



## 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: 14<sup>th</sup> January 2022**

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**Appeal Ref: APP/Z1510/W/21/3282607**

**5 Recreation Road, Sible Hedingham CO9 3JG**

- 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 and Mrs Lee against the decision of Braintree District Council.
  - The application Ref 21/00377/FUL, dated 24 February 2021, was refused by notice dated 23 April 2021.
  - The development proposed is a bungalow.
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### Decision

1. The appeal is allowed and planning permission is granted for a bungalow at 5 Recreation Road, Sible Hedingham CO9 3JG in accordance with the terms of the application, Ref 21/00377/FUL, dated 24 February 2021, subject to the conditions set out at the end of this decision.

### Preliminary Matter

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.

### Main Issues

3. The main issues are:
  - The effect upon the character and appearance of the area;
  - Whether or not acceptable living conditions would be provided for future occupiers of the proposed dwelling, having particular regard to outlook and the availability of private garden space; and
  - The effect upon highway and pedestrian safety.

### Reasons

#### *Character and appearance*

4. The appeal site forms part of the private rear garden space that serves No 5 Recreation Road (No 5). Existing gates offer vehicular access via Hills Road, which is a private road that serves various existing dwellings. Properties near to the site exhibit a range of different forms, building lines, heights and external-facing materials, whilst small-sized plots are not uncommon. A mixed and often compact residential character and appearance is thus in place.

5. The proposed bungalow would be of limited scale and appear as a low-key addition to Hills Road. Whilst a plot size of restricted extent is proposed, the intended footprint of development would not be excessive and separation from each of the site's boundaries would be achieved. Furthermore, the setback positioning of the bungalow would be suitably respectful of the placement of other properties that would form part of the same short row (namely, The Laurels and Tanglewood).
6. Whilst the road frontage of the site comprises only a part of the plot's width, I do not consider that the proposed bungalow would appear as an unduly cramped form of development. Moreover, the site's accessibility via Hills Road (as opposed to via Recreation Road directly) would promote that the proposed bungalow respects the host pattern of development and would not appear as an insensitive or contrived backland addition.
7. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The scheme accords with saved Policies RLP3, RLP9, RLP10 and RLP90 of the Braintree District Local Plan Review (July 2005) (the Local Plan), Policy SP7 of the Braintree District Local Plan 2012-2033 Section 1 (February 2021) (the S1LP), emerging Policies LPP1, LPP50 and LPP55 of the S2LP and the National Planning Policy Framework (July 2021) (the Framework) in so far as these policies require new development to respond positively to local character and context.

*Living conditions – outlook and private amenity space*

8. The proposed bungalow's front and rear elevations would be setback not insignificant distances from the respective front and rear boundaries of the plot. In this context, notwithstanding the prevalence of close-boarded fencing to the site's boundaries and the intention to accommodate parking to the site's frontage, non-oppressive standards of outlook would be provided for future occupiers of the development. It is also my understanding that the extent of private garden space to be supplied to the rear of the property would comply with the Council's relevant minimum size requirement. Even though to be of relatively shallow depth, this rear garden area would provide adequate private amenity space for future occupiers.
9. For the above reasons, having particular regard to outlook and the availability of private garden space, acceptable living conditions would be provided for future occupiers of the proposed dwelling. The scheme accords with saved Policy RLP3 of the Local Plan, Policy SP7 of the S1LP, emerging Policies LPP1 and LPP55 of the S2LP and the Framework in so far as these policies set out that all new development should protect the amenity of existing and future residents and users.

*Highway safety*

10. As noted above, the site is already served by existing access gates. As could be observed upon inspection, these gates presently form a close-boarded frontage to the site and lead to a gravelled parking area of small size. No 5 is served separately by further off-street parking that is accessed directly off Recreation Road.
11. The proposal, via the introduction of a new dwelling and associated areas of hardstanding, would reasonably be anticipated to lead to some additional

vehicular trips occurring via the site's existing gated access point and along Hills Road (when compared to present circumstances). Even so, particularly when noting that a small property containing two bedrooms is proposed, the additional trips to be generated would likely be limited in number such that a noticeable intensification in the road's use would not avail.

12. My attention has been drawn to a pedestrian footpath that runs close to the site's gated access. However, a degree of separation exists between it and the site whilst the section of private road situated in proximity to where the footpath commences is already distinguished by the presence of multiple vehicular accesses. Moreover, any motorist to emerge from the site would reasonably be anticipated to proceed with caution in acknowledgement of the potential for other motorists and pedestrians (including school children and elderly persons) to be present.
13. It is also the case that improved opportunities for turning and manoeuvring vehicles within the site would be provided (when compared to current circumstances), such that reversing manoeuvres out of the site would be unlikely to be necessitated regularly. In this context, even when noting the relatively narrow width of the site's gated access and its proximity to existing close-boarded treatments that would be reasonably anticipated to restrict visibility to some degree, there is no clear reason to consider that highway or pedestrian safety would be prejudiced by the proposal. This is even when acknowledging the potential for vehicles to park near to the site's access point.
14. For the above reasons, the proposal would have an acceptable effect upon highway and pedestrian safety. The scheme accords with saved Policies RLP3 and RLP90 of the Local Plan and emerging Policies LPP1 and LPP55 of the S2LP in so far as these policies set out that residential development will only be permitted where it satisfies highway criteria.

### **Other Matters**

15. It has been suggested by interested parties that the proposal would result in privacy losses. However, a bungalow is proposed, and window openings are solely intended to be inserted at ground floor level and in the context of close-boarded fencing being in place to the site's perimeter. Any potential for privacy to be lost (to any side of the site) would be minimal and not to an extent that would cause material harm to neighbouring living conditions. Indeed, there is no need to require that a tall hedge or trees be planted. Furthermore, the proposal would introduce a small dwelling to an existing residential area such that any noise generated by its future occupation, including via vehicle movements, would not reasonably be anticipated to cause unacceptable nuisance.
16. Reference has been made by interested parties to unsuccessful schemes for single dwellings at other sites in the locality (including to the rear of No 1 Recreation Road). However, the full details of these other schemes have not been provided and, in any event, each development proposal must be determined upon its own individual merits in consideration of the specific site circumstances to hand.
17. There is no indication from the relevant statutory undertaker that the area's drainage/sewerage infrastructure has insufficient capacity or capability to accommodate the proposed development. There is also no clear reason to

consider that the scheme would prejudice future access to the mains water network.

18. Given the small scale of development under consideration and the setback positioning of the intended bungalow, I am satisfied that the site and its access would be able to acceptably accommodate construction activities without causing health and safety issues or unacceptable damage to Hills Road.
19. A Certificate of Ownership has been signed to certify that all reasonable steps have been taken by the appellants to seek to identify the owner(s) of the relevant private access road in question, whilst any suggestion that the appellants do not have a right of way over Hills Road is of limited relevance to my planning considerations. I also note here that, based on the evidence that is before me, there is no reason to consider that the original planning application was not publicised in accordance with statutory requirements.
20. In conformity with Policy SP1 of the S1LP, the proposal accords with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

### **Conditions**

21. The Council has suggested conditions that the appellants have had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes.
22. In the interests of certainty, a condition specifying the approved plan is required. In the interests of protecting the character and appearance of the area, conditions to secure samples of the external facing materials to be used as well as the implementation of a scheme of soft landscaping are reasonable and necessary to impose. In the interests of highway safety, a condition requiring the construction and subsequent retention of on-site parking spaces is also reasonable and necessary to impose.
23. The Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, most particularly due to the relatively constrained extent of external space to be provided and the proximity of the new dwelling to neighbouring development, it is reasonable and necessary to withdraw permitted development rights with respect to extensions/alterations, roof additions/alterations, porches and outbuildings. This condition would be in the interests of protecting the character and appearance of the area and of safeguarding the living conditions of neighbouring occupiers. There is no need to apply restrictions with respect to the potential construction of additional storeys. This is not least because any dwelling not yet constructed would be ineligible to benefit from the relevant permitted development right, whilst a separate application for prior approval would be required.

### **Conclusion**

24. For the above reasons, the appeal is allowed and planning permission is granted subject to conditions.

*Andrew Smith*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: 685.20.01B.
- 3) Prior to the commencement of development above slab level, samples of the external facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the approved samples.
- 4) The car parking spaces as indicated on approved plan 605.20.01B shall be provided prior to the first occupation of development hereby permitted, shall thereafter be retained at all times for the purposes of parking motor vehicles and shall be used solely for the benefit of the occupants of the dwelling hereby permitted and their visitors.
- 5) The scheme of landscaping indicated on approved plan 605.20.01B, or such other scheme as may be submitted to and approved in writing by the Local Planning Authority, shall be carried out during the first available planting season following the first occupation or completion of the development (whichever is sooner). Any plants which die, are removed or become seriously damaged, or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
- 6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending, revoking and re-enacting that Order, no enlargements, alterations or buildings as permitted by Classes A, B, C, D or E of Part 1 to Schedule 2 of that Order shall be carried out without first obtaining planning permission from the Local Planning Authority.