

Appeal Decision

Site visit made on 30 September 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023.

Appeal Reference: APP/Z1510/W/22/3297020
Land at 6 Wheel Chase, Sturmer, Essex CB9 7GW

- 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 Raynes against the decision of Braintree District Council.
 - The application (reference 22/00364/FUL, dated 12 February 2022) was refused by notice dated 24 March 2022.
 - The development proposed is described in the application form as "*Change of Use of a small parcel of land to the side of no.6 Wheelchase to residential; A length of 1.8m high timber close boarded fence; To erect timber post of rail to other boundaried [1.4m high]*".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of a defined area of land to residential curtilage use and the erection of boundary fences, at 6 Wheel Chase, Sturmer, Essex CB9 7GW, in accordance with the terms of the application (reference 22/00364/FUL, dated 7 February 2022), subject to the conditions set out in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Mr and Mrs Raynes (the Appellants) against Braintree District Council. This application is the subject of a separate Decision.

Preliminary points

3. Notwithstanding the description of the proposed development that was given in the application form, the nature of the proposal can more clearly be expressed as the change of use of a defined area of land to residential curtilage use and the erection of boundary fences.

Main issues

4. There are two main issues in this appeal. The first is the effect of the proposed development on the character and appearance of the surroundings. The second is the effect of the proposed development on the residential amenities

of neighbours (whether unacceptable harm would be caused by intrusion on privacy).

Reasons

5. Sturmer is a small village to the south-east of Haverhill, extending along Rowley Hill, the A1017 main road. As well as the frontage development, a number of short culs-de-sac lead off the main road but there is only a limited amount of development in depth.
6. Wheel Chase is a short cul-de-sac off the southern frontage of Rowley Hill, serving a small group of detached houses. Some of the houses in Wheel Chase back onto open land, with small back gardens of their own, and the cul-de-sac also provides an access to a field at the rear. In the planning application form for the current proposal the existing use of this land is given as "agricultural land", although it was somewhat unkempt at the time of the site visit and had been subdivided into different sections by the erection of timber post and rail fences.
7. Various drawings have been submitted with the planning appeal.
8. Drawing number 1274/01, dated November 2021, is entitled "Existing Plans & Site Plan" and it defines the application site with a red boundary line. This encompasses the whole of the original residential plot (house and garden), together with a strip of land that extends for the length of the field and is now defined by post and rail fences on the ground.
9. Drawing number 1274/02A is entitled "Proposed Plans, Elevations & Site Plan" and it defines the boundary of the application site in the same way. The original drawing is also dated November 2021 but this version is Revision A, which apparently incorporates some "general amendments" and is dated 4 January 2022. This drawing includes various details, including the construction of a new "field shelter" building (for which a plan and elevations are provided), the creation of a pond, drainage works and tree planting.
10. Drawing number 1274/02 Revision B is likewise entitled "Proposed Plans, Elevations & Site Plan" (although it does not contain any building proposals) and it again defines the boundary of the application site in the same way. This version, Revision B, is described as "reduction of proposals" and is dated 9 February 2022. It is the drawing referred to in the Design and Access Statement dated 12 February 2022, at paragraph 1[a] and submitted with the planning application that gives rise to this appeal. The Council's Decision Notice states that the date on which the application was received was 14 February 2022.
11. From the submissions made, it is plain that the application for the change of use of land related to the small area of land that was defined on drawing number 1274/2 Revision B. The application also included the erection of fences, as referred to in the application form.
12. The 'National Planning Policy Framework' recognises the intrinsic character and beauty of the countryside, among other things. It also has the more general aim of "achieving well designed places" in the broadest sense and achieving good design standards, by development that adds to the overall quality of the

area and is visually attractive and sympathetic to local character and history. Good design standards include protecting existing residential amenities.

13. Policies in the Development Plan are also intended to protect the countryside and to prevent unnecessary encroachment, as well as achieving good standards of design and attention has been drawn to policies in the recently adopted Section 2 of Braintree Council's 'Local Plan'. In particular, Policy LPP67 is concerned with "landscape character and features", while Policy LPP52 deals with the "layout and design of development" and includes criteria aimed at preventing "unacceptable impact on the amenity of any nearby properties". Policy LPP41 addresses the matter of "garden extensions" specifically.
14. In the current proposal, the proposed change of use is sought only for a very small area of land, at the entrance to the field and alongside the existing residential plot. It would increase the area of the existing garden at one side but would not extend southwards, beyond the rear boundaries of residential properties in this part of Wheel Chase. Hence, the garden extension would be proportionate in scale to the existing property and would not have a materially adverse effect on the character or appearance of the countryside.
15. Moreover, the new garden area would have no impact on the privacy of neighbours, especially if a 1.8 metres high timber close boarded boundary fence were to be erected, as is also proposed.
16. The longer fences, 1.4 metres high, form part of the "package of items" for which permission is sought in this case and they are to be determined as such. They would not have an unacceptable impact on the countryside.
17. Thus, the development for which planning permission is now sought would neither have a materially adverse effect on the character and appearance of the surroundings, nor would it intrude on the privacy of neighbours. The proposals would comply with both national and local planning policies and specifically with Policy LPP41, cited above.
18. In determining the application, the local planning authority have evidently relied upon an assumption that the whole of the land edged red on the application drawings would be changed to residential use, referring to "its siting and excessive length within the wider parcel of land". Even if that had been the case, however, the scheme would not have caused an unacceptable loss of privacy to neighbours, though it would have conflicted clearly with Policy LPP41.
19. The proposed development must be considered on its own merits, however, and not on an assumption regarding possible future intentions. I have formed the opinion that the project would not be in conflict with the Development Plan, in principle, and that the scheme before me can properly be permitted, subject to conditions. Although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.
20. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal).

21. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained. I have therefore imposed standard conditions, to make clear the period within which the planning permission must be implemented and to identify the drawings that must be adhered to. No buildings are proposed as part of this application and the materials for the proposed fences are shown on the proposals drawing which must be followed. It is therefore unnecessary to impose a further condition to state the materials to be used.
22. The area of land to which the proposed change of use relates is very small and it would form a natural extension to the garden, although it would be likely to continue to provide an access to both parts of the land that is now in the same ownership. In this case, there is no convincing justification for the removal of permitted development rights, bearing in mind that they are normally of general application.
23. The site boundary enclosed by a red line on the plans encompasses a single ownership (as explained in the submissions), but the land comprises both the residential curtilage of 6 Wheel Chase and an area of agricultural land. For the avoidance of any doubt, therefore, it is reasonable and necessary to impose a separate condition to make it clear that the planning permission for change of use of agricultural land to residential curtilage land that is hereby granted shall apply to the area hatched in red on drawing number 1274/2 Revision B and to no other land.

Roger C. Shrimplin

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - drawing number 1274/01 ("Existing Plans & Site Plan");
 - drawing number 1274/02 Revision B ("Proposed Plans, Elevations & Site Plan").
3. The planning permission for change of use of agricultural land to residential curtilage land that is hereby granted shall apply to the area hatched in red on drawing number 1274/2 Revision B and to no other land.