



Appeal Decision

Site visit made on 29 November 2006

by **Rodney Baker** BSc MA MRICS MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Appeal Ref: APP/Z1510/A/06/2023764

Kissinggate, Church Road, Hatfield Peverel, Essex, CM3 2JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure of the local planning authority to give notice of its decision within the appropriate period.
- The appeal is made by Woodhill Property Developments against the decision of Braintree District Council.
- The application Ref 06/000883, dated 25 April 2006.
- The development proposed is erection of 8 2-bedroom flats.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal Ref: APP/Z1510/A/06/2017085

Kissinggate, Church Road, Hatfield Peverel, Essex, CM3 2JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Woodhill Property Developments against the decision of Braintree District Council.
- The application Ref 05/01991/FUL, dated 3 October 2005, was refused by notice dated 28 February 2006.
- The development proposed is ten no. 2 bed flats.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Main Issues

1. The appeal site is on the corner of Church Road and Maldon Road. It is triangular in shape, occupied by a large 1960s detached house and garage and opinion differs as to whether it has an area of 0.16 ha or 0.18 ha. There are a number of mature trees along the boundaries and in the garden which are protected by two Tree Preservation Orders. Permission was renewed in 2006 for another house in the garden.
2. There is no objection in principle to the residential redevelopment of the site which lies within the village development boundary and no protected tree would be lost that the Council maintains should be retained. I consider that the main issues in these appeals are the scale, mass and form of the proposed developments and their impact on the streetscene and neighbouring properties and the effect of the development on highway safety.

Planning Policy

3. The Braintree District Local Plan Review was adopted in 2005 and contains a number of policies relevant to the consideration of these appeals. In particular policies RLP3, RLP9, RLP10 and RLP90 require proposals for residential development to be of a scale, design and intensity which is in harmony with surrounding existing development and where it satisfies amenity, design, environmental and highway criteria. These policies reflect housing and built environment policies in the adopted Essex and Southend on Sea Structure Plan 2001 and there are similar detailed requirements in the Essex Design Guide for Residential and Mixed Use Areas, adopted by the Council as supplementary planning guidance.

Reasons

4. The two appeals are each for a single building block, sited in a similar part of the site to the existing house. There would be a change in the street scene with the introduction of a more intensive development and a substantial block of building compared to the existing house which sits in a well treed plot. However in both cases, the building has been designed to respond to the corner, to provide a street frontage to both Church Road and Maldon Road and would be set back from the frontage to retain the majority of boundary trees and hedges. Additional landscaping is proposed to strengthen the boundaries. I am satisfied from what I saw on my visit that the form of development proposed in both appeals would sit appropriately on this corner plot in a village setting, would respect the general mixed character of the surrounding area and would not harm the existing street scene. Similarly I consider that the design and style of the new developments, including the proposed materials, would not be out of keeping with existing buildings in the village. Thus I find no conflict with the objectives of Local Plan policy RP4.
5. As to the height of the proposed buildings, although the local built form is predominantly 2 storey, I noted on my visit that there are examples of buildings nearby with a third storey provided within the roof space. As such I consider that the larger scheme, with the 10 flats provided in a part two/part two and a half storey building, with the third floor having roof dormers to the front and rear, would not appear out of keeping or conspicuous in the area and would not detract from its character or visual amenity. Nor would the smaller scheme for 8 flats where the height has been reduced to address that objection.
6. It is Government policy that the most efficient use should be made of land within urban areas where densities of between 30 to 50 dwellings per hectare are sought. Whilst the proposal for 10 units would be at the upper limit, the guidance is not intended to be applied in a strict formulaic manner and I have already concluded that the development would be of a scale and form compatible with its surroundings. Moreover I find that both schemes respect the constraints of the site whilst providing adequate car parking and amenity space, both in terms of area and 'use-ability', in line with the Council's standards and national guidance. I am therefore satisfied that neither scheme would represent over development of the site.
7. There are residential properties on the opposite side of Church Road, in Maldon Road and to the south east of the site with access from a narrow unmade lane. I am satisfied from what I saw on my visit, in particular the separation distances, orientation of the buildings and tree cover, that neither scheme would have a detrimental impact on any neighbouring

residential property in terms of having an unacceptable overbearing, overshadowing or overlooking impact. Nor in my judgement would either proposal have a harmful impact on the setting of those properties referred to in residents' letters as being listed. There would be additional activity, particularly vehicular activity, on the site and therefore there could be some potential for noise and disturbance and lights as cars manoeuvre in and out of parking spaces. However that would arise with any scheme for more intensive residential development on this site and given the intention to have landscape planting along the shared boundary, which could be secured by condition, I do not consider this objection, which is not raised by the Council, to be overriding.

8. I conclude in terms of my first main issue that both proposals would be compatible with the character of the existing street scene, would protect the setting of attractive buildings and would respect neighbouring amenities. As such I consider that they would accord with the objectives of Local Plan policies RLP3, RLP4, RLP9, RLP10 and RLP90.
9. Turning to my second issue, access to the development in both cases is proposed to be taken from Church Road where there is an existing access. Representations from local residents and from their MP express fears about the impact of additional traffic on parking and congestion in Church Road in close proximity to the schools. I have already noted above that adequate parking is proposed to be provided on site to meet the Council's own standards and I do not consider it likely that there would be a demand for additional on-street parking in Church Road during the day as a result of the development. As to the greater use of the access and concerns about its safety, on my site visit I took careful note of the existing visibility and the position of the protected trees which would remain. Subject to clearance of the undergrowth and a reduction in the height of shrubs, I take the same view as the Highway Authority, that adequate visibility could be achieved from the site access. The Highway Authority's final formal consultation response was that it had no objection to the proposed developments subject to the imposition of suitable conditions, having considered the traffic safety situation in some detail in response to local concerns. I saw nothing on my visit or read anything in the representations to lead me to take a different view on this issue.
10. I conclude therefore that both appeal schemes would comply with the objectives and provisions of Local Plan policies RLP3, RLP4, RLP9, RLP10 and RLP90 and that permission should be granted, subject to the imposition of appropriate conditions.
11. A number of other matters have been raised in representations including disputed site boundaries and right of access. These are civil matters that are subject to property law and are not for me to consider. The schemes would provide 2 bedroom flats which might or might not be occupied by families. Both schemes are below the threshold for the provision of affordable housing. However in that they would add to the mix of dwelling types in the area and so assist in meeting different housing needs, they accord with national and local policy objectives. I have considered all other matters raised but none are of sufficient weight to outweigh my conclusion on the main issues that both schemes are acceptable and that the appeals should be allowed.

Conditions

12. The Council has suggested a large number of conditions. I consider those relating to materials, boundary treatment, ground levels, landscaping, lighting, protection and retention

of trees, archaeological investigation and provision of visibility splays, car parking, cycle parking and refuse facilities are all reasonable, necessary and relevant. As the proposals are for flats, I see no reason to impose conditions removing permitted development rights that relate to dwelling houses nor to specify the position or appearance of satellite dishes or meter cupboards. Works during construction and the control of mud on the highway are subject to control under other legislation. I have amended the wording and amalgamated some of the conditions to more closely reflect the Model Conditions annexed to Circular 11/95. Rather than include specific details, I intend to impose conditions that require these matters to be approved before development begins to allow for further discussion on them between the parties. I do not consider it appropriate to impose a condition requiring full compliance with the specified plans; such a condition should only be required in exceptional circumstances which I do not consider arise here.

Conclusions

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeals should be allowed.

Formal Decision

Appeal Ref: APP/Z1510/A/06/2023764

14. I allow the appeal, and grant planning permission for erection of 8 2-bedroom flats at Kissingate, Church Road, Hatfield Peverel, Essex, CM3 2JZ in accordance with the terms of the application, Ref 06/000883, dated 25 April 2006, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved detail.
- 4) No development shall take place until details of the refuse facilities to be provided have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the building is occupied.
- 5) Development shall not begin until details of the junction between the proposed service road and the highway (including sight lines) have been submitted and approved in writing by the local planning authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.
- 6) No structure or erection exceeding 600mm in height shall be placed within the sight lines referred to in Condition 5.

- 7) The building shall not be occupied until the area shown on the approved drawings for the parking of vehicles has been drained and surfaced in accordance with details submitted and approved in writing by the local planning authority (including details of parking facilities for those with disabilities), and that area shall not thereafter be used for any purpose other than the parking of vehicles.
- 8) No development shall take place until details of the numbers, location and design of bicycle parking have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The building shall not be occupied until the bicycle parking has been provided and that area shall not thereafter be used for any purpose other than the parking of bicycles.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development
- 10) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
- 11) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 13) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 14) With respect to any condition that requires the prior written approval of the local planning authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by that local planning authority.

Appeal Ref: APP/Z1510/A/06/2017085

15. I allow the appeal, and grant planning permission for erection of 10 2-bedroom flats at Kissingate, Church Road, Hatfield Peverel, Essex, CM3 2JZ in accordance with the terms of the application, Ref 05/01991/FUL, dated 3 October 2005, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved detail.
- 4) No development shall take place until details of the refuse facilities to be provided have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before the building is occupied.
- 5) Development shall not begin until details of the junction between the proposed service road and the highway (including sightlines) have been submitted and approved in writing by the local planning authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details.
- 6) No structure or erection exceeding 600mm in height shall be placed within the sight lines referred to in Condition 5.
- 7) The building shall not be occupied until the area shown on the approved drawings for the parking of vehicles has been drained and surfaced in accordance with details submitted and approved in writing by the local planning authority (including details of parking facilities for those with disabilities), and that area shall not thereafter be used for any purpose other than the parking of vehicles.
- 8) No development shall take place until details of the numbers, location and design of bicycle parking have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The building shall not be occupied until the bicycle parking has been provided and that area shall not thereafter be used for any purpose other than the parking of bicycles.
- 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development

- 10) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
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- 12) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 13) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 14) With respect to any condition that requires the prior written approval of the local planning authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by that local planning authority.

Rodney Baker

Inspector