



Appeal Decision

Site visit made on 26 July 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th August 2023

Appeal Ref: APP/Z1510/W/22/3309906

Elm Cottage and Land Between Comingmak and Newton, Maldon Road, Witham, Essex CM8 1HN

- 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 Douglas and Mark North and Mr Richardson against the decision of Braintree District Council.
 - The application Ref 22/00559/FUL, dated 1 March 2022, was refused by notice dated 29 April 2022.
 - The development proposed is the erection of 5 No. dwellings replacing a single dwelling (Elm Cottage) and access and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. It is considered that the main issues are the effects of the proposed development on (a) the character and appearance of the surrounding area and (b) the living standards of the future occupiers.

Reasons

Character and Appearance

3. The proposed development includes the demolition of an existing bungalow and, within the original curtilage of the property, the erection of 5 detached 2-storey dwellings, with accommodation within the roofspace. The appeal site is located within the urban area of Witham and has ready access on foot to the range of facilities and services available within the town centre.
4. The design of the appeal scheme does, as the appellants identified, draw upon elements of the design of other dwellings within the surrounding area. However, the appellants' approach is selective in citing examples of dwellings which support specific elements of the design and layout of the proposed development. This approach reflects, in part, the lack of a cohesive character and appearance to the dwellings within the surrounding area which predominantly comprises 2-storey houses of varying types and designs. Three storey town houses with accommodation within the roofspace are not the predominant type of dwellings adjoining the appeal site.
5. However, the appeal scheme does not represent a high quality of layout and design. In respect of layout, the lack of a high quality form of development is

reflected in the size of the proposed dwellings relative to the width of their plots, the limited depth of the rear garden of Plot 5, the relationship of Plot 5 with Plots 3 and 4 and the proportion of the site occupied by built forms of development, including the predominant hard landscaping treatment of the area around the turning head of the cul-de-sac. This assessment takes into consideration the drawing accompanying the appeal identifying the proposed soft landscaping works which could be undertaken within this frontage area but this would not be sufficient to address this specific concern.

6. Further, the size of the proposed dwellings is materially larger than the neighbouring properties, including by reason of footprint and height. The difference in height would be particularly noticeable for Plots 1 to 4 from The Grove and, although viewed along the access road, Plot 5 from Maldon Road. In combination, all the matters identified would result in the appeal scheme appearing a cramped form of development on the appeal site, including when compared to the large rear gardens of the properties fronting Maldon Road between which the access road would be constructed.
7. Concern has been raised by the Council regarding the strong vertical emphasis of the proposed dwellings' design. However, because of the location of the site it would be possible for the appeal scheme to be capable of accommodating dwellings of a different elevational treatment compared to the neighbouring properties, including the relationship between the eaves and windows. However, this does not overcome the appeal scheme not representing a high quality development by reason of its design and layout.
8. On this issue it is concluded that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would conflict with Policies LPP35 and LPP52 of the Braintree District Local Plan (LP). Amongst other matters, these policies require a high standard of layout and design in all developments and for proposals to relate to the character of the site, its immediate surroundings and the wider locality. There would also be a conflict with the design policies of the National Planning Policy Framework (the Framework). However, LP Policy LPP47 concerns the historic environment but no reference is made to any heritage assets which might be affected by the proposed development.

Living Standards

9. One of the Council's concerns is that there would be overlooking of the proposed private rear garden of the dwelling situated on Plot 5 by the future occupiers of Plot 4. Some degree of overlooking of private amenity spaces is inevitable within urban areas. There would also be a degree of screening afforded to the rear garden of Plot 5 by the proposed form of the dwelling. A single storey rear addition would act as a physical screen and would create a private area within the rear garden of this proposed dwelling.
10. However, the concerns of the Council associated with the standard of the residential accommodation within the roofspaces of the proposed dwellings is justified. The roofspaces would contain the bedrooms of the proposed dwellings and, except for the dwelling erected on Plot 5, the openings for these bedrooms would rely upon a single rooflight. By reason of size and siting, these single rooflights alone would not represent a satisfactory living standard for the future occupiers of the proposed dwellings on Plots 1 to 4 because they would have a restricted outlook from their bedrooms. This unacceptable harm

demonstrably outweighs the lack of harm associated with the potential overlooking of the rear garden of the dwelling sited on Plot 5.

11. For the reasons given, it is concluded that the proposed development would not provide satisfactory living standards for the future occupiers and, as such, there would be a conflict with LP Policies LPP35 and LPP52. These policies include criteria whereby residential developments shall provide a high standard of accommodation and amenity for all prospective occupants. These policies echo the Framework's approach of seeking to make efficient use of land as long as the resulting scheme would provide acceptable living standards.

Other Matters

12. The Council cannot demonstrate a 5-year supply of deliverable housing land and, as such, paragraph 11(d) of the Framework indicates that the development plan policies which are most important to the determining this appeal should be deemed to be out-of-date and the presumption in favour of sustainable development is engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
13. The appellants have identified several benefits associated with the proposed development, including the delivery of 4 additional dwellings, the efficient re-use of land within an urban area, the site being in an accessible location and the creation of jobs during the construction period. Collectively, these benefits are afforded significant weight in the determination of this appeal. However, balanced against these benefits are the unacceptable adverse impacts of the appeal scheme failing to be of high quality design and providing a high standard of accommodation for future occupiers, together with the conflicts with up-to-date development plan policies.
14. In this case, the identified adverse impacts are judged to significantly and demonstrably outweigh the benefits. Accordingly, it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR