



Appeal Decision

Site visit made on 30 December 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2022

Appeal Ref: APP/Z1510/W/21/3281675

59 Brain Valley Avenue, Black Notley CM77 8LS

- 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 Joe Forman against the decision of Braintree District Council.
 - The application Ref 21/01812/FUL, dated 3 June 2021, was refused by notice dated 20 August 2021.
 - The development proposed is construction of new detached 3 bedroom dwelling and creation of new highways access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is apparent from the evidence before me that a Section 2 Local Plan (the S2LP) is emerging and has reached examination stage. However, on the basis that it has yet to be found sound, the S2LP is currently at a stage that attracts limited weight. I have seen nothing to clearly indicate otherwise and shall determine the appeal on this basis.
3. Potential revised plans¹ (the revised plans) make up part of the appellant's submission, which have been formulated in the interests of mitigating the Council's reasons for refusing planning permission. However, whilst it is my understanding that an opportunity to present amendments did not readily present itself at planning application stage, the appeal process should not be used to evolve a scheme. Moreover, in the interests of ensuring that no one with an interest in the outcome of the appeal is prejudiced, it is important that the plans considered at appeal stage are essentially the same as those considered and consulted upon by the Council at planning application stage.
4. The intended revisions include a repositioning of the proposed dwelling such that it would comprise a terraced unit, a reduction in building footprint, internal changes (including the substitution of a bedroom for a study), the relocation of an access point, remodelled parking arrangements and the demolition of an existing single-storey extension previously intended to be retained. The revised plans evolve and materially alter the scheme that was originally submitted. I thus do not accept the revised plans and shall consider the appeal based on the initial plans that were submitted to the Council for determination and that are listed upon the Decision Notice.

¹ PF_175_01 B; PF_175_02 A; PF_175_02.5 A; PF_175_03 A; PF_175_04 A

Main Issues

5. The main issues are:

- The effect upon the character and appearance of the area;
- Whether or not acceptable living conditions would be provided for existing and future on-site occupiers, having particular regard to the availability of private garden space; and
- The effect upon highway safety, having particular regard to the intended parking arrangements.

Reasons

Character and appearance

6. The appeal property is a semi-detached dwelling that occupies a spacious corner plot. Properties in the area tend to be set on consistent building lines and to occupy set back positions relative to the highway. Furthermore, generously sized garden spaces and open frontages are commonplace. A formal, spacious and green residential character and appearance is thus identifiable local to the site.
7. It is the case that, in terms of its height, scale and general appearance, the proposed dwelling would be broadly reflective of other houses nearby. The front building line of the existing appeal property would also be respected. However, the scheme involves a sub-division of the site, built development in proximity to the highway and the provision of additional on-site parking. A cramped and urbanising form of development would be forthcoming. Indeed, the proposal would unduly erode the area's spaciousness and the new dwelling would appear as an unduly prominent and discordant addition to the streetscene. These findings would apply whatever the external-facing materials to be used, even if to be constructed in conjunction with a comprehensive scheme of soft landscaping.
8. For the above reasons, the proposal would cause harm to the character and appearance of the area. The scheme conflicts with saved Policies RLP3, RLP9 and RLP90 of the Braintree District Local Plan Review (July 2005) (the Local Plan), emerging Policies LPP37, LPP50 and LPP55 of the S2LP and the Essex Design Guide for Residential and Mixed Use Areas (first published 1997, revised October 2005) (the EDG) in so far as these policies and guidance set out that residential development will only be permitted where it can take place without material detriment to the existing character of the settlement.

Living conditions – availability of private garden space

9. The EDG promotes the provision of individual private garden spaces measuring a minimum of 100 square metres in area, unless circumstances apply where an insistence on achieving this is not appropriate. Whilst not intended to be rigorously applied to all sites and in all individual circumstances, the EDG's garden size requirement represents a relevant and useful starting point for assessment.

10. In this instance, private garden spaces of constrained size would materialise to the rear of both the existing and proposed dwellings. Indeed, most particularly when compared to the typical makeup of private garden spaces locally, each would appear and function as an unduly small and restricted external space.
11. For the above reasons, having particular regard to the availability of private garden space, unacceptable living conditions would be provided for existing and future on-site occupiers. The scheme conflicts with saved Policy RLP3 of the Local Plan, emerging Policies LPP37 and LPP55 of the S2LP and the EDG in so far as these policies and guidance set out that within village and town development boundaries residential development will only be granted where it satisfies amenity criteria.

Highway safety – parking

12. The Essex Parking Standards Design and Good Practice (September 2009) (the EPSDGP) indicates a recognition that providing a reduced number of parking spaces at a travel origin does not discourage people from owning a car. Thus, minimum standards for dwellinghouse development are set out which includes a two-space standard for a house containing two or more bedrooms.
13. Whilst the newly intended parking for the existing dwelling does not raise undue concerns in a highway safety sense, the submitted block plan² indicates the provision of awkward parking arrangements for the newly proposed dwelling. Indeed, the positioning and size/shape constraints of the parking area in question would promote that the vehicular manoeuvres of future occupiers (on to or off of the site) would conflict with the movements of other highway users, including pedestrians. These are concerns shared by the Local Highway Authority in its role as a technical consultee.
14. For the above reasons, having particular regard to the intended parking arrangements, the proposal would prejudice highway safety and cause harm. The scheme conflicts with saved Policy RLP56 of the Local Plan, emerging Policy LPP45 of the S2LP and the EPSDGP in so far as these policies and guidance indicate that the location and overall design of parking areas should encourage maximum use in order to minimise the risk of on-street parking problems.

Other Matters

15. The site lies within the Zone of Influence of the Essex Coast, much of which is comprised of a Special Area of Conservation and various Special Protection Areas and Ramsar sites. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment. For the avoidance of doubt, if I had done so and a positive outcome had ensued it would not have affected the planning balance or my conclusions on this appeal.

² PF_175_02

16. My attention has been drawn to other schemes of development granted planning permission elsewhere in the District. However, by being located at different settlements, each example provided does not have a close physical relationship to the appeal site. It is thus difficult to draw direct parallels, most particularly in a character and appearance sense. In any event, each development proposal must be considered upon its own individual merits in accordance with the site-specific circumstances to hand.
17. I have noted objections/concerns raised by interested parties with respect to matters including the availability of natural light, drainage and potential disruption during the construction phase. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

Planning Balance

18. The Council has asserted that it is able to demonstrate a five-year supply of deliverable housing sites and the appellant has not sought to suggest otherwise. The following observations are made in this context.
19. In terms of the scheme's benefits, one additional family-sized residential unit would be created inside Black Notley's designated settlement boundary, and the National Planning Policy Framework (July 2021) reaffirms the Government's objectives of significantly boosting the supply of homes and making an effective use of land. However, one additional unit, even if to be delivered quickly, would not make a clear or noticeable difference to the District-wide housing supply situation and is a benefit that attracts limited weight.
20. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. However, these benefits also attract limited weight due to the modest scale of development under consideration.
21. The scheme's benefits, considered cumulatively, would not outweigh the various harms and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

22. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR