
Appeal Decision

Site Visit made on 28 September 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/Z1510/W/21/3269220

Rahlym, 4 Church End, Panfield, CM7 5AJ

- 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 Mr Justin Smith against the decision of Braintree District Council.
 - The application Ref 20/01791/FUL, dated 03 November 2020, was refused by notice dated 11 February 2021.
 - The development proposed is proposed residential development of 1 bungalow
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice as this more accurately reflects the proposed development. The appellant has agreed to the use of this description.
3. At the time that the planning application was determined, the Council could not demonstrate a five-year supply of deliverable housing land. However, in their appeal representations the Council has provided an update on Housing Land Supply (HLS), which was published in May 2021. This update confirms a current HLS position of 5.24 years for the period 2021-2026. There is no evidence before me to the contrary and as such, I have considered this appeal on this basis.
4. On 22 February 2021 the Council adopted the Braintree District Council Local Plan 2013-2033 - Section 1 (LP1). As a result, Core Strategy (2011)¹ Policy CS9, as referred to within the Council's reason for refusal, has been replaced by LP1 Policy SP7. All other development plan policies referred to within the reasons for refusal, including those contained within the Local Plan Review (2005) and Core Strategy (2011), remain adopted. The Council has also indicated that Section 2 of the draft Local Plan (LP2)² is currently at examination stage. However, the Council has not referred to any specific LP2 policies in relation to this appeal.
5. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Accordingly, both parties were invited to provide representations in relation to this matter. I have therefore considered this appeal with regard to the revised Framework.

¹ Braintree District Council Local Development Framework Core Strategy (2011)

² Local Plan – Publication Draft for Consultation (June 2017)

Main Issues

6. The main issues are as follow:

- The effect of the proposed development on the character and appearance of the appeal site and surrounding area, including its effect on protected trees; and
- Whether the proposed development would provide acceptable living conditions for future occupiers of the proposed development, with particular regard to privacy.

Reasons

Character and Appearance

7. The appeal site comprises land to the front of Rahylm, 4 Church End (No 4), which is a two-storey detached dwelling. The site is currently a residential garden. The immediately adjacent property at 6 Church End (No 6) is a similar design to No 4 and is similarly set within a spacious plot with a large front garden.
8. To the east of the appeal site, neighbouring residential properties are also set back from the highway within relatively spacious plots. Together with the appeal site, these properties all provide an important gradual transition between the countryside and the more urban character of the village to the west. Further afield, within the village, development typically comprises of higher density residential dwellings, located closer to the highway and consisting of a range of architectural styles.
9. Despite the single storey scale of the proposed development, it would be clearly visible from the highway, through the gaps in the trees and over the existing access. Given the closer proximity of the proposed development to the highway, it would be more prominent in the street scene than the existing properties at No 4 and No 6. Even with additional planting, the roof of the proposed dwelling would be clearly visible as a dominant feature of the street scene. As a result, the proposed development would completely alter the spacious character of these two properties and would harmfully erode the existing soft transition between the countryside and the village.
10. I accept that the majority of development on St Mary's Close, nearby, is located closer to the highway and within less spacious plots. However, the appeal site has a far more verdant character and a more important role in providing a transition between the countryside and the village.
11. The fact that the proposed dwelling does not extend beyond the eastern building line of No 4 does not alter my findings, given that it is the siting of the proposed dwelling to the front of this existing property which would result in visual harm.
12. The proposed design would be relatively traditional, with brick and roof tiles proposed, to match No 4. Timber cladding would also reflect the materials used on adjacent neighbouring properties. However, the single storey scale of the proposed development would jar with the appearance of the existing two-storey properties at No 4 and No 6. This would exacerbate the harmful impact

of the proposed development upon the character and appearance of the surrounding area.

13. The Council also states that there is a blanket Tree Preservation Order (TPO) (Reference 3/85 G1), which includes mature trees on the southern boundary of the site, adjacent to the highway. However, a copy of the TPO has not been provided. Nonetheless, it is common ground that the mature trees on the southern boundary of the site are subject to a blanket TPO. These trees make a significant contribution to the verdant character of the appeal site and surrounding area. The trees have an important role in ensuring a soft transition between the countryside and the village to the west. As such, their preservation is important.
14. Due to the close proximity of the proposed dwelling to these trees, it is possible that the proposed development could have an adverse impact upon them, given that the roots may extend beneath the appeal site. No arboricultural details were provided with the planning application submitted to the Council. In the absence of such details, it has not been demonstrated to my satisfaction that the proposed development would not have an unacceptably harmful effect on these important trees and, subsequently, the character and appearance of the area in this regard
15. The proposed development would have a harmful impact upon the character and appearance of the appeal site and surrounding area. As such, it would conflict with LP1 (2021) Policy SP7 and Local Plan Review (2005) Saved Policy RLP90, which require in part that development is in keeping with local character and reflects local distinctiveness, respectively. There would also be a conflict with Local Plan Review (2005) Policy RLP80, which requires proposals for new development to include an assessment of the impact of development upon distinctive landscape features, including trees amongst other things.
16. Core Strategy (2011) Policy CS8 does not relate to this main issue. Furthermore, I have not identified any conflict with Local Plan Review (2005) Policy RLP81 because there is no evidence to indicate that the affected trees are 'locally native'.
17. The proposed development would also conflict with Framework Paragraph 130, which requires that new development is sympathetic to local character.

Living Conditions

18. The proposed dwelling would be located within close proximity to No 4. The shared access with this property would be located adjacent to the proposed dwelling. Therefore, neighbouring residents at No 4 would need to walk directly in front of the windows of proposed bedrooms 2 and 3 to access this neighbouring property. As a result, these bedrooms would be subjected to harmful overlooking impacts. These windows could not be obscure glazed as they are the primary windows of the rooms and obscure glazing would have a harmful impact on outlook.
19. In addition, the first-floor windows of No 4 would result in a harmful overlooking impact upon bedroom 1 and 2 of the proposed development. However, the windows in the proposed north facing elevation could be obscure glazed, given that both of these bedrooms are dual aspect. As such, this harm could be overcome through imposition of a planning condition to this effect.

20. However, overall, the proposed development would not provide suitable living conditions for future occupiers, as a result of insufficient privacy in respect of bedrooms 2 and 3.
21. For these reasons, the proposed development would conflict with LP1 (2021) Policy SP7, which requires in part that new development does not have a harmful impact upon the living conditions of future occupiers with regard to overlooking. The proposed development would also conflict with Framework Paragraph 130, which requires in part that new development provides 'a high standard of amenity' for future users.

Other Matters

22. The proposed development would result in a small increase in the housing stock, which would result in economic and social benefits. This would be consistent with the emphasis at Framework Paragraph 60 on significantly boosting the supply of housing. In addition, the appellant indicates that the proposed development would be carbon neutral, including measures such as vehicle charging points. This would result in environmental benefits. However, given the limited scale of the development the social, economic and environmental benefits, combined, would be minor and can therefore only be afforded moderate weight. As such, they would not outweigh the significant harm that the proposed development would cause in relation to the main issues of this appeal.
23. The appellant suggests that the site comprises previously developed land. However, the glossary of the Framework excludes residential gardens in built-up areas, such as the appeal site, from the definition of previously developed land. As such, this consideration does not attract any weight in the determination of this appeal.
24. The appellant has indicated that he would live in the proposed dwelling and that there is limited suitable equivalent accommodation available locally. However, there is no planning obligation before me to control this, such that the dwelling would not be subsequently sold on the open market. Therefore, this is not a consideration to which I can attribute any significant weight. In addition, the appellant asserts that there were no objections from neighbouring residents to the planning application. However, the absence of objections from neighbouring occupiers carries neutral weight in my assessment of this appeal.
25. Representations have been made by both parties with regard to the level of communication during the application process. However, this is a procedural matter and on the basis of the evidence before me it has no bearing on the conclusions I have reached in relation to the main issues.

Conclusion

26. The proposed development would conflict with the development plan taken as a whole. There are no other matters raised which indicate that a decision should be made other than in accordance with the development plan. As such, the appeal is dismissed.

Luke Simpson

INSPECTOR