



Appeal Decision

Site visit made on 1 June 2023

by S. Hartley BA(Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/Z1510/W/22/3309623

Land to the west of Hedingham Road, Gosfield, Essex CO9 1PJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Reda Iskandar (Abbey Developments Ltd) against the decision of Braintree District Council.
 - The application 22/01271/VAR, dated 9 May 2022, was refused by notice dated 23 August 2022.
 - The application sought planning permission for a reserved matter application - layout, appearance, scale and landscaping for the erection of 35 houses - without complying with a condition attached to planning permission Ref 20/00653/REM, dated 19 March 2021.
 - The condition in dispute is No 1 which states that *"The development hereby permitted shall be carried out in accordance with the approved plans listed above"*.
 - The reason given for the condition is: *"for the avoidance of doubt and in the interests of proper planning"*.
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Decision

1. The appeal is allowed, and planning permission is granted for a reserved matters planning application - layout, appearance, scale and landscaping for the erection of 35 houses - in accordance with the terms of application ref 22/01271/VAR, dated 9 May 2022, without compliance with condition No 1 previously imposed on planning permission Ref 20/00653/REM, dated 19 March 2021, and subject to the conditions set out in the attached schedule.

Procedural Matter

2. The appeal is made retrospectively for development already constructed.

Main Issue

3. The main issue is whether there is adequate justification for varying condition No 1 of 20/00653/REM in respect of reserved matters relating to the erection of a studio garage (plot 29) and its impact upon the character and appearance of the host dwelling and the wider area.

Reasons

4. Under reserved matters approval 20/00653/REM, planning permission was granted for a 'double-store' relating to the dwelling at plot 29 of the development. The approved double-store has a footprint of some 33 square metres, with an eaves height of approximately 2.4 metres and an overall height of some 4.8 metres.
5. Notwithstanding the above, a double store/studio has been constructed with a floor area of about 48 square metres (extra 15m²), an eaves height of 2.55 metres (extra 0.15 of a metre) and with an overall height of 7.1 metres (extra 2.3 metres).
6. In addition, whilst the originally approved building has a pyramid style roof, the building is constructed with a pitched roof with front and rear straight gables. Furthermore, the building, as constructed, varies from the approved plans by the inclusion of a window to the front gable, by the addition of two roof lights, and by the inclusion of a rear window to a ground floor toilet.
7. The plans show its use is to be a double-store on the ground floor with a studio on the first floor, whereas the approval is for a single storey double store. The building is currently being used as a sales office for the new development of 35 houses.
8. The appeal building is sited at the entrance to the new housing development in a prominent position. However, it is set back from the access road and from the host property. Moreover, its overall floor area is substantially less than that of the main dwelling and its height, at some 7.1 metres, is less than that of the host property which the local planning authority (LPA) considers is 8.4 metres. By its set-back position, its floor area and height in relation to the host property, the appeal building appears subordinate to the larger, taller host property.
9. Furthermore, the appeal building, using matching external materials and the use of a gabled roof, suitably reflects the character and appearance of the associated dwelling and that of the wider area.
10. On my site visit, I was able to see other detached double stores constructed in accordance with the similar, original plans for the appeal site. However, the host property is in a more spacious plot than others where double stores with pyramid roofs have been constructed. While the proposed development, by its size and design would look incongruous when viewed with dwellings close to either side, it is appropriate to the host dwelling where there is no such restriction of space. Moreover, the appeal building is located at the entrance to the new development where a different design helps to highlight and define the entrance and is not an inappropriate design feature.
11. Therefore, for the above reasons, I conclude that the variations that arise from the amended plans accord with policies SP7 and LPP52 of the Braintree District Local Plan 2013-2033 and with chapter 12 of the National Planning Policy

Framework 2021, all of which stress the need for good design reflective of the character and appearance of the area.

Conditions

12. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed the same conditions again, apart from condition No 01. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties. I have included the reasons for the necessary conditions in the schedule below.

Conclusion

13. For the reasons outlined above, I conclude that the appeal should be allowed.

S. Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following plans:

- 1) Location Plan Plan Ref: 1968/P/10.01
- 2) Refuse Information Plan Ref: 7160 - 402 Version: C
- 3) Materials Details Plan Ref: 7160 - 401 Version: D
- 4) Landscape Masterplan Plan Ref: ABBEY 22857 - 11 D Version: SHEET 1 OF 4
- 5) Landscape Masterplan Plan Ref: ABBEY 22857 - 11 D Version: SHEET 2 OF 4
- 6) Landscape Masterplan Plan Ref: ABBEY 22857 - 11 D Version: SHEET 3 OF 4
- 7) Landscape Masterplan Plan Ref: ABBEY 22857 - 11 D Version: SHEET 4 OF 4
- 8) Proposed Floor Plan Plan Ref: 20.81A
- 9) Proposed Elevations Plan Ref: 20.82A
- 10) Proposed Floor Plan Plan Ref: 20.91
- 11) Proposed Elevations Plan Ref: 20.92
- 12) Proposed Elevations and Floor Plans Plan Ref: 50.01A
- 13) Proposed Elevations and Floor Plans Plan Ref: 50.03A
- 14) Proposed Plans Plan Ref: 20.01B
- 15) Proposed Plans Plan Ref: 20.11B
- 16) Proposed Elevations Plan Ref: 20.12B
- 17) Proposed Plans Plan Ref: 20.31B
- 18) Proposed Elevations Plan Ref: 20.32B
- 19) Proposed Floor Plan Plan Ref: 20.41B
- 20) Proposed Floor Plan Plan Ref: 20.42B
- 21) Proposed Floor Plan Plan Ref: 20.61B
- 22) Proposed Elevations Plan Ref: 20.62B
- 23) Proposed Elevations Plan Ref: 20.63A
- 24) Proposed Floor Plan Plan Ref: 20.71A
- 25) Proposed Elevations Plan Ref: 20.72B
- 26) Proposed Floor Plan Plan Ref: 20.51A 1BM1 _ 2BM2
- 27) Proposed Floor Plan Plan Ref: 20.52A 1BM1 _ 2BM2
- 28) Site Plan Plan Ref: ABBEY22857- 11 Version: D
- 29) Site Layout Plan Ref: P1968/P/10.02 Version: E
- 30) Boundary Treatment Plan Ref: 10.03 Version: D
- 31) Refuse Information Plan Ref: 10.05 Version: D
- 32) Materials Details Plan Ref: 10.04 Version: C
- 33) Site Plan Plan Ref: 10.06 Version: B
- 34) Tenure Plan Plan Ref: 10.07 Version: B
- 35) Lighting Plan Plan Ref: MMA15876/001 R2
- 36) P1968/P/50.04

Reason: For the avoidance of doubt and in the interests of certainty.

2. No above ground development shall commence until samples and a schedule of the materials and finishes to be used on the external surfaces of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and shall thereafter be permanently retained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality.

3. All of the hard surface areas and parking spaces shall be completed prior to the first occupation of the dwelling to which the hard surfacing and parking relates and shall thereafter be permanently retained as such. The car parking spaces shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.

Reason: In order to secure the satisfactory development of the site and to ensure that adequate parking provided in accordance with the standards adopted by the local planning authority.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement of the dwelling-house, provision of any building within the curtilage of the dwelling-house and alteration of the dwelling-house, as permitted by Class A, AA, B, C and E of Part 1 of Schedule 2 of that Order shall be carried out without first obtaining planning permission from the local planning authority.

Reason: To protect the amenities of the occupiers of nearby residential properties and to ensure that the private gardens are maintained to a suitable size.

5. No above ground development shall commence until additional drawings that show details of proposed new windows, doors, facia and cills to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. The development shall only be implemented in accordance with the approved details and shall be permanently retained as such.

Reason: To ensure that the development does not prejudice the appearance of the locality.

6. The scheme of landscaping hereby approved shall be carried out during the first available planting season after the commencement of the development. Any trees or 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.

Reason: To enhance the appearance of the development.

7. Prior to the implementation of the landscaping scheme hereby approved a watering and maintenance regime shall be submitted to and approved in writing by the Local Planning Authority. Once approved the maintenance of the new landscaping scheme shall be carried out in accordance with these details.

Reason: To enhance the appearance of the development.