



Appeal Decision

Site visit made on 3 February 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal Ref: APP/Z1510/W/19/3238127

6 Cressing Road, Witham CM8 2NP

- 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 Messrs Pemberton and Copping, Maison Investments Ltd against the decision of Braintree District Council.
 - The application Ref 19/01038/FUL, dated 10 June 2019, was refused by notice dated 13 August 2019.
 - The development proposed is erection of 1 no. dwelling and construction of parking area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's appeal statement and reasons for refusal make reference to a number of policies within the emerging Braintree District Publication Draft Local Plan (DLP). From the details before me, it would appear that further evidence is required before the plan can proceed to adoption and no additional material has been provided to me regarding the current status of any unresolved objections to the adoption of the plan. Having regard to paragraph 48 of the National Planning Policy Framework (the Framework), I consider that the DLP can be afforded only limited weight. As such I have considered the appeal against the current adopted development plan policies contained within the Braintree District Local Plan Review 2005 (LPR) and Braintree District Core Strategy 2011 (CS) and attribute little weight to any conflict with the DLP policies quoted within the reasons for refusal.

Main Issues

3. The main issues are the effect of the development on i) character and appearance of the area; and ii) living conditions of future occupiers with regard to provision of internal space, outlook and outdoor amenity space.

Reasons

Character and appearance

4. The appeal site comprises of a semi-detached two storey property and its garden situated within a predominantly residential area consisting of a mix of single and two storey properties. Although there is a degree of variety, the

area is characterised generally by suburban style dwellings within large plots with generously proportioned rear gardens. Owing to the position of the plot near to the junction of Cressing Road and Rickstones Road, the garden extends to Rickstones Road to the rear where the property benefits from a garage and vehicular access.

5. The appeal development seeks to erect a single storey dwelling within the rear garden with access from Rickstones Road. The existing plot would be subdivided with garden space to serve the proposed dwelling to its rear. The proposal also indicates the provision of a parking area to serve the existing property accessed from Cressing Road.
6. The proposed dwelling has been designed to have a low roof profile, that would to some degree minimise its visual prominence. However, it would not sit comfortably within an established row of properties, being largely unrelated to the existing pattern of residential development, appearing as an anomalous and singular entity. This would be increasingly apparent due to its modest plot size that would be at odds with the established grain of development. As a result, even the modestly proportioned dwelling proposed would appear as a cramped form of development within its plot. As such the appeal proposal would appear as discordant built form at odds with the established local grain of development, that to my mind, would cause significant harm to the character and appearance of the area.
7. Although I acknowledge the appellants contention that the Council may not have a policy that explicitly restricts development within garden land, I have considered the appeal in accordance with the character and appearance aims of Policies RLP3, RLP9 and RLP90 of the LPR and Policy CS9 of the CS. The thrust of these policies indicate that any development must be appropriate within and have regard to local character. As such, although there may not be an objection to the design approach itself and the site is not within a conservation area or subject of another designation, this does not to my mind, outweigh the significant and harmful impact identified above. Furthermore, I do not consider any such harm would be adequately mitigated by way of conditions relating to materials or fenestration details.
8. For the above reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, it would be at odds with Policy RLP3 of the LPR, which seeks, amongst other things, that residential development should protect the character of the existing street scene. It would also be at odds with Policies RLP9 and RLP90 of the same plan that seek amongst other things that residential buildings shall be in character with the site and its surroundings and reflect or enhance local distinctiveness. The appeal proposal would also be contrary to Policy CS9 of the CS that seeks to secure high standards of design that, amongst other things, respect and respond to local context. The proposal would also be contrary to the design requirements of the Framework, including that within Chapter 12.
9. It would also conflict with the character and appearance aims of Policies LPP1, LPP50 and LPP55 of the DLP. I also acknowledge the sustainable development and housing requirements of Policies SP1 and SP3 of the DLP. However, due to the current status of the plan I give conflict with these policies limited weight.

Living conditions of future occupiers

10. I acknowledge that both parties reference the nationally described space standard, although from the information before me these are not formally adopted by the Council at this time. As such although I acknowledge the comments of both parties, I cannot attach significant weight to any suggested shortfall in floor area. However, given the size of the proposed dwelling, it would be a reasonable expectation that it would benefit from a private garden of adequate size, shape and position to cater for basic outside space requirements. The area to the south-west of the appeal proposal would provide an area of outdoor amenity space that would be enclosed from the existing dwelling and away from Rickstones Road.
11. The Essex Design Guide 2005 indicates that 50 square metres of garden space should be provided for one or two bedroom dwellings although the Council contend that the appeal proposal would only provide 28 square metres and would be approximately 3 metres in depth. This has not been debated by the appellant. Owing to the constrained nature of the subdivision, the appeal development would also result in the principal rear facing window being in close proximity of the enclosure subdividing the garden.
12. Although I acknowledge that there may be some flexibility in terms of the size of garden areas to serve smaller dwellings, the amenity space provided would be limited in its extent, and of a shallow depth. Given its modest size and the limited outlook provided for future occupiers, I find that the proposed outside amenity space would be of diminished practical use for occupiers of the dwelling. Furthermore, given its modest size and relationship with neighbouring properties, I am not persuaded on the evidence before me that this would provide a level of privacy that future occupiers may reasonably expect. Although I acknowledge that the proposal seeks to make an efficient use of land this should not be at the expense of the living conditions of future occupiers of the dwelling. As such, I am not persuaded that the proposal would provide future occupiers of the dwelling with an attractive or satisfactory form of outdoor garden space.
13. My attention has been drawn to appeal decision APP/Y1945/W/19/3220904 relating to a prior notification development for the conversion from class B1 to C3 under Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Although I note the appellant's comments, the appeal cited is materially different in that it relates to works being undertaken under permitted development. The Inspector for the quoted appeal clearly indicates that the size of individual dwellings and whether they have windows or ventilation are not conditions of the relevant part of the order. As such noting the above, I have determined the appeal on its individual planning merits and the quoted appeal decision does not, to my mind, justify allowing a proposal that would not adequately safeguard living conditions of future occupiers.
14. I note within the Council's officer report that concern is raised with regard to the adequacy of the garden area remaining to serve the dwelling of 6 Cressing Road. However, on the evidence before me, I am not persuaded in isolation that this would result in significant detriment for occupiers of this dwelling.
15. For the above reasons, I conclude that the proposal would not provide a satisfactory environment for occupiers of the proposed dwelling. As such, it

would not accord with the living conditions aims of Policies RLP3 and RLP90 of the LPR that seek, amongst other things, development that satisfies amenity criteria and a high standard of layout and design. It would also conflict with Policy CS9 of the CS that seeks development that, amongst other things, meets the changing need of occupiers. It would also be at odds with the guidance within Chapter 12 of the Framework, including paragraph 127 (f) that seeks a high standard of amenity for existing and future users.

16. The proposal would also be at odds with the living conditions aims of Policies LPP1, LPP50 and LPP55 of the DLP. However, due to the stage of the plan I give conflict with all of these policies limited weight.
17. I note reference is made to Policy RLP9 of the LPR within the reason for refusal relating to living conditions. However, having assessed the content of this policy I am not persuaded that it is directly relevant to the related reason for refusal and as such attribute this little weight in determination of this issue.

Other Matters

18. The Council confirm that the appeal site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. However, as I have found harm in relation to the main issues there is no need for me to consider this further.
19. I note the letters of support received with the application. However, these representations do not outweigh the harm I have identified with regard to the main issues.
20. The appellant indicates that the site should be considered as 'previously developed land', the proposed dwelling would comply with Building Regulations and that the proposal would utilise renewable technologies. Even if this were the case, these matters in themselves would not overcome my conclusions on the main issues.
21. The appellant has raised concern with the Council's application of development plan policies and discrepancy in measurements quoted within the Council's submissions. Whilst this is acknowledged I have only had regard to the planning merits of the case.
22. The application as submitted included the provision of a parking area to be accessed from Cressing Road. The Council do not raise any concern with regard to this element of the proposal and I find no reason to disagree with this assessment.
23. None of the other matters raised outweigh or alter my conclusions on the main issues.

Planning Balance and Conclusion

24. It has been brought to my attention that as a result of the publication of the Housing Delivery Test results that the Council cannot currently demonstrate a five year supply of land for housing development, indicating a position of 4.51 years. It follows by virtue of footnote 7 of paragraph 11 of the Framework that the tilted balance applies.

25. For the reasons detailed above, I have found that the appeal development would be harmful to the character and appearance of the area and living conditions of future occupiers of the appeal development. This has led to conflict with various development plan policies as detailed previously. I consider that these policies constitute the most important policies as referred to by paragraph 11(d) of the Framework. I further consider that these policies are consistent with the Framework, including paragraph 127 relating to design and as such are not out of date for the purposes of paragraph 11. It follows that the conflict with them carries full weight.
26. Against the harm and conflict with the development plan outlined above has to be balanced the benefits of the proposal. I acknowledge that the provision of one additional residential unit of the type proposed in a suitable location would add to the Council's five year supply and be a positive factor in terms of the social limb of sustainability and have economic benefits.
27. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts would, to my mind, significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.
28. For the reasons given above, and having regard to all other matters raised, whilst I find the parking element of the proposal to be acceptable, I conclude that the harmful effect on the character and appearance of the area and living conditions of future occupiers indicate that the appeal should be dismissed.

Robert Lankshear

INSPECTOR