
Appeal Decisions

Site visit made on 6 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal A Ref: APP/Z1510/W/20/3250523

Land east of Sudbury Road, Halstead, Essex, CO9 2BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to approve details required by a condition of a planning permission.
- The appeal is made by Bellway Homes Ltd against the decision of Braintree District Council.
- The application Ref: 19/01247/DAC, dated 2 July 2019, sought approval of details pursuant to conditions 4, 7, 11, 13, 15, 16, 19 and 23 of planning permission Ref: 18/01749/FUL granted on 11 June 2019.
- The application was refused, in part, by notice dated 4 December 2019.
- The development proposed is the erection of 218 homes with associated infrastructure including SUDs features, new accesses from Tylneys Road and Winston Way, hard and soft landscaping and provision of public open space.
- The details for which approval is sought are: No above ground development shall commence unless and until a schedule and samples of the materials to be used on the external finishes of dwellings and garages; brick boundary walls and block paved hard surfaced areas has been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: To ensure that the development does not prejudice the appearance of the locality.

Appeal B Ref: APP/Z1510/W/20/3250526

Land east of Sudbury Road, Halstead, Essex, CO9 2BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant planning permission subject to conditions.
 - The appeal is made by Bellway Homes Ltd against the decision of Braintree District Council.
 - The application Ref: 19/01391/VAR, dated 22 July 2019, was approved on 11 February 2020 and planning permission was granted subject to conditions.
 - The development permitted is the erection of 218 homes with associated infrastructure including SUDs features, new accesses from Tylneys Road and Winston Way, hard and soft landscaping and provision of public open space.
 - The condition in dispute is condition 11, which states that: The external materials shall be as specified in letter from Braintree District Council dated 4th December 2019 and approved in association with application reference 19/01247/DAC, with the exception of dry verge detailing which shall accord with details to be submitted to and approved in writing by the Local Planning Authority prior to any development occurring above ground level.
 - The reason given for the condition is: To ensure that the development does not prejudice the appearance of the locality.
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Decisions

Appeal A Ref: APP/Z1510/W/20/3250523

1. The appeal is allowed and the materials submitted to comply with condition 11 attached to planning permission ref: 18/01749/FUL, granted on 11 June 2019, are approved in accordance with the details submitted with application ref: 19/01247/DAC, dated 2 July 2019.

Appeal B Ref: APP/Z1510/W/20/3250526

2. The appeal is allowed and the planning permission Ref:19/01391/VAR, for the erection of 218 homes with associated infrastructure including SUDs features, new accesses from Tylneys Road and Winston Way, hard and soft landscaping and provision of public open space, at Land east of Sudbury Road, Halstead, granted on 11 February 2020 by Braintree District Council, is varied by deleting condition 11 and substituting it with the following condition:

The development shall be completed using the following external materials:

Bricks -	Surrey County Red Atherstone Red Autumn Gold
Roof Tiles -	Marley Forticrete Gemini colour – Sunrise Blend SVK Montana Textured Marley Forticrete Gemini colour – Mixed Russet
Dry Verge System -	To match the colour of the roof tiles
Render -	Weber Limestone finish
Weatherboarding -	Marley Cedral Weatherboarding – colour Light Mist
Hanging Tiles -	Concrete plain tile to match main roof
Ground Finishes -	Mix of tarmac, block paving, Breedon gravel and Grasscrete as per the approved Materials Schedule shown on drawing no. 8661/24 Rev E.

Procedural Matters

3. In relation to Appeal A, the council issued a split decision, which approved all of the details submitted to discharge conditions 4, 7, 13, 15, 16, 19 and 23 of planning permission Ref: 18/01749/FUL and all of the details submitted to discharge condition 11, with the exception of the use of dry verge detailing, which was refused. I have therefore limited my consideration of the appeal to the matter that has been refused and I have worded the banner heading accordingly.
4. In relation to Appeal B, the council granted planning permission under section 73 to vary conditions 10 and 21 of planning permission ref: 18/01749/FUL. In doing so the council also varied condition 11 to require further dry verge details to be submitted to and approved in writing prior to any development occurring above ground level. I have therefore limited my consideration of the appeal to this matter.

5. The development had commenced at the time of my site visit and a number of dwellings were already completed and occupied. This has had no bearing on my decision.
6. The council's decisions on the two appeals are somewhat in conflict with one another. In refusing to fully discharge condition 11 (Appeal A), the council's decision letter and correspondence to the appellant clearly states "the use of dry verge detailing is not acceptable within this development and is REFUSED."
7. However, the varied condition 11 (Appeal B), requires the dry verge detailing to accord with details to be submitted to and approved in writing by the local planning authority. This suggests that contrary to the above, dry verge detailing is acceptable, subject to agreement of the precise type and colour.

Main Issue

8. The main issue in these appeals is whether the dry verge detailing used and proposed on the permitted dwellings and garages is appropriate having regard to the character and appearance of the area.

Reasons

9. The appeals relate to a large new housing development, which is situated on former agricultural land at the edge of Halstead. The site is not within or adjacent to a designated conservation area or any other area of special protection. The only other development adjoining the site is a 1970's housing estate of no special or historic interest.
10. Condition 11 of the original planning permission included a standard condition requiring the approval of external materials and hard surfaces prior to the commencement of the development. In my experience, the submission of such details generally relates to the primary materials and does not extend to minor features, such as wet or dry verge systems, unless such details are specified. In this respect I note that in discharging the majority of condition 11, the council did not require any details of the materials to be used in more prominent features of the buildings such as those relating to windows, doors, fascias, soffits and rainwater goods, which like the dry verges, comprise modern UPVC materials.
11. Paragraph 55 of the National Planning Policy Framework (the Framework) states that conditions should only be imposed where they are necessary, relevant to planning and the development permitted, enforceable, precise and reasonable in all other respects. The Government's Planning Practice Guidance (PPG) expands further on such matters.
12. Condition 11 of the original planning permission was not precise in terms of requiring verge details to be submitted and agreed in writing. Nor was a specific condition imposed to prevent a dry verge finish or to require a wet verge finish on the buildings. Such minor details are rarely shown on planning application drawings unless specifically requested. I doubt there are many circumstances where a standard materials condition such as this has resulted in verge details being supplied, or required to be supplied, in order to discharge the condition. Indeed the council acknowledge in their appeal statement that no such details were requested when they were discharging the materials conditions relating to two other large housing developments, with dry verges,

currently under construction in Halstead, which have been referred to by the appellant.

13. The council's reason for requesting these additional details at the discharge of conditions stage is that the approved dwellings are of a traditional pastiche design and accordingly a traditional wet verge system should be incorporated to ensure the material finishes do not prejudice the final appearance of the scheme as a whole. This reasoning conflicts with the amended condition 11 in planning permission ref: 19/01391/VAR, which requires dry verge details to be submitted to and approved by the council.
14. As already noted, other modern features and materials such as UPVC windows with trickle vents, UPVC fascias, soffits and rain water goods were not required to be agreed as part of the materials condition. Traditional features such as chimney stacks were not required to be incorporated into the house type designs. I acknowledge the importance of high quality design and materials in new developments, which reflect the local distinctiveness of the area. However, new technologies and materials should also be embraced. Ultimately this is a 21st century housing development and it should not pretend to be anything else. Given the location of the site, its surroundings and the level of untraditional detailing and materials that have, quite rightly in my view, been accepted across the development, the use of a dry verge system, which predominantly relates to the less visible side elevations, would not be harmful to the final appearance of this large modern new housing estate, with its modern layout, block paved roads and frontage parking.
15. The council refer to another Bellway Homes development in which the colour of the dry verges contrast with the colour of the roof tiles. This seems to be the council's main concern and reason for the amended condition 11, which rather than resist the dry verges, requires details of them to be agreed. The dwellings built on the appeal site at the time of my site visit all had dry verges that match the colour of the roof tiles. The appellant's final comments confirm that this is the intention across the site and an amended condition is invited to ensure this. In my view such a condition would be reasonable and would address the council's primary concern regarding the potential use of contrasting coloured roof materials.
16. I have had regard to the technical arguments made by both parties, which, despite being more relevant to Building Regulations than Planning, raise material considerations in relation to the long term sustainability and maintenance of the dwellings. In this respect I am also aware that the repair and maintenance of a roof would not normally be considered development and such future maintenance often results in the introduction of the dry verge detail, without the requirement for planning permission, resulting over time in a mixture of finishes. Although the council consider dry verge systems to be a new technology, not covered by its 15 year old design guidance, these are not new and their use has been gradually increasing for many years as their longevity is being recognised as outweighing the additional cost.
17. I observed during my site visit that in the context of what is a modern new housing development, comprising some traditional design features, that the dry verge system used, primarily on the side elevations of the dwellings, is not visually obtrusive and despite being different to the neighbouring 1970's development of buff brick, rendered, UPVC clad, concrete tiled housing, I do

not find the detail to appear incongruous with or to cause any material harm to the character and appearance of the area.

18. For the reasons given above, I conclude that the dry verges used in this modern new housing development does not cause harm to the character and appearance of the site or the surrounding area. As such it would accord with policies RLP9 and RLP90 of the Braintree District Local Plan Review (2005) and policy CS9 of the Braintree District Council Core Strategy (2011), which seek to ensure new residential development creates a visually satisfactory environment in character with the site and its surroundings, incorporates a high standard of design and materials and incorporates the principles of sustainable design and construction in accordance with recognised national standards. I also find no conflict with the Framework.
19. I have been provided with a partial copy of the Essex Design Guide but can see nothing of relevance within the extracts I have received that alter my findings in relation to the absence of any harm or any conflict with the development plan and the Framework.

Conclusion

20. Therefore, having regard to all matters raised, I have concluded that the appeals should succeed. Appeal A is allowed and discharges condition 11 of planning permission 18/01749/FUL. The planning permission under appeal B is varied by imposing a new condition 11, which lists the approved external materials for the avoidance of doubt and requires the dry verge details to match the colour of the roof tiles to avoid any stark contrast with the previously agreed materials that may detract from the generally traditional characteristics of the approved development.

Rachael Bartlett

INSPECTOR