



Appeal Decision

Site visit made on 24 September 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2024

Appeal Ref: APP/Z1510/W/23/3332709

Land west of Kelvedon Station, Coggeshall Road, Kelvedon CO5 9NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr James Angus of CALA Homes (North Home Counties) against the decision of Braintree District Council.
- The application Ref 21/03544/DAC sought approval of details pursuant to conditions No 22 and 26 of planning permission 19/01025/FUL granted on 02/03/2021.
- The application was refused by notice dated 5 September 2023.
- The development proposed is an application for approval of details as reserved by condition 22 (Means of Enclosure) and 26 (Scheme of Landscaping) of approved application 19/01025/FUL.
- The details for which approval is sought are:
Condition 22 No above ground development shall commence until details of all gates/fences/walls or other means of enclosure have been submitted to and approved in writing by the local planning authority. The details shall include position, design, height, and materials of the screen walls/fences. The gates/fences/walls as approved shall be provided prior to the occupation of each dwelling to which they relate and shall be permanently maintained as such.

And

Condition 26 Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, and details of tree pits and root deflectors that are to be used in connection with the proposed tree planting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding, or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the

development shall be replaced in the next planting season with others of a similar size and species.

- The reasons given for the conditions are:

Condition 22 In order to secure the satisfactory development of the site and in the interests of visual amenity.

And

Condition 26 Landscaping planting will add character to the development and it is considered desirable for these to be dealt with concurrently with the other details.

Decision

1. The appeal is allowed, and the details submitted pursuant to condition No 22 attached to planning permission 19/01025/FUL granted on 02/03/2021 in accordance with the application dated 19/11/2021 and the details submitted with it are approved.

Preliminary Matters

2. Condition 26 which relates to the submission of landscaping details has been submitted as part of the current planning application. However, both parties agree that this does not form part of the appeal, as details are still pending and no decision has been issued. As such, I have limited my assessment of the scheme to the details pertaining to Condition 22 relating to means of enclosure only.
3. Furthermore, Condition 22 is a prior to the commencement of development condition, and it was evident from the details submitted and from the site visit that the development has indeed commenced and is in an advanced stage of construction. Whether this condition is not capable of being discharged because development has been implemented, is not a matter to be addressed in this type of appeal. As such, I will only have regard to whether the condition should be discharged based on its merits.

Background and Main Issue

4. Planning permission¹ has been granted at the site for a large-scale redevelopment consisting of the construction of 238 new dwellings and associated development including public open space and Sustainable Urban Drainage System. Condition 22 required details of the means of enclosure to be submitted to and approved by the Council.
5. At the time of my site visit, the construction of the development has progressed significantly, with a considerable number of properties in situ, many of which are clearly occupied. The current method of enclosure around the boundary of the housing development includes sections of brick screen walls and piers approximately 1.8m in height along the southern boundary, punctuated by swathes of horizontal acoustic timber fencing. To the west of the site the treatment consists of a low-level brick wall, approximately 0.75m in height demarcating the site boundary but allowing views of the surrounding open area. Within the site itself there is a significant variation in terms of the arrangement of enclosures including brick, timber panels, gates, and metal railings.

¹ Braintree District Council Planning Ref: 19/01025/FUL

6. Taking the above background into consideration, the main issue therefore is whether the details of the enclosure evident on site are reasonable and necessary in the interests of visual amenity on the character and appearance of the surrounding area.

Reasons

7. The site adjoins the settlement of Kelvedon to the north, alongside the Great Eastern railway line that runs through Kelvedon Station. Other than the settlement of Kelvedon the surrounding area is generally open and rural in appearance. The Council is committed to ensuring high standards of planning, design and layout in the district as well as recognising the importance of the quality of the environment. Policies LPP47 and LPP52 of the Braintree District Local Plan (BDLP) 2013-2033 (2021) collectively seek to secure a high standard of design and layout in all new development, which amongst other things, respects and responds to the local context.
8. The Council highlight that they consider the current means of enclosure unacceptable. Specifically, in that they have advised the appellant that the enclosure along the southern boundary is required to be a solid brick wall, which in their view would respond better in the local context. The Council would prefer a consistent material treatment of brickwork, citing that this is a common characteristic of Kelvedon High Street².
9. Given the site is located to the north of the railway line, away from the settlement of Kelvedon and adjoining a more open and verdant location, this provides a distinct change in visual context to that of the High Street. Views of the site are therefore set against its more open and natural location. This is particularly evident when viewed from the Public Right of Ways (PROW - FP 92-12 and PROW FP 92-21) which run alongside the development boundary to the south and west of the site.
10. The boundary treatment along PROW FP 92-12 is somewhat disjointed and piecemeal with variations in the materials used, which include areas of brick, piers and openings for gates along with large expanses of timber acoustic fencing, generally located adjoining the carparking areas. Whilst not consistent in appearance, the current boundary treatment provides a suitable enclosure of the site, with the significant amount of timber panelling providing a softer appearance more representative of its open and natural surrounds. In contrast, the provision of a consistent brick wall feature in this location, particularly when viewed from PROW FP 92-12 would have a stark and overly fortified appearance, which would not provide a well-articulated sense of place that is neither visually interesting nor welcoming.
11. The use of differing materials and heights, along this boundary and within the development as a whole, provides visual interest to the development and a degree of variation not always associated with housing developments which can appear sterile. Furthermore, from the details before me, there is a functional purpose to this variation throughout the development.
12. The low-level brick walls and the use of the railings would provide a form of demarcation but have sufficient visibility to enhance security between private

² Appendix 2 of the Councils Statement of Case

and public spaces. Similarly, the larger and solid external sections of wall, piers and timber panels provide suitable levels of security, and they additionally provide screening and acoustic attenuation. The Council have suggested that a brick wall could also provide acoustic mitigation, however I have been presented with little evidence that the use of brick would provide the same or better attenuation than the current and specifically designed acoustic timber treatment.

13. Consequently, the removal of condition 22 would not result in harm to the character and appearance of the area, as the proposed details would secure the satisfactory development of the site in terms of visual amenity. As such the scheme would comply with BDLP Policies SP7, LPP47 and LPP52; Policies DE1 and DE2 of the Kelvedon Neighbourhood Plan 2017-2033 (2022) and the relevant sections of the Essex Design Guide for Mixed Use and Residential Areas (2005) which collectively aim to ensure that development proposals are of a high standard of design and make a positive contribution to their surroundings.

Other Matters

14. I acknowledge the Council's concerns in respect to the longevity of the proposed timber treatment as opposed to a solid brick wall, and the potential cost implications on proposed residents regarding the need for maintenance and/or replacement. However, this would be no different to the regular site maintenance required within a housing development such as this, and this is not a matter for consideration under this appeal.

Conditions

15. In effect, the appeal is seeking approval for the submitted details which I have found address the requirements of the condition. It is not for me to reconsider the planning permission or discuss whether the condition is necessary. This permission does not create a new planning permission for the whole development and therefore the conditions attached to the original planning permission remain to have effect.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Robert Naylor

INSPECTOR