



Appeal Decision

Site visit made on 15 October 2024

by D Cleary MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2024

Appeal Ref: APP/Z1510/W/24/3342001

1 Cliff Cottages, The Street, Shalford, Essex CM7 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Stuart Appleby against Braintree District Council.
 - The application Ref is 23/02404/FUL.
 - The development proposed, as originally described, was to demolish existing garage and store and construct 1no. single storey dwelling and carport.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal responds to the Council not having determined the application, there is no decision notice. Nonetheless, they have stated that the application would have been refused. The reasons for which have informed the main issues of the appeal. Specifically, the Council has confirmed that, had the appeal not occurred, planning permission would have been refused on the grounds that the development would be harmful to the character and appearance of the area, and to the living conditions of future occupants of the dwelling by reason of overlooking and lack of privacy.
3. During the application the development was amended to remove the proposed demolition of the existing garage and store. I have considered the appeal on the basis of the amended plans that were considered by the Council.

Main Issues

4. The main issues are the effect of the development on the character and appearance of the area; and the living conditions of future occupants of the proposed dwelling with particular regard to privacy and overlooking.

Reasons

Character and Appearance

5. The appeal site relates to an L-shaped parcel of land which is located to the side and rear of the property known as No.1 Cliff Cottages (No.1). No.1 is a two-storey end-terrace forming one of three dwellings in the row (Nos.1 to 3). The site is understood to have previously been part of the garden and parking area for No.1. However, the land has now been subdivided by close board

fencing. The site lies adjacent to an area of open space which occupies a corner plot at the junction of The Street and Clifffield. The area of open space includes a number of mature trees, with a pavement running parallel with the boundary of the appeal site. The dwellings on Clifffield comprise detached and semi-detached bungalows which are set back from the street behind front gardens, with roadside boundaries generally defined by hedging. Gable roofs are generally set away from the side boundaries. The set back, spacing and vegetation coverage results in Clifffield having some sense of openness and a landscaped character. The Street has a character which is distinctly more varied in character and form.

6. The dwelling would be sited on the land to the rear of the plot and set back from the frontage of The Street. The part of the site on which the dwelling would be sited is modest in width and depth. The limited space available would mean that the dwelling would be sited close to the front, side and rear boundaries and occupy a large proportion of the rear part of the site. The remaining land surrounding the dwelling would be laid to small areas of garden which would be of limited size. Consequently, the size of the plot, small gardens and proximity of the dwelling to the site boundaries would result in a development that would appear cramped within its plot. This would be at odds with the pattern of development along Clifffield.
7. From The Street the dwelling would be set back. This, coupled with the retention of the existing garage, would mean that the dwelling would not be prominent in views from The Street. However, the dwelling would be more visually associated with the properties located on Clifffield. The dwelling would sit forward of the adjacent pair of semi-detached properties, No.5 and No.6 Clifffield (No.5 and No.6), by some considerable distance. This forward protrusion and lack of any meaningful set back or front garden, would result in a development which would considerably contrast with the more open and verdant pattern of development along Clifffield.
8. The area of open space and mature vegetation to the front of the site would, to some extent, reduce the prominence of the development. Nonetheless, the incongruity would be most apparent from the pavement immediately to the front of the dwelling. From here the dwelling would be particularly prominent and would result in a hard built edge very close to the area of open space. Furthermore, when viewing the site over the open front gardens of No.5 and No.6 towards The Street, the juxtaposition with the established building line would be highly noticeable. In these views much of the flank elevation of the dwelling would be seen projecting forward of No.5 and above the shared boundary with that property. This would result in a prominent dwelling which would markedly contrast with the rhythm of development along Clifffield.
9. It is accepted that the eaves and ridge height of the dwelling would be similar to the adjacent dwellings on Clifffield and, as such, the development would visually tie in to these properties in this regard. However, this element of design would not overcome the visual prominence of the dwelling created by its cramped appearance, forward positioning and close proximity to the front boundary.
10. For the above reasons the development would have a harmful effect on the character and appearance of the area. Therefore, the development is contrary to Policies SP7, LPP1, LPP35 and LPP52 of the Braintree District Local Plan

2013-2033 (the LP). Together, amongst other things, these seek to achieve high-quality design in development which responds positively to local character and context.

Living Conditions

11. A number of windows are positioned within the rear elevation of No.1 and No.2 Cliff Cottages, at first floor level. I have not been provided with any evidence to demonstrate what rooms these windows serve. Nonetheless, the rear garden of the dwelling would be positioned at close proximity to these windows, meaning that there would be direct views from these first-floor windows over that space.
12. The height of the boundary fence is such that part of the rear space would be obscured from these views. However, much of the garden space would not be screened by the fence. The close proximity to the windows, along with the limited size of the rear garden, is such that the area would be intrusively overlooked, resulting in a lack of privacy for future occupants within that space. No.3 Cliff Cottages (No.3) also has first floor windows to the rear, and the Council have suggested that these would also overlook the rear garden space. While some views may be available from No.3, the distance and angle of any views is such that any overlooking is not likely to be harmful to living conditions.
13. In addition, the first-floor windows to No.1 would be positioned very close to the proposed side garden. While this is to the side, the angle between No.1's closest window and the side garden would not be significant. As such there would be direct and very close views over much of this alternative external space. Therefore, both areas of garden would be overlooked by existing dwellings resulting in a lack of privacy for future occupants within the private external areas.
14. In terms of internal spaces, the rear elevation includes two windows which would serve a bedroom and lounge area. The orientation of the elevation would be at a right angle to the rear elevation of Cliff Cottages. While there may be some intervisibility, the juxtaposition would mean that there would not be a direct relationship between the opposing openings. Therefore, I consider that an adequate level of privacy would be provided to the rooms served by the rear openings.
15. An opening is proposed within the side elevation which would serve the open plan kitchen and lounge space. That room would be served by further openings to the front and rear. The nearest first floor window at the rear of No.1 would have direct views into this room and at a close distance. This relationship would be substandard and would result in a poor level of privacy to that room. Notwithstanding this, given the open plan nature of the room, which is served by other openings to the front and rear, I am of the view that the issue could be addressed through obscure glazing.
16. To the front of the dwelling, two windows would be provided which would serve a kitchen and bedroom. These would be positioned at very close proximity to the pavement, albeit set behind a small front garden. While there would be an opportunity for views from the public realm into these rooms, a close spacing between ground floor windows and public spaces is not an uncommon one. Indeed, there are numerous examples in the locality, particularly along The

Street, which have similar close relationships to that proposed. Therefore, I do not consider that this relationship would result in such unacceptable living conditions for future occupants to be adversely harmful.

17. For the above reasons, the development would provide satisfactory living conditions for future occupants of the dwelling with regard to privacy to internal spaces. However, the development would result in substandard living conditions for future occupants of the dwelling with particular regard to the overlooking of garden spaces. Therefore, the development is contrary to Policies SP7, LPP35 and LPP52 of the LP. Together, amongst other things, these seek to achieve adequate living conditions for future occupants by ensuring that development is not overlooked.

Other Matters

18. The appeal site is within close proximity to a listed building, known as Horseshoes, and could be considered to fall within its wider setting. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings, or their setting, or any feature of special architectural or historic interest which they possess.
19. Horseshoes is a detached building which is located a few properties away from the appeal site, fronting onto The Street. The siting and modest scale of the proposed dwelling, along with the number of intervening buildings, is such that there would be limited intervisibility with the listed building. Therefore, I consider that the setting of nearby listed buildings would be preserved.
20. I note the concerns raised by third parties with particular regard to the loss of parking for No.1, the effect on living conditions of No.2 through loss of privacy, and the right to access to No.2.
21. From the evidence before me it is understood that the site is under separate title and the site is therefore severed from No.1. Therefore, it would appear that there is no control over the parking arrangements for No.1. The Council, and the Highways Authority, have raised no objections to the proposed development in this regard. Given the circumstances, and in the absence of any objection from the Councils highways consultee, I have no reason to determine that the development would lead to unacceptable parking conditions in the surrounding highways.
22. The dwelling would have a lounge and bedroom window which would face towards the shared boundary with No.2. At present this boundary is of a low-level, and the development would be very close to the boundary. The Council do not raise concern with regard to overlooking or loss of privacy to No.2 arising from this relationship. While I have some concern in this regard, the issue could be addressed through the installation of close board fencing along this boundary, which could be secured by condition were I to allow the appeal.
23. With regard to the right of access across the site, this is a civil matter and is not a material consideration in my determination of this appeal.
24. I have had regard to the appeal decisions cited by the appellant and visited these locations during my site visit. These appeals relate to the construction of a dwelling in a countryside locations, and outside of a defined settlement

envelope. A main issue in both appeals related to whether those sites represented an appropriate location for new housing. The principle of development is not a main issue in this appeal. Furthermore, these sites relate to more spacious plots with markedly different relationship with their surroundings. Therefore, I do not find the circumstances to be directly comparable to those within this appeal, particularly when having regard to the main issues.

25. I acknowledge that the development would deliver social and economic benefits in providing new housing which would help to sustain a rural community. I also acknowledge that the development would attract a number of other benefits in terms of delivering biodiversity enhancements, and the incorporation of sustainability measures in the construction and design of the dwelling. Furthermore, the development would deliver economic benefits during construction. Nonetheless, these benefits would be limited to those associated with a single dwelling and would not be so compelling as to outweigh the harmful effects of the development that I have identified.

Conclusion

26. For the above reasons the appeal is dismissed.

D Cleary

INSPECTOR