reference in its reason for refusal to 'other financial contributions'. There is nothing substantive before me from the Council to assist me with what those might be or how they might be justified, and so I take this matter no further.

Other Matters

17. The Council has provided an update as to its housing land supply position, although it does not appear to conclude as to whether when adopting an appropriate methodology, that position is positive or negative. The appellant has provided evidence that they say demonstrates that a five-year land supply

cannot currently be achieved. Given the overall conclusions that I have reached in this case, it is not necessary for me to consider this matter further.

Conditions

18. The Council did not provide suggested conditions to accommodate for the eventuality that the appeal was allowed. Accordingly, I have applied those that I consider meet the tests described at paragraph 55 of the Framework.
19. In addition to those requiring that the development is commenced within three years and in accordance with the approved plans, I have attached conditions requiring the submission and approval of details of materials and landscaping to ensure that the appearance of the development is acceptable. I have attached conditions ensuring that access points, parking and manoeuvring areas are in place prior to the properties being occupied in accordance with details approved by the LPA and that the drainage scheme set out in the submitted Flood Risk Assessment is implemented, unless otherwise agreed with the Council. The conditions would ensure that appropriate infrastructure was in place for future occupiers. A final condition requires compliance with recommendations described in the Geo-Environmental Study, given the apparently previous commercial uses that took place at the site.
20. Reference is made in the Council's officer report to a construction management plan being required. No further details have been provided to demonstrate that such a condition is necessary and given the scale of the development, I am not satisfied that it would be, or that other non-planning legislation should not be relied upon to manage impacts associated with construction. Accordingly, I have not applied that condition.

Conclusions

21. For the reasons that I have described, the appeal is allowed, and planning permission granted.

N Smith

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: 1729-01 revision B, 1729-02 revision A, 1729-05 revision F and 1729-09 revision A.
- 3) No development above ground floor slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development above ground floor slab level shall commence until there shall have been submitted to and approved in writing by the local

planning authority a scheme of hard and soft landscaping. The development shall be carried out in accordance with the approved details.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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 similar size and species.
- 6) The vehicular accesses, parking space and manoeuvring areas shown on plan reference 1729-01 revision B shall be completed in accordance with details first to have been submitted to and approved in writing by the local planning authority, prior to the first occupation of a dwelling at the site and shall be permanently retained thereafter.
- 7) The development shall be carried out in accordance with the Drainage Strategy set out in the Flood Risk Assessment dated May 2018 unless otherwise agreed beforehand in writing by the Local Planning Authority. The Drainage Strategy shall be completed prior to the first occupation of a dwelling at the site and shall be permanently retained thereafter.
- 8) The development shall be carried out in accordance with the recommendations set out at section 12 of the Geo-Environmental Desk Study and Site Investigation Report reference 1879/Rpt 1v2 dated August 2017 unless otherwise agreed beforehand in writing by the local planning authority.

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