



Appeal Decision

Site visit made on 14 December 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2021

Appeal Ref: APP/Z1510/W/20/3258211

4 Helions Road, Steeple Bumpstead CB9 7DU

- 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 consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Troy Homes Ltd and Mark Weatherhead against Braintree District Council.
 - The application Ref 19/02258/REM, dated 11 December 2019, sought approval of details pursuant to condition No 1 of a planning permission Ref 16/01525/OUT granted on 12 January 2017.
 - The development proposed is described as "Reserved Matters sought in respect of access, appearance, landscaping, layout and scale. The outline planning application was NOT an EIA application."
 - The details for which approval is sought are: Access, appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Both parties have referred to the Council's emerging Local Plan, which has been submitted for examination. The emerging plan has been subject to extensive modifications which are under review by the examining Inspector. There is no timescale for adoption of the emerging plan, and therefore its policies attract very limited weight in the determination of this appeal.

Background and Main Issues

3. The planning application was not determined by the Council prior to the appellant lodging this appeal. However, the Council had prepared a committee report detailing officers' recommendation for the application, which was that it be refused due to the relationship between dwellings and the design of the development proposed.
4. The main issues are therefore the effect of the appeal proposal on:
 - The living conditions of existing and future occupiers; and,
 - The character and appearance of the area.

Reasons

Living Conditions

5. The proposed house on plot 9 would be significantly closer to the boundary with the neighbouring bungalows at Nos 32 and 34 Water Lane than any part of the existing building on site. This proposed house would be a two-storey house presenting a wide elevation and gabled roof slope towards the shared boundaries with Nos 32 and 34 at approximately seven metres' distance. The proposed house would be a prominent and dominant feature in the outlook from the neighbouring properties, and harmful to the living conditions of these existing occupiers, although as the only first-floor window facing these properties would be to a stairwell no unacceptable loss of privacy would result.
6. The site rises from the Helions Road boundary, and the houses towards the rear of the development would be significantly higher than those towards the front. The houses on plots 7 and 8 would lie to the rear of plots 1, 2 and 3 and would overlook their rear gardens from a higher elevation. While there would be some separation as a result of the access road passing between the plots, the greater height would allow views into the rear gardens of plots 1, 2 and 3 resulting in poor levels of privacy for the occupiers of those properties. In addition, the first-floor front windows to the house on plot 5 would overlook the rear garden to the house on plot 3, further contributing to the low levels of privacy for the occupiers of that property. One first-floor window to the house on plot 9 would face towards the rear garden of plot 1, but this would be at a greater distance than between plots 3 and 5 and would not result in an unacceptable additional harm to the living conditions of that property's occupiers.
7. Site topography and retained landscaping would diminish the usable garden space for some of the proposed houses. In particular, plots 4-6 would have significant level changes within their rear gardens and the rear garden to plot 6 would also be dominated by the retained trees. However, this would be offset by the provision of communal open space at the rear of the site, overlooking the open fields beyond.
8. The communal space would be substantially higher than the gardens of the proposed houses, and there would be potential for plots 7 and 8 to be overlooked from this land. However, subject to appropriate landscaping and boundary treatments enough separation distance could be maintained to provide an acceptable level of privacy for the occupiers of these plots from the users of the communal land. As access to the land would only be available by passing the proposed houses rather than from the fields or neighbouring properties, the proposed layout would not result in unacceptably insecure boundaries for future occupiers.
9. The outlook from the front windows of the houses on plots 7 and 8 would be onto the rear boundaries of plots 1, 2 and 3 as well as a visitor parking area. This would be an unattractive outlook, but could be addressed by a revised parking and landscaping layout if the appeal were allowed.
10. The outlook from the house on plot 5 would be partially onto the side wall of the house on plot 3, while the house on plot 9 would face the house on plot 8 at an angle. Relationships like these are not uncommon between houses, and they would not result in unacceptable outlooks for future occupiers.

11. The proposed layout has been the subject of extensive negotiations between the appellants and the Council, and there are constraints on the site layout arising from its topography. The layout of the development is in line with that approved at outline stage, but as layout is a reserved matter this is not binding on any reserved matters application.
12. The development proposed would create unacceptable relationships between the proposed houses and proposed and existing houses, with overlooking between proposed houses and poor outlook from the existing properties at Nos 32 and 34 Water Lane. This would result in unacceptable living conditions for existing and future occupiers, contrary to Policy CS9 of the Braintree Core Strategy 2011 (the CS) and Policies RLP3 and RLP90 of the Braintree Local Plan 2005 (the LP). Taken together, these policies require that development result in no undue or unacceptable impact on the amenity of any nearby residential properties.

Character and Appearance

13. There is an eclectic mix of two-storey and single-storey dwellings of various styles and external finishes in the near vicinity. Despite this mix, the houses on plots 1, 2 and 4 would appear monotonous in the street scene due to their size, prominent siting and plain brick finish.
14. In addition, the houses on plots 3 and 5 would present blank side elevations to the main site access from Helions Road, which would result in a poor overall appearance at the site entrance. Alterations to these details could materially affect the overall appearance of the development, and the relationships between houses within it. Accordingly, it would not be appropriate to require submission of revised details by a condition even if the appeal were to be allowed, as it would potentially prejudice the interests of interested parties.
15. The development would therefore result in unacceptable harm to the character and appearance of the area, contrary to the requirements of Policies RLP3 and RLP90 of the LP, and Policy CS9 of the CS. These policies require, amongst other things, a high standard of layout and design in all developments and that developments shall be in harmony with the character and appearance of the surrounding area.

Planning Balance

16. There would be unacceptable harm to the living conditions of both future and existing occupiers from the appeal proposal due to overlooking and harm to the outlook from existing dwellings. In addition, there would be harm to the character and appearance of the area arising from the detailed design and external materials of the house. These would amount to substantial cumulative harm arising from the development proposed.
17. This would be contrary to the requirements of Policies RLP3 and RLP90 of the LP, and Policy CS9 of the CS. Taken together these policies require the highest possible standards of design and layout in all new development, including that there shall be no undue or unacceptable impact on the amenity of any nearby residential properties. Policies RLP3 and RLP90 contain language specifically referring to neighbour amenities, and as such are the most important policies for the determination of this appeal.

18. It is not in dispute that the Council cannot demonstrate a five year supply of housing land. Where this is the case, paragraph 11 of the National Planning Policy Framework (the Framework) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This does not, however, change the statutory status of the development plan as the starting point for decision making.
19. Policies RLP3 and RLP90 of the LP collectively seek to ensure a high standard of development, including that no unacceptable impact to the amenities of nearby residential properties would result. Policy CS9 of the CS seeks the highest possible standards of design and layout in all new development. These policies are consistent with the aims of the Framework, and accordingly full weight is attributed to the conflict with them.
20. The development proposed would deliver nine new houses, which attracts significant weight given the shortfall in the Council's housing land supply and the Government's objective of significantly boosting the supply of homes. The site is available for development and could be built out quickly.
21. The outline permission has expired. However, the acceptability of the principle of residential development has been established and this would still attract significant weight in the determination of any future application for the site. The expiry of the outline permission therefore attracts very limited weight in the determination of this appeal.
22. While the benefits resulting from the appeal proposal would be significant, it would result in unacceptable harm to the living conditions of existing and future occupiers and harm to the character and appearance of the area. That harm would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

23. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR