



Appeal Decision

Site visit made on 11 February 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th March 2020

Appeal Ref: APP/Z1510/W/19/3241003

3 Coggeshall Road, Braintree CM7 9DB

- 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 Brand Builders & Developers Ltd against the decision of Braintree District Council.
 - The application Ref 19/01425/FUL, dated 31 July 2019, was refused by notice dated 5 August 2019.
 - The development proposed is the conversion of a building used for storage and distribution (Class B8 use) to eight, two storey, one-bedroom cottages (Class C3 use).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to policies from the Braintree District Publication Draft Local Plan (DLP), which has been submitted for examination. However, it would appear that further evidence is required on Section 1 of the DLP. Furthermore, I do not know if there are any unresolved objections to the relevant policies within it. On the evidence before me, I therefore afford the policies of the DLP only limited weight with regard to paragraph 48 of the National Planning Policy Framework (the Framework) and instead give precedence to the policies within the Council's adopted development plan.

Main Issues

3. The main issues are;
 - the effect of the proposed parking layout on the future operation of the development; and
 - whether or not satisfactory living conditions would be provided for future occupants of the proposal, with particular regard to access to daylight, outlook, the provision of external amenity space and noise and disturbance.

Reasons

Parking Layout

4. The appeal site is located within the town centre area of Braintree, on the northern side of Coggeshall Road. It accommodates a two-storey warehouse building that is longer than it is wide. This is set to the rear of, and at a right angle to, a vacant commercial property that fronts the carriageway. The appeal

building is positioned on the site's western boundary and part of its northern boundary. A narrow section of hardstanding separates it from the site's eastern boundary. The site is surrounded on all sides by built form in this densely developed urban area.

5. This proposal seeks permission to convert the appeal building to eight, one-bedroom, dwellings. These would have six off-street parking spaces positioned in a tandem arrangement along the site's eastern boundary. I note that the Highway Authority has raised no objection to this scheme and that the quantum of spaces would be acceptable in this accessible location. Nevertheless, it is still reasonable to consider that at least some of the future occupants would own private vehicles.
6. The proposed parking spaces would be smaller than the recommended size for parallel bays as illustrated within the Essex Vehicle Parking Standards 2009. Moreover, their layout would fail to provide an adequate area in which to manoeuvre and turn vehicles around. Consequently, it would be exceedingly difficult for motorists to actually utilise proposed parking spaces as their layout and size would render them unworkable. This would be likely to cause friction between future occupants, as well as hazardous driving conditions whilst vehicles reverse to the turning area located towards the site's entrance.
7. National planning policy seeks to encourage the efficient use of land in locations which offer a genuine choice of transport modes. However, this should not be at the expense of developments which function well, as advocated by paragraph 127 of the Framework. Taking all of the above into account, I find that the scheme would fail to meet this objective of the Framework as the proposed parking spaces would not be in a useable formation. Suitable cycle parking spaces could be secured through the imposition of an appropriately worded condition. However, this would not improve the poor functionality of the proposed car parking arrangement.
8. For the reasons given, I conclude that the proposed parking layout would have a detrimental impact upon the future operation of the proposed development. The scheme would therefore conflict with Policies RLP56 and RLP90 of the Braintree District Local Plan Review (LP) insofar as they seek to ensure developments make appropriate provision for parking and that their layouts are of a high standard.

Living Conditions

Outlook

9. The proposed dwellings would be single aspect properties with only ground floor and first floor windows to their front. These would afford close distance views of parked vehicles, the walled boundary treatment along the site's eastern boundary and a sizeable residential development beyond this boundary. In my view, this would result in an unduly harsh, urban and oppressive outlook from within the proposed properties. This would be particularly so from ground floor windows. The presence of several trees along the site's eastern boundary would not sufficiently mitigate this harm. Neither is the existence of other town centre properties with limited outlook a suitable reason to replicate such poor internal living conditions at the appeal site.

Daylight

10. Given the relatively long, narrow, layout of the proposed properties it is unlikely that daylight would penetrate to the kitchen areas located to their rear. Consequently, these rooms would have to be lit by artificial means. Although future occupants may spend more time in larger living areas, I find that this would make the kitchens unacceptably gloomy spaces.

Noise and Disturbance

11. In my view, the presence of vehicles parked within close proximity of the proposed units would cause daily noise and disturbance to future occupants. Amongst other things, this would be from the starting of engines, the manoeuvring of vehicles in and out of constrained parking spaces and the slamming of car doors. This would reinforce the scheme's poor internal living conditions.

Amenity Space

12. Other than small sections of defensible space to their front, the proposed dwellings would not have any private or shared external amenity spaces. However, their size is unlikely to attract larger families. Furthermore, the appeal site is close to a number of parks which could be safely accessed by foot from the site. Consequently, I am satisfied that future occupants would have appropriate access to external amenity space.

Overall Findings – Living Conditions

13. I have found that future occupants would have suitable access to external amenity space. However, for the reasons given, I conclude that the proposal would fail to provide satisfactory internal living conditions for these occupants through the combination of poor outlook and access to daylight as well as noise and disturbance. It would therefore conflict with Policy RLP90 of the LP insofar as it seeks to secure a high standard of layout and design in all developments. It would also conflict with the Framework which seeks to achieve a high standard of amenity for future users.

Other Considerations

Special Protection Area

14. The appeal site is within a Zone of Influence for the Blackwater Estuary Special Protection Area (SPA), which is a protected European site. Natural England has provided revised advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations. In this instance, the Council has not requested a financial contribution to mitigate the proposal's impact upon the SPA.
15. In any event, the Court of Justice of the European Union has ruled that the decision maker, when considering the effect that a proposal may have on a European site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage¹. As the competent authority, if I had been minded to allow the appeal it would have therefore been necessary for me to go back to the parties to seek further information in

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

order to undertake an AA for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conservation Area

16. The appeal site falls within the Conservation Area (CA). The Council do not raise objection to the proposal's impact on this historic environment. Nonetheless, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of this CA appears to derive from the interesting architectural and historic qualities of buildings which portray the evolution of activity associated with the town centre.
17. Although of some historic merit, the appeal building is not visually prominent within the CA. In line with the opinion of the Council's Historic Buildings Consultant, I find that it makes a neutral contribution to the character and appearance of the CA. The proposal would not make any significant alterations to the external appearance of the appeal building. Whilst it would make use of a vacant building, I am not persuaded that the scheme would notably enhance the character or appearance of the CA. However, it would not result in any material harm to this designated heritage asset.
18. For these reasons, I am satisfied that the proposal would preserve the character or appearance of the CA. It would therefore accord with the relevant provisions of the Council's development plan which seek to protect the historic environment. In addition, it would accord with the Framework insofar as it seeks to conserve designated heritage assets in a manner appropriate to their significance.

Other Matters

19. My attention has been drawn to a development at Augustus Mews which was allowed at appeal². However, this development was for a dual aspect residential property which differed in size and shape compared to the proposed units. It is therefore not directly comparable to the appeal scheme, which I have assessed based on its own planning merits in any event.
20. I have no substantive evidence before me to show that this proposed change of use could have been carried out under the provisions of the permitted development regulations. This therefore carries limited weight in my assessment.

Planning Balance

21. The Government is seeking to significantly boost the supply of housing. Although the proposal would re-use an existing building and utilise previously developed land, it would make only a modest contribution to the Council's housing stock. Similarly, the economic benefits associated with construction and occupation would also be modest. In this context, I give moderate weight to the social and economic benefits associated with this proposal.
22. I have found that the proposal would not harm the character or appearance of the CA and that future occupants would have suitable access to external

² Ref. APP/Z1510/W/19/3230477

amenity space. However, these are requirements of the development plan and are therefore neutral factors in the overall planning balance.

23. On the other hand, the scheme's parking layout would prevent this development from functioning effectively in the future. In addition, the proposal would fail to afford satisfactory living conditions for future occupants in terms of outlook, access to daylight and noise and disturbance. It would therefore fail to fulfil the Framework's social objective for sustainable development, which seeks to provide homes that meet the needs of present and future generations and foster a well-designed built environment. This attracts significant weight against the proposal.
24. Taking the above factors into consideration, even if the Council was unable to demonstrate a five year supply of deliverable housing land, in my view the adverse impacts of approving this development would significantly and demonstrably outweigh the benefits of providing eight homes. Consequently, the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

25. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR