



Appeal Decision

Site visit made on 16 April 2025

by **J Bell-Williamson MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 May 2025

Appeal Ref: APP/Z1510/W/24/3356945

Ivory House, High Garrett, Braintree, Essex CM7 5NU

- 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 Sean McGinley against the decision of Braintree District Council.
 - The application Ref is 24/01218/FUL.
 - The development proposed is erection of 1no. single storey 3/4 bedroom dwelling with associated parking and private amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024 after the appeal was made. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.
3. I note that the appellant made a payment to address the mitigation required by the Council of the effect of the proposal on protected European sites.

Main Issues

4. The main issues are:
 - the suitability of the location for the proposed dwelling, including the effect on the character and appearance of the appeal site and the surrounding area, and the effect on the living conditions of the occupiers of Ivory House, with regard to outlook;
 - the effect on the settings of Mill Cottage and High Garrett Farm, both Grade II listed buildings;
 - the effect on trees;
 - whether sufficient information has been provided with regard to Biodiversity Net Gain; and
 - the effect on highway safety.

Reasons

Suitability of the location

5. The appeal site is part of the residential curtilage of Ivory House, a recently-constructed detached dwelling with a frontage on the busy A131. The surrounding

area is predominantly residential in character with dwellings of varied age, design and appearance.

6. The Braintree District Local Plan 2013-2033 Section 2 (2022) sets out the spatial strategy for the district, in which High Garrett is defined as a Third Tier village. Policy LPP1 concerns development boundaries and says that development outside defined boundaries will be confined to uses appropriate to the countryside. As the proposal involves market housing in a location outside the defined development boundary for High Garrett it is contrary to Policy LPP1. I note, however, that the Council does not raise concerns about the location's accessibility to services and facilities and so the main considerations with regard to the proposal's physical effects is on character and appearance and living conditions.
7. Properties along this part of the A131 are largely detached dwellings on generous plots with substantive gaps between the built forms and with mature trees to their frontages. Consequently, despite the busy main road, the street scene is open, spacious and verdant. This character and appearance is also reflected in the layout of dwellings in Sunnyfields Road, which runs off the main road close to the appeal site.
8. The proposed dwelling would replace the existing detached garage and the subsequent subdivision of the plot containing Ivory House would result in two plots of roughly equal size. Due to the limited width of the newly-created plot, the proposed dwelling would be substantially closer to Ivory House than is characteristic of the surrounding layout of dwellings. The extent of the gap to either side of the pair of detached dwellings and neighbouring properties would accentuate their proximity to each other, which would appear as a cramped and incongruous layout. As a result, the proposed dwelling would be a contrived addition that would not reflect the characteristic space between built forms and the openness of the street scene.
9. The appellant contends that an earlier proposal for eight dwellings is comparable to the current proposal¹. However, this site is further south on the opposite side of the main road where there is a greater density of development. As such, it is not directly comparable to the character and appearance of the street scene in the vicinity of the appeal site.
10. The front building line of the proposed bungalow would project beyond that of Ivory House. While the forward projection of the front gable would be set away from the shared boundary with parking spaces in between, it would nonetheless be readily apparent from the closest windows in Ivory House due to the proximity of the dwellings.
11. The majority of dwellings in the surrounding area are laid out on consistent front buildings lines, with no views of neighbouring properties likely to be available from front windows. In contrast to this, the uncharacteristic layout of the proposed dwelling, in terms of both its proximity and forward position, would result in views of the new dwelling and a harmful reduction in openness in the outlook from the closest windows in Ivory House.
12. Accordingly, for the above reasons, I conclude that the proposal would have an unacceptably harmful effect on the character and appearance of the appeal site

¹ Ref 15/00901/FUL.

and surrounding area, and on the living conditions of the occupiers of Ivory House, with regard to outlook. Consequently, it is contrary to Policy SP7 of the Braintree District Local Plan 2013-2033, Section 1 (2021), which requires all development to meet high design standards, including responding positively to local character and context; and to protect the amenity of existing and future residents. It is also contrary to the following policies from the Local Plan Section 2: LPP1 concerning development boundaries, as described above; and LPP35 and LPP52, both of which require development to respect the character and appearance of the site and its surroundings; and the latter policy also requires that there shall be no unacceptable impact on the amenity of any nearby properties.

Settings of Mill Lodge and High Garrett Farm

13. The appeal site is located between two Grade II listed buildings. To the south Mill Lodge is an eighteenth century timber-framed house which formerly served as the mill house to Courtauld's Mill until 1926 when it was taken down and re-erected on the present site. To the north is High Garrett Farm, also an eighteenth century timber-framed building, formerly a farmhouse which was restored and renovated in the twentieth century. Given the proximity of the appeal site to these two listed buildings and the visual relationship, the site is within their settings.
14. The appellant contends that the relocation of Mill Lodge undermines its value both in terms of its historical associations with its original location and use of materials. However, it appears that the building's listed status post-dates its relocation to the current site in High Garrett.
15. Both listed buildings, particularly Mill Lodge, are well-separated from the surrounding, more recent development. I note in this regard that the openness associated with the plot on which Ivory House stands is due to its probable former role as a kitchen garden serving High Garrett Farm. This sense of space and openness, therefore, is not only an important characteristic of the street scene, as found above, but also makes a positive contribution to the settings of the two listed buildings.
16. Despite the hedge and footpath separating Mill Lodge from the appeal site, the new dwelling and its cramped relationship with Ivory House would be readily apparent in relation to the listed building. This is also the case with regard to High Garrett Farm to the north. It has been found above that the proposed dwelling would not reflect the characteristic space between built forms and the openness of the street scene. For the same reason, it would harmfully impinge on the open settings of the listed buildings.
17. Accordingly, the proposed dwelling would fail to preserve the settings of Mill Lodge and High Garrett Farm. The Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation². Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.
18. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal³. I acknowledge that the

² Paragraph 212.

³ Paragraph 215.

proposal would contribute to housing supply and provide landscape improvements compared to the largely tarmacked site. I give these benefits moderate weight considering that a single dwelling is involved, but the harm to the designated assets is of considerable weight and, therefore, the proposal would not provide sufficient public benefits that would outweigh the harm that has been found.

19. Therefore, for the above reasons, I conclude that the proposed dwelling would not preserve the settings of Mill Lodge and High Garrett Farm, both Grade II listed buildings. Consequently, the proposal is contrary to Policies SP7, LPP47 and LPP57 of the Braintree District Local Plan 2013-2033, all of which include provisions requiring development to preserve the historic environment, including the settings of heritage assets.
20. In reaching this conclusion I am particularly mindful of the statutory requirement for decision makers to have special regard to the desirability of preserving the setting of a listed building⁴.

Trees

21. Both main parties explain that following the construction of Ivory House, approval was given for amendments to a number of details relating to the original permission⁵. These include a revised planting schedule, including on-site trees. The appellant indicates that the approved planting schedule has not altered with regard to the current proposal and that this is reflected on the proposed block plan.
22. The approved plan shows the projected spread of the trees' crowns, which could impinge on the site of the proposed dwelling next to Ivory House. The appellant states that the block plan shows updated crown dimensions to reflect the current on-site conditions accurately. However, given these differences between the approved and proposed planting, it is reasonable to expect that further details would be provided with the current proposal; in particular, the tree species and their likely mature size and any implications for how the proposed dwelling will be accommodated on the site to ensure the protection of existing and new trees. For this reason, this matter would not be adequately addressed by a condition, as suggested.
23. Given these findings, I must conclude that there is insufficient clarity in the proposal regarding the provision and protection of trees. As such, the proposal is contrary in this regard to the following policies from the Local Plan: SP7 concerning place-shaping principles; LPP1, which requires that development should satisfy amenity and environmental criteria; LPP52 concerning the layout and design of development; and LPP65 concerning tree protection in relation to new development.

Biodiversity Net Gain

24. The main parties agree that the proposal is subject to the statutory Biodiversity Net Gain (BNG) condition. The Council's concern is that the application is not supported by an assessment of the pre-development baseline in accordance with the biodiversity metric calculation or by an appropriate habitat map of the pre-development baseline. More specifically, the Council indicates that it does not

⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

⁵ Under application ref 23/00231/FUL.

support the pre-intervention baseline because the details do not accord with the relevant user guidance.

25. Given the conclusions on the preceding three main issues, this issue concerning BNG is not determinative for the appeal and, as such, it is not necessary for me to consider the details of the calculations undertaken. However, the appellant contends that the use of the metric calculation tool is not mandatory, which is not the case.
26. The Planning Practice Guidance indicates that one of the statutory requirements for information to support an application where the BNG condition applies is the completed metric calculation tool showing the calculations of the pre-development biodiversity value of the onsite habitat. An additional requirement is a plan or plans showing onsite habitat existing on the date of application (or earlier proposed date)⁶.
27. Therefore, in the absence of these requirements being adequately met when the application was submitted, the proposal fails to demonstrate in accordance with the Framework that development should provide net gains for biodiversity⁷.

Highway safety

28. The Highway Authority's concern is that as a drawing showing the extent of the visibility splays from the site has not been provided, the proposal has failed to demonstrate that it would be acceptable in terms of highway safety, efficiency and accessibility.
29. However, this issue needs to be considered in the context of the specific circumstances of the site and proposed development. The existing access serving Ivory House would also serve the proposed dwelling. The main question is whether its use in association with both properties would result in changes in use or an intensification of use where highway safety would be compromised to an unacceptable level.
30. The proposed dwelling would have two parking spaces and the number of additional movements generated by the single dwelling would not be significant. The wide access is directly onto the A131, which is straight for some distance in both directions, providing good visibility for drivers using the access. Based on this, there is no reason to find that the additional level of use would be harmful or that there would be vehicle conflict given the width of the access and the layout of the existing and proposed dwellings.
31. Accordingly, for these reasons, I conclude that the proposed development would not have a materially harmful effect on highway safety. It is not, therefore, contrary to Policy LPP52 of the Local Plan, which includes the requirement that development should not have a detrimental impact on the safety of highways.

Other Matters

32. The Framework is a material consideration in planning decisions⁸ and it requires that plans and decisions should apply a presumption in favour of sustainable

⁶ PPG Biodiversity net gain, paragraph 011.

⁷ Paragraph 187d).

⁸ Paragraph 2.

development⁹. The Council indicates that it can demonstrate a five year supply of housing land. The appellant contends that the Council's housing supply figure is not robust or resilient and that the contribution the proposal would make from a small site complies with national policy. However, in the absence of any detailed evidence to support the contention that the five year figure is incorrect, I must find that the presumption is not engaged as a result of housing under-supply.

33. The Framework also requires consideration of whether policies which are most important for determining the application are out-of-date. I am not aware of any substantive arguments that the most important policies are out-of-date and I do not consider them to be so because they are recently adopted and consistent with the Framework. Consequently, the presumption in favour of sustainable development does not apply.

Conclusion

34. The proposal is contrary to development plan policies as it would cause unacceptable harm and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁹ Paragraph 11.