



Appeal Decision

Site visit made on 26 July 2019

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2019

Appeal Ref: APP/Z1510/W/19/3227461

5-16 The Close, Tye Green, Cressing Essex CM77 8HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Greenfields Community Housing Ltd against Braintree District Council.
 - The application Ref 18/01287/FUL is dated 12 July 2018.
 - The development proposed is the demolition of twelve unity-housing flats and twenty garages and the construction of seventeen affordable homes consisting of two one-bed bungalows, eleven two-bed houses and four three-bed homes for rent and shared ownership including associated external works, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of twelve unity-housing flats and twenty garages and the construction of seventeen affordable homes consisting of two one-bed bungalows, eleven two-bed houses and four three-bed homes for rent and shared ownership including associated external works, parking and landscaping at 5 -16 The Close, Tye Green, Cressing Essex CM77 8HZ in accordance with the terms of the application, Ref 18/01287/FUL dated 12 July 2018 and the plans submitted with it, subject to the conditions at the end of this decision.

Preliminary Matters

2. The Council's Publication Draft Local Plan is subject to modifications following a pause in its examination and set to resume later this year. While its policies are subject to change, and without confirmation of any changes or objections to those which bear on this appeal, I can accord it only limited weight.
3. The draft Cressing Neighbourhood Plan has not yet been examined, and I am not advised of any suggested modifications or changes following consultation with the Council. Accordingly, I can give its policies only limited weight.

Main Issues

4. Though the Council did not determine the application, its putative reasons for refusal concern the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of future occupiers, with particular regard to privacy in plots 10, 11, 12, 13, 14, 16, and 17, and the risk of disturbance from parking generally; and,
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- the living conditions of the occupiers of houses in Claud Ince Avenue with particular regard to the risk of disturbance from parking.

5. These are the main issues in this appeal.

Reasons

The character and appearance of the area

6. The development straddles two areas. The first, is accessed off the Close, and the second from Longacre Road. The Council raises no objection to the demolition of the units on the Close and the housing proposed in its place. It considers that its layout would continue the soft, semi-rural edge of the village. Its concern focuses on the loss of front gardens and green space and the car-dominated appearance throughout the development.
7. A large part of the Longacre section is occupied by a garage compound. The existing accesses into both areas of the development would be reused, and the overall layout incorporates areas of public planting as well as small front gardens or areas of defensible space to each house. Given these factors and the ample green space already surrounding the site, I can identify no harm from the shorter front gardens of the houses in the Close section, and the mews type layout of the Longacre section, in terms of the existing character of green space and front gardens.
8. In Longacre Road, an additional space would be added to the parking cluster by the footpath leading to the Close, removing a small area of grass verge. However, the green space to its other side and behind it would be retained. A second cluster would be set beside the new drive into the development. This would present a hard edge towards Longacre Road but the grass area beside the Church opposite would offset this to a large degree. A new planted section would lead from this cluster into the cul-de-sac in which the houses would have short areas of defensible space with on-plot spaces set beside the houses or in the cluster at the end.
9. I appreciate that the Longacre section incorporates more parking spaces than it does houses. This places a greater burden on the quality of the detailing and the materials supporting the street model adopted. However, I see nothing which would make the car parking appear unduly conspicuous, or the layout appear short of green texture, or informal green or defensible space. Clusters of car spaces would be distributed around the layout and would be overlooked and enclosed by buildings. Other spaces would be clearly identifiable and integrated into the private and public realm without dominating it.
10. In terms of car-parking, front gardens, and green space, I find no harm from the proposed development to the character and appearance of the area. There would be no conflict with policy CS9 of the Core Strategy 2011 which seeks the highest possible standards of design and layout in development which should respond to the local context and saved policies RLP3, RLP10 and RLP90 of the Local Plan Review adopted 2005 (LPR) which protect the character of the street scene, require development to provide landscaping, and to protect or enhance local distinctiveness.

The living conditions of future occupiers

11. I appreciate that the back gardens of plots 1, 5, 6, and 7, while meeting the minimum areas would be of a length that would allow some overlooking from the first floor bedroom windows towards the gardens of plots 10, 13 and 14, to which they are set at right-angles. However, given the distances of the terraced areas from the windows, and subject to a landscaping condition which would be able to secure screening and planting on the intervening boundaries, I cannot identify a risk to privacy from overlooking any greater than is commonly accepted in the built-up area, and in no case harmful.
12. Similarly, while the front bedroom windows of plot 17 would look onto the back gardens of plots 11 and 12, the distance between them is only marginally short of that recommended in the Essex Design Guide 2018, and would be separated by an area of planting which could be conditioned to hold screening shrubs. Plots 12 and 16 have opposing first floor bedroom windows looking onto the street. While the distance between them is only around 9m, taking into account the offset of the two houses, and that the risk of overlooking is between windows which are commonly screened internally by curtains or blinds, the risk of loss of privacy would not be unacceptable. The outlook from the front bedroom of the house on plot 14 would include a car-space close by. However, the space is offset from the house. The window has a high cill and the outlook would not be unlike many outlooks onto streets, and not unacceptable.
13. The parking layout off Longacre Road integrates spaces between houses and in small clusters. In the context of the built-up area where there is a commonly accepted degree of noise and light from parking and manoeuvring, the positioning of the spaces would not lead to unacceptable loss of privacy or disturbance of the surrounding occupiers from parking and manoeuvring.
14. I understand the Council's concern to protect the living conditions of future occupiers, and I have had regard to the design guidance. However, in a redevelopment between two areas of housing there needs to be a degree of flexibility in its application to achieve its standards, to which this proposal is sensitive. Subject to conditions, I find no harm to the living conditions of future occupiers, with particular regard to privacy in plots 10, 11, 12, 13, 14, 16, and 17, and the risk of disturbance from parking generally. There would be no conflict with saved policies RLP3 and RLP90 of the Braintree District Local Plan Review 2005 (LPR) which require development to satisfy amenity criteria and which seek a high standard of layout.

The living conditions of the occupiers of houses in Claud Ince Avenue

15. The flank walls of 33 and 35 Claud Ince Avenue and their back gardens presently face towards the existing garage compound to be redeveloped. The windows in the flank of No 33 appeared not to serve habitable rooms. While I have taken into account that the parking spaces proposed would extend close to Nos 33 and 35, and that they would be unenclosed, the quantity of parking spaces and their position towards Nos 33 and 35 does not suggest a risk of disturbance from noise of parking, manoeuvring, shutting of car doors, or lights any more than is commonly accepted in the built-up area, where there is a degree of acceptance of the presence of neighbours. The windows of the first floor bedrooms of the houses on plots 16 and 17 would face towards the street, reducing the risk of overlooking into the garden of No 33.

16. I find no harm from the proposed development to the living conditions of the occupiers of houses in Claud Ince Avenue and no conflict with saved policies RLP3 and RLP90 of the Braintree District Local Plan Review 2005 (LPR) which require development to respect neighbouring amenity and protect the amenity of nearby residential properties from unacceptable impact.

Other Matters

17. The number and dimensions of the parking for the proposed houses would meet the Council's adopted standards. In addition, six additional visitor spaces would be provided. Though the occupiers of the proposed houses off Longacre Road would have to place their refuse in a collection point, its distance from their front doors would not be so great as to preclude its use. The existing garages have been described as being used predominantly for storage because their size does not accommodate modern, large cars. There is no substantive evidence that their demolition would result in displaced parking, or that in which case the surrounding streets could not accommodate them without unacceptable pressure on parking availability.

Conditions

18. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Planning Practice Guidance (PPG); for clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
19. In addition to the statutory time condition (1), and given the size of the scheme, it is necessary in order to provide certainty, to impose a condition requiring the development be carried out in accordance with the approved plans (2).
20. Given the age and type of buildings to be demolished, a precautionary contamination (3) condition is necessary, as is a construction method statement condition (4) to protect the living conditions of surrounding and future occupiers and in the interests of road safety during the demolition and construction phases. I was not able to inspect all parts of the site but saw that existing trees and hedges may be affected by construction which necessitates a condition to protect them (5). To be effective these conditions should bite before development commences.
21. In such proximity to the surrounding dwellings and their back gardens, conditions to secure finishing materials (6), a scheme of hard and soft landscaping (7), and the details and provision of refuse storage (8) are necessary to safeguard the character and appearance of the area. Details of refuse storage, and landscaping may reasonably be provided at pre-occupation stage, however, the details of external facing materials, because of their position in the construction programme and the lead-in times for materials, would need to be submitted and approved before development above slab level.
22. To protect the living conditions of neighbours a restrictive condition is necessary to control piling (9), and for safety, a condition (10) to prevent loose surface material close to the highway is required. Given the proximity of the houses on plots 1, 5, 6, 7, 14, 15, 16 and 17 to neighbouring houses, the

potential to develop them without adversely affecting the living conditions of surrounding occupiers is limited. While the PPG advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of permitted development rights under classes A, B, C and E are necessary. A condition (11) would not prevent development but would bring it under planning control.

Conclusion

23. I have found no harm from the proposed development to the character and appearance of the area. Nor would it harm the living conditions of the occupiers of surrounding houses or those of the future occupiers of the development. It would demolish 12 empty, post-war temporary dwellings, and replace them with 17 affordable houses with parking in accordance with the Council's standards, providing significant social, environmental and economic benefits.
24. Notwithstanding the representations about the currency of the development plan, I have found no conflict with its policies which bear on this appeal which concern design and amenity standards, and which are consistent with the objectives of the National Planning Policy Framework, and to which I attribute significant weight. In accordance with the Framework, the development should be approved without delay. For the reasons set out above, and taking into account all matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

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:

GCH-674-P200	rev A	LOCATION PLAN
GCH-674-P201	rev B	Site Plan
GCH-674-P202		Plots 1-7
GCH-674-P203		Plots 8-11
GCH-674-P204		Plots 12-13 & 14-15
GCH-674-P205		Plots 16-17 and Street Elevation
2037 01	rev A	Detailed Planting Proposal
- 3) No development shall commence until an investigation and risk assessment, in addition to any assessment provided with the planning application, have been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) an assessment of the potential risks to: • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archaeological sites and ancient monuments;
 - iii) an appraisal of remedial options, and proposal of the preferred option(s).This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
- 4) No development shall commence, 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) the erection and maintenance of security hoarding
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence until details of the means of protecting all of the existing trees, shrubs and hedges to be retained on the site from damage during the carrying out of the development have been submitted to the local planning authority and approved in writing. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development to the complete satisfaction of the local planning authority.
- No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges. No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.
- 6) No development above slab level shall commence until details and samples of the materials to be used in the construction of 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 samples.
- 7) Before the occupation of the development details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) boundary treatments including boundary screening and boundary screen planting where appropriate
 - ii) a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment; and,
 - iii) colour and type of material for all hard surface areas and method of laying where appropriate.
- The landscaping works shall be carried out in accordance with the approved details. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.
- 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.
- 8) Before the occupation of the development full details of the design of refuse bins, recycling materials storage areas and collection points have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and thereafter so maintained.

- 9) 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.
- 10) No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.
- 11) 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 of the dwelling-house / provision of any building within the curtilage of the dwelling-house / alteration of the dwelling-house in relation to plots 1, 5, 6, 7, 14, 15, 16 and 17, as permitted by Classes A, B, C or E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

END OF SCHEDULE OF CONDITIONS