

Appeal Decision

Site visit made on 9 September 2024

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2024

Appeal Ref: APP/Z1510/W/23/3335598

Land adjacent to King William Public House, London Road, Braintree, Essex, CM77 7PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alex Bartlett (Aedis Homes Ltd) against the decision of Braintree District Council.
 - The application Ref is 22/02216/FUL.
 - The development proposed is construction of 1 no. new dwelling and associated development.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the setting of the Grade II listed King William IV public house,
 - The effect on protected trees; and,

Reasons

Effect on the designated heritage asset

3. The appeal site is close to the Grade II listed King William IV public house. The proposed dwelling would be the nearest house to the listed building. Given this proximity of the two sites and as they are seen within the same street scene the appeal site lies within the setting of the public house. I have had special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
4. The public house is recorded as an 18th century front probably to an earlier timber-framed and plastered house. It is a prominent feature in the street scene and is set close to the pavement edge. Its location and prominent siting make it the first visible building when travelling along London Road from the north. The public house is set apart from neighbouring properties by its more prominent siting relative to the street, and by its physical separation from them. I find that its architectural character, age and prominent siting all contribute to its historic significance.

5. Houses along London Road near to the public house are typically set back from the street edge with landscaping between the houses and the street. These houses directly face the street with their front elevations parallel to it.
6. The appeal site contributes to a visual break between the new houses on Bellgreen Gardens and the listed building. There is also separation between the listed building and the new houses to its rear, which are accessed via a driveway running between the public house and appeal site.
7. The proposed development would diminish this visual break. The residential development to the rear and on Bellgreen Gardens has substantially reduced the space around the public house. The further reduction of space so close to the public house would cause harm to its significance. In addition, the proposed house would appear out of character in the street scene as it would be set at an oblique angle to London Road rather than directly facing it.
8. The proposed house would be modest in scale, and its detailed appearance would otherwise not be out of keeping in the wider area. The driveway, footpath and planting between the appeal site and the listed building would ensure that some separation would remain between the public house and the newer residential development. The appeal proposal would therefore cause less than substantial harm to the significance of the listed building.
9. The National Planning Policy Framework (the Framework) requires that this harm be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. In this instance the proposal would deliver a new dwelling on a windfall site, supporting the government's objective of significantly boosting the supply of homes. This attracts additional weight given the council has a shortfall in its supply of deliverable housing land. The appeal site is in a sustainable location with access to local shops and facilities. There would be an economic benefit from both the construction and the occupation of the dwelling. The site is currently vacant, and development could deliver landscaping enhancements.
10. These benefits attract moderate weight given that the proposal would deliver a single new house. Set against the great weight that the Framework requires be given to the conservation of the significance of the listed building, in this instance the public benefits would not outweigh the harm.
11. The proposed development would therefore fail to preserve the setting of the King William IV public house. It would conflict with policies SP1, SP3, SP7, LPP47, LPP52 and LPP57 of the Braintree District Local Plan (the Local Plan). Amongst other criteria these direct new development in the district, require high standards of design and seek the protection and enhancement of the historic environment.
12. The council also referred to policy LPP53 in its decision notice. This policy relates to Conservation Areas, so is not determinative as from the evidence submitted the site is not in one.

Protected trees

13. Policy LPP65 of the Local Plan requires that a suitable distance be provided around existing trees on development sites to allow for their continued wellbeing. The proposed house would be sited partially within the root

protection areas (RPAs) of 2 common lime trees (identified as T1 and T2) which are the subject of a tree preservation order. They are well established and prominent in the surrounding area, contributing to the extensive arboreal presence along London Road.

14. The submitted Arboricultural Method Statement sets out how the house and parking spaces could be constructed without harming the roots of the trees. I am satisfied that these measures would be sufficient to prevent harm to their continued wellbeing, given the limited extent of encroachment into the RPAs.
15. The crown of T1 has historically been subject to pruning, limiting its spread. The submitted Tree Shadow Assessment Report states that such pruning would prevent overshadowing or overhanging of the proposed house. There is no suggestion that previous pruning has harmed the wellbeing of T1, nor do I consider that ongoing management would be likely to cause such harm.
16. The proposed development would therefore maintain a suitable distance from the existing trees to allow for their continued wellbeing.

Other Matters

17. The parties agree that a financial contribution has been made by the appellant towards mitigation of any impact on the Black Water Estuary Special Protection Area and Ramsar Site and Essex Estuaries Special Area of Conservation. Had I otherwise been minded to allow this appeal it would have been necessary, as the competent authority, to carry out an appropriate assessment of whether this would be sufficient to offset any likely significant impact from the proposal. However, as I am dismissing this appeal on other grounds it is not necessary to consider this matter further.

Conclusion

18. The council acknowledges that it has a shortfall in its supply of deliverable housing land. Paragraph 11d) of the Framework therefore states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
19. However, in this instance there would be less than substantial harm to the significance of the King William IV public house. The identified public benefits would not outweigh this harm, and therefore the application of policies in the Framework which seek to conserve and enhance the historic environment provide a clear reason for refusal.
20. The appeal proposal would conflict with the development plan. There are no material considerations, including the Framework, to indicate that this appeal should be determined other than in accordance with it.
21. Therefore, for the reasons set out above, the appeal is dismissed.

M Chalk

INSPECTOR