



Appeal Decision

Site visit made on 24 January 2023

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2023

Appeal Ref: APP/Z1510/W/22/3306237

10 Station Road, Sible Hedingham, Essex CO9 3QA.

- 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 S Dockray against the decision of Braintree District Council.
 - The application Ref 22/01304/OUT dated 12 May 2022, was refused by notice dated 21 July 2022.
 - The development proposed is demolition of existing workshop and erection of one detached and two semi-detached private dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application for the proposed development is in outline with all matters reserved. However, the application was also accompanied by an indicative layout referring to some of these matters which I have treated as being for illustrative purposes only.
3. In the period since the application was determined the *Braintree Local Plan* (BLP) has been adopted which supersedes the former local plan which provided the policy base for the refusal. I must determine the appeal against the current adopted BLP and therefore I will refer to the new policies in my decision below rather than those referred to in the reasons for refusal.

Main Issue

4. The main issue in this case is whether the proposed development would have a detrimental impact on the living conditions of future occupiers of the site with regard to the amount of private amenity space, overlooking, privacy and available parking present and of future occupants of No 10 as a result of proximity.

Reasons

5. The land the subject of this appeal forms part of the existing plot at No 10 Station Road currently occupied by a large garage building, formerly the village garage, and garden space.
6. The current dwelling at No 10 sits at the north end of the site with the garage building offset to its side and rear. The dwelling is two storey and has a patio area to its rear leading into a long garden. A large, linear, two storey office building on Rippers Court lies on the east side of the site with a continuous line of first floor windows overlooking the site. A private roadway on the west side of the plot

provides access to the Sible Hedingham club building which at the time of my visit appeared to be vacant.

7. The site is within the development limits defined for Sible Hedingham which is a key service village in the BLP and it is common ground that the principle of development on the site would be acceptable. Indeed, the site benefitted from a previous outline planning permission now expired (ref 10/01137/OUT) for one dwelling replacing the garage building.
8. The proposal seeks to accommodate one detached 4 bedroom house and two semi-detached 3 bedroom houses on the footprint of the garage and the undeveloped rear part of the plot.
9. Although the layout and design would be reserved matters, the site in terms of its size, the intended retention of No 10 and the building line established by Nos 8 and 10 means that to accommodate 1 large detached and 2 semi-detached dwellings would be very constrained.
10. The size and nature of the plot means that some development would have to be accommodated in the southern, narrower section of the plot. The available space between the access track and the back boundary onto the public footpath is limited. A revised indicative layout drawing submitted before determination showed it would be possible to meet the minimum amount of private amenity space of 100 square metres for each plot. However, this is likely to only be achieved with any houses in the rear of the site very close to the access track which would contribute to a cramped appearance to the development on site and a reduction in operational manoeuvrability for occupants accessing parking spaces from the track.
11. The private amenity space for any development in the rear portion of the site will be overlooked at close quarters by first floor windows of the offices in Rippers Court. Whilst I accept that a degree of overlooking is often common in urban areas and this is a pre-existing situation for the occupants of No 10, the size of the current garden is such that there is the opportunity to obtain some privacy. In the small gardens for the new houses where the overlooking would be at close quarters from a significant number of windows this would be difficult to achieve. Moreover, there would inevitably also be overlooking at close quarters of windows in the rear elevation of new houses facing Rippers Court.
12. It has been put to me that the offices are only occupied during the normal working day (broadly 09.00 till 17.00) and not at all at weekends. However, whilst this may be the current arrangement, I have to consider both present and possible future arrangements. A different occupier may operate the offices in such a way that evening and weekend working may be a feature in the future, meaning the impact of overlooking and loss of privacy would be intensified.
13. The part of the site accommodating the current garage and its forecourt would have to accommodate one or more of the dwellings (which because of site size and intended size of dwelling would inevitably be 2 storey in height). This would result in a new structure that would be likely to be overbearing and overshadowing on the retained external private amenity space of No 10 and its rear windows. I accept that the existing garage has this relationship with the patio area to No 10 but the garage building is lower than would be the case with a 2 storey house and is owned and operated by the appellant. Thus, even supposing a reserved matters design could avoid overlooking into this patio area and rear windows, the close proximity of the new house would be likely to result in an unavoidable overbearing

and overshadowing relationship onto the patio area and garden for future occupiers of No 10. It has been put to me that it is common ground that there is no issue with regard to a larger detached dwelling replacing the garage given the previous permission. However, whilst I accept there could be a benefit in terms of visual amenity and an improvement to the street scene with an appropriate design, for the reasons above, I am not persuaded that a large two storey dwelling replacing the garage would have an acceptable impact on a retained garden area for No 10.

14. The *National Planning Policy Framework* (the Framework) at Paragraph 130 requires that planning decisions secure developments that achieve a high standard of amenity for existing and future users. BLP Policy SP7 setting out place shaping principles is consistent with this in requiring that development protects the amenity of existing and future residents. Moreover, Policy LPP52 requires that there should be no unacceptable impact on the amenity of nearby properties and that residential developments should provide a high standard of accommodation and amenity for prospective occupants. For the reasons above the proposed development is unlikely to achieve this and would therefore be contrary to policies SP7 and LPP52.

Other Matters

15. It has been put to me that the proposal would result in the provision of three new houses in a sustainable location and in that way it would make a modest contribution to meeting housing needs in Braintree District as a whole.
16. At the time the application was determined the Council stated that the 5 year supply of housing land was just over 5 years. The Council's appeal statement indicates that for various reasons and despite the recent adoption of the BLP this position has slipped and at the end of last year only 4.86 years supply was available. Although I have been invited to conclude that inconsistent supply is a longstanding issue within Braintree the fact remains that the published *Housing Delivery Target* (HDT) results for Braintree in 2022 show that in the last 3 years the District achieved above the target requirement (125%). The degree of housing shortfall is therefore marginal. Nevertheless, the Council accepts that policies of the recently adopted BLP influencing housing supply are not operating as required and the 'tilted balance' set out in the Framework at Paragraph 11d) is therefore engaged.
17. With the Framework's 'tilted balance' triggered it is important to apply that balance. Paragraph 11d) of the Framework provides that the presumption in favour of sustainable development should apply other than in two circumstances. The first of these relates to where the development would conflict with Framework policies to protect areas or assets of particular importance and would not apply in this case. The second circumstance is where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the Framework policies taken as a whole.
18. I accept that the supply of further housing would be important even though in this case it is only three units and that the Framework recognises the value of small sites for housing delivery at paragraph 69 and at section 11 emphasises the need for effective use of land. I also accept that appropriately designed residential development would be likely to improve the streetscape with the removal of the garage building and related outside storage. However, the latter benefit could equally be achieved by a smaller, more appropriately scaled development and I

therefore attach limited weight to it. Weighed against these benefits, for the reasons above, development of the site in the manner proposed would have an adverse impact both on the future occupants of the new housing and the present and future occupants of the existing house at No 10 Station Road.

19. I have considered the fact that layout and design remain to be determined in the reserved matters and whether a good design could resolve the harm identified. However, the fact remains that the application was made for a detached 4 bedroom house and two 3 bedroom semi-detached houses. These are not small houses. They require a considerable floor area and space within the plot and I am not persuaded that 3 houses of that scale and format could be accommodated on the site and be able to accord with the Framework's policies in respect of securing high quality design.

Conclusion

20. In reaching my decision I have had regard to the matters before me. Notwithstanding the slight benefit the development would bring in adding to housing supply, this proposal conflicts with both the Framework and Development Plan policies. For the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR