



Appeal Decision

Site visit made on 26 September 2023

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/Z1510/W/23/3319143

Brambles, Collins Road, Little Maplestead, Essex CO9 2SG

- 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 Milburn against the decision of Braintree District Council.
 - The application Ref 22/03018/FUL, dated 3 November 2022, was refused by notice dated 21 December 2022.
 - The development is a proposed new shared vehicular access for Brambles and new permitted bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant cites that the proposal would benefit from deemed planning permission, as “permitted development” under the Town and Country Planning (General Permitted Development) Order 2015. However, there is no evidence in the form of a Certificate of Lawfulness under S192 of the Act to substantiate this assertion.
3. I have noted that correspondence has been provided from Essex County Council to indicate that permission is not required for the new access. However, the County Council is not the local planning authority and their comments, at that time, were clearly made in the absence of full details of the case. Braintree District Council, as the planning authority, and in their evidence, indicate that permission is required.
4. It is not for me, in the context of a S78 appeal, to make a determination on the lawfulness of any proposed access and whether it may be formed with deemed planning permission. As such, I have dealt with the scheme on its planning merits. If it subsequently transpires that the proposal could be “permitted development”, that is a matter for the Council.

Main Issues

5. The main issues are:
 - a) The effect of the new access on highway safety, and
 - b) If the new access would be harmful to the landscape character and street scene.

Reasons

Highway safety

6. The new access would be formed onto Collins Road, near the junction with Sudbury Road which is designated the A131. The proximity of this access to this junction would result in vehicles manoeuvring into, and out of, the new access with minimal visibility to this junction which is part of the county's strategic road network. This would be detrimental to highway safety.
7. I have considered the appellant's submissions regarding other existing vehicular accesses along Collins Road and Cock Road. However, I do not have any detail of the origins of these accesses. Nor do I have any information on the policy and guidance framework at the time of their formation. This proposal can only be determined in relation to current policy and guidance which makes it clear that highway safety must be maintained.
8. The development poses an unacceptable risk to highway safety and is therefore contrary to the requirements of Policy LPP52 of the Braintree District Local Plan (2022) (BLP), Policy DM1 of the Essex County Highway Development Management Policies Document (2011) and the National Planning Policy Framework.

Character and street scene

9. Collins Road is a narrow single-track lane. Except for a small number of existing driveways and a few homes with open lawns to the front, it is surrounded by well established hedges to both sides. The proposed access would be formed in an area of hedging which has already been broken and replaced with a mesh fence and blue tarpaulin. This disrupts the generally sylvan setting of this part of the road, particularly as it evolves into the open countryside to the east and beyond. This is harmful to the rural character of the area and street scene.
10. The Council consider that the increased visibility of the new dwelling through this open access would be harmful to the character of the area. However, I am unable to agree with this. The new dwelling has already been permitted and no doubt its impact on the character of the area was considered at this time and judged acceptable. Its visibility would be no different to other homes that can be seen in the area. I have noted the Council's reference to a landscaping scheme, required by way of condition for the recently permitted new dwelling. However, I do not have sight of this condition or any landscaping scheme. As such, I am unable to give this any weight in reaching my decision.
11. Nevertheless, the loss of the hedge, to the detriment of the rural character and street scene, is sufficient for me to conclude that the development conflicts with Policies LPP1, LPP52 and LPP67 of the BLP. These policies recognise the intrinsic character and beauty of the countryside and promote development that is suitable for the local context.

Conclusion

12. For the reasons given above I conclude that the development would be detrimental to highway safety. Further, the removal of the hedge would be harmful to the rural landscape character. However, increased visibility of the permitted dwelling would not. The conflict I have found means that the

proposal would not comply with the provisions of the development plan read as a whole and the appeal should be dismissed.

Nick Bowden

INSPECTOR