

Appeal Decision

Site visit made on 10 October 2023

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

an Inspector appointed by the Secretary of State

Decision date: 31.10.2023

Appeal Reference: APP/Z1510/W/23/3321533

Land at 3 Coggeshall Road, Braintree, Essex CM7 9DB

- 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 Brand Builders & Developers Ltd against the decision of Braintree District Council.
 - The application (reference 22/03276/FUL, dated 30 November 2022) was refused by notice dated 16 February 2023.
 - The development proposed is described in the application form as alterations to convert existing storage and distribution (Class B8 use) to seven two-storey, one-bedroom dwellings (use Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for "conversion of existing storage and distribution building (Class B8) to seven no. two-storey, one-bed dwellings", at 3 Coggeshall Road, Braintree, Essex CM7 9DB, in accordance with the terms of the application (reference 22/03276/FUL, dated 30 November 2022), subject to the conditions set out in the attached Schedule of Conditions.

Preliminary point

2. Notwithstanding the description of the application that was given in the application form, the nature of the proposed development can more clearly be expressed as set out in the Council's decision notice and in the appeal form, as the "conversion of existing storage and distribution building (Class B8) to seven no. two-storey, one-bed dwellings".

Main issues

3. The first main issue to be determined in this appeal is whether the scheme would provide satisfactory living conditions for occupiers of the proposed new residential accommodation. The second is the effect of the proposed development on the residential amenities of neighbours (whether unacceptable harm would be caused by loss of privacy).

Reasons

4. Braintree is one of the main towns in Essex and the appeal site is located in the central part of the town. There is a large supermarket almost opposite the

appeal site, and a main shopping street nearby, in Bank Street, where a range of retail and commercial premises are located. Coggeshall Road is one of the main routes out of the town centre, classified as the B1256 and continuing, outside the town, as the A120.

5. The centre of the town has been designated as the Braintree Central Conservation Area and it includes a wide range of building types, of different styles and ages, including both residential and commercial buildings.
6. The appeal site, at number 3 Coggeshall Road (on the north side of the road), is occupied by two substantial buildings. On the Coggeshall Road frontage, the site adjoins the car park of 'The Swan Hotel' to the west and 'Tabor House' (which is a rather grand building) to the east. To the north and west of the appeal site there is a residential enclave at St. Lawrence Court.
7. The building on the street frontage of 3 Coggeshall Road (and excluded from the appeal site itself) is of traditional brick construction, with a pitched roof. It is essentially a two-storey building in appearance, with dormer windows serving a second floor at attic level. The ground floor appears to be occupied by vacant retail premises, with flats above (and it has been stated that planning permission has previously been granted for residential conversion of the upper floors).
8. At the rear, there is a large two-storey building, used as warehouse (and described as a building used for "storage and distribution"). On plan, it is laid out as a simple rectangle (approximately) and it is constructed of load bearing brickwork under a pitched roof on steel trusses, which divide the building into eight bays. The warehouse has large windows on both floors of the principal elevation but the rear elevation is a blank wall. A yard occupies the area alongside the warehouse building, in front of its principal elevation, adjoining the side boundary of 'Tabor House'.
9. Alterations are now proposed to convert the existing storage and distribution building to create seven one-bedroom dwellings. Each of the new dwellings would have the benefit of its own small amenity area, in front of the main elevation, with a shared garden providing access to the whole. A small turning and manoeuvring area would be laid out near to the highway access (as at present) but, in practice, the new one-bedroom dwellings would not have their own parking spaces.
10. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history, although it is also recognised that appropriate change may include increased densities. The achievement of good design includes protecting existing residential amenities and providing good standards of accommodation.
11. More specifically, the 'National Planning Policy Framework' also emphasises the importance of conserving or enhancing the historic environment (especially at Section 16), though it also points out the desirability of putting a heritage asset to its "optimum viable use" as does the 'Planning Practice Guidance'. This reinforces the statutory provisions in the Planning (Listed Buildings and

- Conservation Areas) Act 1990, which impose obligations on those considering whether to grant planning permission for development that would affect a conservation area. In such cases, decision makers are required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas affected by development proposals.
12. Policies in the Development Plan also share these basic principles, as set out in Section 1 and Section 2 of the 'Braintree District Local Plan 2013-2033'. Various policies are aimed at promoting sustainable development and focussing new development on the main settlements in the District, subject to achieving high standards of design. In this respect, Policies SP7 and LPP52 are particularly relevant to the current appeal and both include the aim of protecting existing residential amenities (including privacy). Policies LPP47, LPP53 and LPP54 are particularly relevant to development in conservation areas and they reinforce the principles of the primary legislation, encouraging the re-use of old buildings, among other things.
 13. Supplementary Planning Documents are also relevant to this appeal, although they do not have the same weight as Policies in the Development Plan. Attention has been drawn to the 'Essex Design Guide' and to the 'Parking Standards Design and Good Practice' guidance (although it is noted that for residential development in main urban areas a reduction to the vehicle parking standards may be justified).
 14. The creation of seven new dwellings would alter the eight bay layout of the existing building and would involve some significant reconstruction of the main elevation (and perhaps of the roof structure). This would reduce the practical benefit of reusing the existing building, of course. Nevertheless, the basic form and scale of the warehouse would be maintained, even though the proposed conversion would cause major change to the building. I am convinced that the character and appearance of the Conservation Area would be preserved and that no fundamental objection could be raised to the project on the grounds of its architectural design.
 15. The proposed new residential units would each comprise an open plan lounge, dining area and kitchen on the ground floor, with a bedroom, a "walk-in wardrobe" and an en-suite bathroom on the first floor. The proposed floor areas would be sufficient to meet technical standards.
 16. The main windows for each dwelling would be located in the reconfigured primary elevation but the rear wall would be pierced only by narrow high-level windows to provide some natural light to the kitchen zones. The kitchen windows would be obscured and fixed shut, to protect neighbours' privacy. However, occupiers of the new dwellings would have their main rooms on ground and first floors lit by large windows in the main east elevation and, obviously, more daylight would be received close to the window. The proposed new windows on the ground floor (together with light tunnels that would also be introduced) and proposed roof lights on the first floor would provide additional light.
 17. The lighting levels on the ground floor would not be ideal but the submissions show that sufficient natural light would be provided to meet minimum standards, even if artificial light might also be used in practice. I am

- persuaded that the rear part of the ground floor (where kitchen areas would be located) and the first floor bathrooms would be adequately lit.
18. Each of the new dwellings would have the benefit of its own small amenity area, in front of the main elevation, with a shared garden providing access to the whole. The outlook from the new dwellings would be restricted by the configuration of the site, since the existing yard area is relatively narrow, with a high boundary wall and a large building beyond. Nevertheless, the outlook would be acceptable in an urban setting, in my opinion.
 19. The shared areas would include space for the storage of refuse bins, including the bin store facility within the frontage building (which is included within the current appeal site). The provision would be adequate for the site at number 3 Coggeshall Road as a whole.
 20. A small turning and manoeuvring area would be laid out near to the highway access (as at present) but the new one-bedroom dwellings would not have their own parking spaces. Historically, of course, the yard would have served the warehouse on the site as well as providing parking spaces. Planning policies (notably Policy LPP43 of the 'Local Plan') and the supplementary planning guidance include parking standards for new residential development but it is also recognised that parking standards may be relaxed if the circumstances warrant it.
 21. In this case, the appeal site is located in the town centre of Braintree, where services and facilities are available and where there are good transport connections, including a railway station and bus interchange. Furthermore, the site is also close to an area of open space. In the circumstances, I accept that a "nil parking" scheme is acceptable in this case.
 22. The finished dwellings would be unconventional but imaginative in layout and I have concluded that they would provide satisfactory living accommodation, in some ways more attractive than more conventional flats.
 23. Reference has been made to previous proposals (the subject of previous appeals) but I have judged this scheme as it comes before me (and in the light of the new submissions). I am persuaded that the current proposals would now achieve satisfactory living conditions for occupiers of the proposed new residential accommodation.
 24. Turning to the effect on the residential amenities of neighbours, it has been argued that the new high level windows at ground floor level in the west elevation of the building would overlook neighbouring homes at St. Lawrence Court. I am conscious, however, that these would be designed essentially to provide additional natural light and that they could be glazed with obscured glass and fixed shut. Neighbours' privacy would thus be protected. This objection, therefore, could be overcome by the imposition of a suitable condition.
 25. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms, and the proposals would make a small but significant contribution to the provision of housing in the District. I note the submissions relating to the lack of supply of housing but I do not find that it is necessary in this case to give special weight to the issue of housing need.

26. The project would bring an existing building back into practical use and I have concluded that the project would provide an acceptable standard of living accommodation for future residents, while it would not cause undue harm to neighbours' amenities. Hence, I am persuaded that the scheme before me would not be in conflict with the Development Plan as a whole and that it 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.
27. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of those suggested by the Council in the usual way (without prejudice to their main arguments in the appeal) and accepted by the appellants in their "Final Comments Statement".
28. The usual conditions are necessary, to define the planning permission and to ensure that quality is maintained. For the avoidance of doubt, more specific conditions have also been imposed to require the submission of details of the proposed construction materials and landscaping details (since the drawings themselves provide only limited information in this respect). A specific condition has been imposed to require the proposed kitchen windows to be glazed in obscured glass and fixed shut, as explained above.
29. I have imposed conditions to deal with matters which have been raised by the local planning authority (subject to modifications necessary, in my opinion, in the interests of clarity and simplicity). These conditions include restrictions on the development works themselves. They also include a requirement to provide Residential Travel Information Packs prior to first occupation of the new dwellings, to be approved by the local planning authority (who will, presumably, consult the County Council).
30. In this case, I accept that there is a convincing justification for the removal of permitted development rights, even though they are normally of general application, because of the unusual character of the site and its location in the Braintree Central Conservation Area. This is to ensure that future changes to the new dwellings would be subject to scrutiny in their unusual context.

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 3CG 001 (Site & Location Plans);
 - drawing number 3CG 002 (Existing Ground Floor Plan);
 - drawing number 3CG 003 (Existing Elevations);
 - drawing number 3CG 004 (Proposed Ground & First Floor Plan);
 - drawing number 3CG 005 (Proposed Elevations);
 - drawing number 3CG 006 (Proposed Site Plan);
 - drawing number 3CG 007 (Refuse & Recycling Store);
 - drawing number 3CG 008 (Indicative Section);
 - drawing number 3CG 009 (Parking Location Plan).
3. No materials shall be incorporated into the external surfaces of the development hereby permitted until samples (or specifications) of those materials and drawings (at appropriate scales) of the construction details to be used have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, using the approved materials.
4. All windows in the west (rear) elevation of the converted building shall be glazed in obscured glass and shall also be fixed shut. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no further modifications to these windows shall be made and no windows, doors or openings of any kind shall be inserted in this elevation of the building without the express written approval of the local planning authority.
5. Prior to first occupation of the development hereby permitted, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the implementation programme approved by the local planning authority. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written consent to any variation.
6. Prior to first occupation of any of the dwellings hereby permitted, the area shown on the approved landscaping scheme as being dedicated to refuse storage shall be laid out and brought into use as such. It shall be retained and used for no other purpose thereafter.
7. No building or demolition work shall be carried out on the site, and no deliveries or collections of construction materials shall be made to or from the

site, outside the hours of 0800-1800 on Mondays to Fridays, inclusive, or 0800-1300 on Saturdays, or at any time on Sundays and Bank Holidays.

8. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include provisions for:

- the parking of vehicles of site operatives and visitors,
- loading and unloading of plant and materials,
- storage of plant and materials used in constructing the development, and
- wheel and vehicle underbody washing facilities.

9. Prior to first occupation of the proposed development, the Developer shall provide a Residential Travel Information Pack for each dwelling, relating to sustainable transport, which shall previously have been approved by the local planning authority.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development within Part 1 or Part 2 of Schedule 2 of the Order shall be carried out without the prior written permission of the local planning authority.