



Appeal Decision

Site visit made on 3 June 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th June 2025

Appeal Ref: APP/Z1510/W/25/3360339

Aberpennar, Maldon Road, Hatfield Peverel, Essex CM3 2HL

- 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 In Property Ltd against the decision of Braintree District Council.
 - The application Ref is 24/00612/FUL.
 - The development proposed is residential development comprising of 2no. 3bedroom bungalows with associated access, parking and amenity.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal, the appellant provided revised plans offering an alternative roof design to Plot 1. The revisions, which show a gabled as opposed to a partial hipped roof, would represent a substantial difference to the proposal and were not before the Council at the time of their decision. Whilst the appellant asserts that these revisions simply revert to the original scheme and have been consulted upon, the Council assert the revised plans have not previously been seen by them. It is not entirely clear whether the revised plans advanced have been subject to consultation or not. Accepting these could prejudice the Council and particularly interested parties, who may have observations to make. Therefore, the appeal must be determined based on the plans as submitted to the Council and upon which they made their decision. I have therefore proceeded on that basis.
3. A Daylight and Sunlight Assessment has been provided with the appeal, undertaken post the Council's decision. As this is supplementary, I have had regard to this in so far as is relevant, disregarding the elements that relate to the amended plans that I have not accepted.

Main Issues

4. The main issues in determining this appeal are the effect of the development on the living conditions of the:
 - future occupiers of Plot 1, with particular regard to privacy;
 - occupiers of 16 Woodfield Way, with particular regard to outlook and light; and
 - occupiers of 22 and 24 Woodfield Way, having particular regard to noise levels associated with the vehicular access.

Reasons

Living Conditions - Context

5. Amongst other things, Policy SP7 of the Braintree District Local Plan 2013-2033 Section 1 (2021) (Local Plan S1) expects that all new development should protect the amenity of existing and future residents and users with regard to noise, loss of light, overbearing and overlooking. Similarly, Policy LPP52 of the Braintree District Local Plan 2013-2033 Section 2 (2022) (Local Plan S2) sets out that there should be no unacceptable impacts on the amenity of any nearby properties including on privacy, overshadowing, loss of light and overbearing impacts.
6. The appeal site comprises land to the rear of a residential dwelling known as Aberpennar. Now separated from it, the appeal site forms an undeveloped parcel of land that fronts onto Woodfield Way and is laid to lawn interspersed with sporadic, modest sized trees. Immediately adjacent are the bungalows at 22 and 24 Woodfield Way, their associated garages, and 16 Woodfield Way, a bungalow with a side dormer extension containing two windows facing towards the appeal site. A pedestrian gate set amongst a low, maintained hedgerow forms the boundary with the highway verge. Remaining boundaries with adjacent neighbours are defined by timber fencing.

Privacy for Plot 1

7. Plot 1 would be sited alongside No. 16, approximately 1.1m away from the shared boundary, with No. 16 set slightly further away from it. The eastern-most window within the dormer of No. 16 serves a bedroom, which currently has clear views into the appeal site.
8. Due to its proposed siting, this existing bedroom window would look directly onto the hipped roof of Plot 1. Whilst oblique, occupants of No.16 would have clear views onto the proposed patio area. This is clear to see on plan BA017.307.02, on the Site Section A-A.
9. Proposed glazed doors of Plot 1 would lead from an open plan kitchen and dining space onto the patio area of the garden. Given this layout and its relationship with the garden, the patio is likely to be the most used part of the garden for future occupants, where there is an expectation of reasonable privacy. At such close proximity with the existing neighbour, this relationship between the dwellings would be compromised. Consequently, future occupants of Plot 1 would experience overlooking at close range which would be detrimental to their privacy.
10. Whilst potential occupants would be aware of the privacy issue prior to taking occupation, this is not a reason to allow a scheme, which at the outset fails to meet reasonable privacy standards.
11. For these reasons, I have found that the development would have a demonstrable harmful effect on the future occupants of Plot 1, with regards to privacy. This is in direct conflict with both Policy SP7 of the Local Plan S1 and Policy LPP52 of the Local Plan S2, which amongst other things, seek to protect the living conditions of future residents in terms of privacy and overlooking.

Outlook and light for No. 16

12. As a room that could be occupied extensively throughout the day and night, I have regarded the study within the side dormer of No. 16 as a habitable room. The plan extract provided by the appellant indicates that the study window facing the appeal site is situated directly above the staircase. Whilst the presence of the proposed roof would be noticeable to occupants of the study, there is no right to a view and the relationship between the two sites is already poor with the window directly overlooking the appeal site. Reliance on this window for an outlook is diminished by the presence of other windows serving this room. I therefore find that the development would not amount to an imposing outlook or have a demonstrably overbearing effect for the occupiers of No.16.
13. Plot 1 would reduce daylight to the study window. However, the effect would be limited due to being north facing. This finding is supported by the appellants Daylight and Sunlight Assessment which concludes that this window would retain 91.26% of its light. I note the Council's concerns regarding the methodology of this assessment. However, I am satisfied that has been prepared by a suitably qualified person, to industry standards and notwithstanding some minor errors in identifying the addresses of neighbours, it still comprises a reasonable basis for decision making purposes. I therefore attach moderate weight to this.
14. Moreover, given the study room benefits from another sizeable window to the south, and a smaller window to the west to a lesser degree, the room would receive adequate amounts of light in any event. Therefore, I do not find that the development would demonstrably diminish light to an unacceptable degree.
15. Having regard to outlook and light, I find that the effects of the proposed development on the occupiers of No. 16 would be acceptable. This accords with Policy SP7 and Policy LPP52 of the Local Plan S1 and S2 respectively.

Noise to No's 22 & 24

16. Vehicles associated with Plot 1 would need to pass by the rear elevation, including the conservatory and garden of No. 22 to get to their associated parking, which is set away from the shared boundary. Vehicles accessing Plot 2 would also need to pass by the side of No. 24 which is sited close to the shared boundary and accommodates three obscure glazed windows in its nearest elevation. The private garden of No. 24 lies to the north of the appeal site, away from the turning and parking area.
17. Whilst the access is close to the neighbours shared boundary, this arrangement is not unusual, with many similar relationships occurring in the wider area. The extent and frequency of comings and goings from vehicles using the access drive would not be excessive, limited by the quantum of dwellings and the availability of parking. Car doors slamming is likely to be infrequent and given that parking is set away from these dwellings, it is unlikely to cause a noise nuisance. Suitable boundary fencing at an appropriate height would protect occupiers of neighbouring properties from the headlights of cars manoeuvring in and out and assist within reducing low level noise.
18. Consequently, I do find that the proposal would have an unacceptable effect with regard to noise or general disturbance associated with the access. It follows that

this accords with Policies SP7 and LPP52 of the Local Plan S1 and S2 respectively.

Other Matters

19. Set against the harm identified, there would be social and economic benefits from the scheme, including boosting the supply of housing where future occupants would be within close reach of local facilities and public transport and by offering a choice and mix of housing for families. Whilst these weigh in favour of the proposal, the extent of the benefits would be moderate, and they do not outweigh the demonstrable harm I have identified in respect of the living conditions for future occupiers.

Conclusion

20. For the reasons I have set out above, having regard to the development plan and all other material considerations, the appeal fails.

C Walker

INSPECTOR