



Appeal Decision

Site visit made on 19 January 2026

by T Bennett BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2026

Appeal Ref: APP/Z1510/W/25/3374653

6 Toldish Hall Road, Great Maplestead, Essex CO9 2RD

- 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 Mrs Taylor Richardson-Walsh against the decision of Braintree District Council.
 - The application Ref is 25/00969/FUL.
 - The development proposed is construction of 1No. dwelling with associated private amenity and off-street parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development could secure biodiversity net gain (BNG),
 - the effect of the proposal on highway safety,
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposal on trees.

Reasons

BNG

3. The appellant asserts that the development would be self-build, consequently exempt from BNG. However, neither the description of development nor the application form indicates that the proposal would be self-build. The application form states the development is for market housing. Even if I were to consider it self-build I have no legal mechanism before me to secure it as such. Therefore, for the purposes of the appeal, I have treated the dwelling as market housing, as applied for, and thus the requirement for BNG would apply.
4. If the appeal were to be allowed, the proposal would be subject to the statutory pre-commencement biodiversity gain condition ('the condition') as set out in Schedule 7A to the Town and Country Planning Act 1990 (as amended) (the Act) that applies to such a grant of planning permission. Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the

biodiversity gain objective is met. This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat.

5. I am mindful of the guidance contained in the National Planning Policy Guidance (NPPG) which states that it would generally be inappropriate, when determining a planning application for a development subject to BNG, to be refused on the grounds that the biodiversity gain objective will not be met. However, the NPPG advises that more broadly, consideration may be required as to whether 'the condition' is capable of being successfully discharged.
6. The Council have raised concern that a habitat map and photos of habitats have not been provided. I am satisfied that these matters could be resolved through the discharge of the statutory BNG condition.
7. However, the Council's Ecologist also raises concerns regarding the BNG proposed within the post-development private garden. The submitted plans include new hedgerow and trees to be planted within the private garden. DEFRA guidance¹ indicates that as a private garden has no public access, biodiversity net gains cannot be legally secured and therefore the biodiversity metric excludes biodiversity enhancements within private gardens. This is due to difficulties of managing and monitoring any biodiversity net gains within a private garden.
8. Therefore, while the appellant's BNG statement outlines a BNG gain of 11%, given that this figure includes enhancements within the private garden, I am not satisfied that the proposal would achieve an on-site 10% BNG and that consequently the BNG condition is capable of being successfully discharged.
9. Accordingly, the proposal as submitted would fail to satisfy the requirements of Schedule 7A of the Act and would also conflict with the Framework which seeks decisions that contribute to an enhance the natural environment by providing net gains for biodiversity.

Highway safety

10. The Highways Authority objected to the proposal on the grounds that insufficient evidence had been submitted to demonstrate that the proposal would be acceptable in terms of highway safety with regards to visibility from the access point.
11. As part of the appeal, the appellant submitted a visibility splay diagram which they contend is based on the results of a speed survey. While I accept that this technical diagram does not materially alter the proposal considered by the Council, the technical speed survey document has not been submitted as part of the appeal. Consequently, I cannot be certain that the visibility splay extent reflects this. Furthermore, the Highways Authority, as a statutory consultee, has not had the opportunity to make comments on the speed survey document or the visibility splay, including whether the depicted highways maintained verge aligns with the results of a formal extent of highway search. This gives rise to procedural unfairness.

¹ The Statutory Biodiversity Metric User Guide 2024

12. Although the appellant considers that a condition could be used to secure the Highway Authority's approval, safe access is a determinative issue and I find a condition would not be appropriate. Whilst the Council may have imposed a condition in application reference 16/00655/FUL, it appears from the limited information before me, that the Highways Authority had accepted revised splays, which is not the case here.
13. For the reasons above, I cannot be satisfied that the proposal would be acceptable in terms of highway safety. The proposal would therefore conflict with Policy LPP 52 of the Braintree District Local Plan 2013-2033 (LP) which, amongst other matters, seeks to ensure proposals do not have an adverse effect on highway safety.

Character and appearance

14. The appeal site is located within the settlement envelope of Great Maplestead village, set away from the main village centre. The site is currently garden land for No 6 Toldish Hall Road (No 6). No 6 sits at the eastern end of a linear row of semi-detached dwellings that extends west along the road. The properties within the row are set in spacious plots, with open countryside surrounding the appeal site to the north, east and south.
15. Further semi-detached and detached dwellings are located nearby; these are also arranged in a linear pattern but are typically of a tighter grain with smaller garden areas. Accordingly, the pattern of development within this wider cluster of dwellings in this part of Great Maplestead is varied, and spacious gaps are not an overriding characteristic of the wider area.
16. The proposal would introduce a two-storey detached dwelling to the east of No 6, that would reflect the form and proportions of nearby residential dwellings. The dwelling would be set back from the road, reflecting the prevailing pattern of development. It would not extend built form into the open countryside with the existing eastern boundary remaining as the village edge, instead it would round off the existing row of dwellings. This would be in a similar manner to recently constructed detached dwellings I observed adjacent to No 1 Toldish Hall Cottages and opposite No 2 Toldish Hall Cottages. In this regard, the presence of a detached dwelling on a site which visually and functionally relates to the existing frontage development would not be an incongruous addition. Furthermore, both No 6 and the proposed dwelling would retain commensurate private amenity space, ensuring that the dwellings would not appear unduly cramped.
17. The Council contends that mature trees along the eastern and southern boundaries provide a buffer between the built form and the open countryside. However, on my site visit I observed 1 mature tree next to the eastern boundary, which was defined by a tall timber fence, and a recently pruned hedge along the southern boundary. Therefore, I find the transitional buffer that the Council refer to is not as strong a feature as suggested. The built form of No 6 is already prominent when approaching from the east and, due to the increased land levels within the appeal site relative to the road, is highly visible above the front hedging. Notwithstanding this, the submitted plans propose additional tree and hedge planting along the eastern boundary. This could be secured by a suitable landscaping condition to effectively soften the transition between the built up area and surrounding countryside.

18. Drawing the above points together, the siting and design of the proposed dwelling would not have an adverse effect on the character and appearance of the area. It would therefore accord with Policies SP7, LPP 35 and LPP 52 of the LP. These policies seek to ensure that development meets a high standard of urban and architectural design with the scale, layout, height and massing of buildings reflecting the area's local distinctiveness, in harmony with the character and appearance of the surrounding area including form, scale and building line.

Trees

19. As previously noted, the Council refers to a number of mature trees along the eastern boundary; however, I only observed 1 mature tree in this location, in addition to the front hedging. Due to the size of the tree and its position at the entrance to the built up area, it makes a moderate positive contribution to the character and appearance the area. However, this contribution is tempered by the limited effect it has, along with the hedging, in acting as a transitional buffer between the built up settlement and surrounding countryside, for the reasons outlined in the previous main issue.
20. Policy LPP 65 of the LP requires that trees which make a significant positive contribution to the character and appearance of the area shall be retained. I find that the tree and hedging in question, which are not subject to any statutory protections, do not meet this high threshold. Notwithstanding this, the plans indicate that the tree and hedging along the southern boundary will be retained. Whilst these features would be located away from the proposed dwelling and access, their proximity to the proposed carparking area could cause damage to their roots during construction.
21. Although a Tree Protection Plan has not been submitted, had I been minded to allow the appeal, I see no reason why an appropriately worded condition could not overcome concerns regarding any damage to these features during the construction phase. Indeed, Policy LPP 65 sets out that planning conditions will be applied to protect trees during development. Subject to such a condition, the proposal would not have an adverse effect on existing trees and would accord with Policies LPP 65 and LP 66 of the LP, which collectively seek to protect trees and biodiversity.

Planning Balance and Conclusion

22. The proposal would not have an adverse effect on the character and appearance of the area, and I am satisfied that concerns regarding trees can be dealt with by condition. Essex Fire and Rescue also raised no concerns regarding emergency vehicle access. However, an absence of harm on these matters is of neutral weight in the planning balance.
23. Although the parish council and members of the public raised no concerns, this does not render a scheme acceptable in planning terms. This matter therefore carries minimal weight.
24. The proposed dwelling would represent an efficient use of land, providing adequate internal and external living space in an accessible location, contributing positively towards the districts housing supply. It would provide social and economic benefits. These benefits weigh in favour of the proposal, but as the

scheme is only for one dwelling, such benefits would be limited and I afford this limited weight.

25. I am not satisfied based on the information submitted, that the BNG condition is capable of being discharged, nor that the proposal would not give rise to highway safety concerns. These are matters to which I attach significant weight.
26. Consequently, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR