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## Appeal Decision

Site visit made on 16 July 2019

**by M Heron BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9<sup>th</sup> December 2019**

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### **Appeal Ref: APP/Z1510/W/19/3224638**

### **Land off St Andrews Road, Halstead, Essex**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Jon Nash (Parkland Developments Ltd) against Braintree District Council.
  - The application Ref 18/02084/OUT, is dated 21 November 2018.
  - The development proposed is described as 'development on land for residential and community use – erection of up to 73 dwellings comprising 32 houses and 41 apartments, with associated car parking, amenity spaces and external works.'
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### **Decision**

1. The appeal is dismissed and planning permission is refused.

### **Procedural Matters**

2. The application form gave the address as 'land east of the High Street', whereas the appeal form gave it as 'Land off St Andrews Road' and included the county of Essex. No postcode was provided on either form. From other evidence it is apparent that the main access to the site is proposed to be from St Andrews Road. I have therefore used the address given on the appeal form for the sake of clarity.
3. The application form states that the proposal would provide 73 dwellings, comprising 32 houses and 51 apartments. However, the figure for the number of apartments was corrected to 41 on the appeal form and is confirmed by the submitted plans. I have therefore amended the description on the above header and determined the appeal on this basis.
4. The application is in outline only with access to be determined at this stage. The proposal's appearance, layout, scale and landscaping are reserved for future consideration. I have determined the appeal accordingly. Drawings showing an indicative layout of the development were also submitted with the application, and I have had regard to this and other information within the design and access statement in reaching my decision.
5. I have been referred to several relevant policies within the Braintree District Publication Draft Local Plan (DLP), which has been submitted for examination. However, no material has been supplied regarding the status of any unresolved objections to its policies. On the evidence before me, I therefore afford the policies of the DLP only limited weight and have determined the appeal having regard to the policies in the Council's adopted development plan. This

comprises the Braintree District Local Plan Review (LPR) and the Braintree District Council Local Development Framework Core Strategy (CS).

### **Main Issues**

6. This appeal followed the failure of the Council to determine the application in the prescribed period. However, an officer report provided seven reasons why it would have refused the application. Having read this report, and the responses of consultees, I consider that the main issues are whether or not the proposal would:
- preserve or enhance heritage assets, including the Halstead Conservation Area, the setting of nearby listed buildings and the locally important World War II Air Raid Shelters;
  - provide safe and suitable access to and from the site for all users;
  - provide a suitable level of affordable housing and public open space at the site; and
  - make an appropriate contribution to local infrastructure and services.

### **Reasons**

#### *Heritage Assets*

7. The appeal site is located towards the centre of Halstead. It comprises a large, irregular shaped, parcel of land which is predominately undeveloped and contains a number of established trees. This proposal seeks to construct 73 dwellings and two community buildings. The evidence suggests that these would be likely to be up to three storeys in height. Vehicular access would be provided from St Andrews Road and The Centre.
8. Part of the appeal site lies within the Halstead Conservation Area (CA). There are also several nearby listed buildings. These include a Grade I listed Church (St Andrews Church) at High Street, a Grade II listed church at Parsonage Street (a former Congregational Church) and adjacent residential properties at Factory Lane East. I therefore have statutory duties to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and to have special regard to preserving the setting of nearby listed buildings.
9. The National Planning Policy Framework (the Framework) advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefit of the proposal. In terms of developments which affect non-designated heritage assets, it states that a balanced judgement will be required having regard to the scale of any harm and the significance of the heritage asset.

#### *Conservation Area*

10. The significance of this part of the CA is derived from the interesting and historic architecture and uses of buildings within and around the town centre. These portray the evolution of this settlement and include buildings associated with industrial activity in the 19<sup>th</sup> Century.

### *Setting of Listed Buildings*

11. Both St Andrews Church and the former Congregational Church fall within the CA. St Andrews Church is a large building with an associated churchyard; its significance is derived from its architectural and historic interest, as well as its communal use. It is visually prominent within High Street, where its setting is primarily experienced.
12. The former Congregational Church is positioned at the southern end of its plot, close to the north eastern boundary of the appeal site. The architectural interest of its exterior and its complete interior contribute to its significance. Its setting as a religious building can be experienced from certain viewpoints along St Andrews Road.
13. Grade II listed buildings at Factory Lane East fall within the CA and are positioned adjacent to the south western site boundary. Their significance is derived from their fine architectural detailing as artisan housing and also from their historic use as housing for workers of former industrial activity. The setting of these buildings can be experienced from certain vantage points within the appeal site.
14. Immediately beyond part of the appeal site's north western boundary are a mix of listed buildings set along the eastern side of High Street. These buildings fall within the CA and their significance is derived from their aesthetic quality, together with their layout in long and thin burgage plots. It is likely that the setting of these buildings would be appreciated from within the appeal site following its development.

### *Air Raid Shelters*

15. In addition to the above, the site also accommodates 15 World War II Air Raid Shelters (ARS). Eight of these fall within the boundary of the CA and also appear to fall within the curtilage of listed buildings at Factory Lane East. These are therefore designated heritage assets. Other ARS at the site fall outside of the CA and the curtilage of nearby listed buildings. These are non-designated heritage assets.
16. Regardless of their varying designations, the significance of the ARS is as a group of the only known surviving examples of Costain shelters. Their local interest as shelters for former factory workers also adds to their significance. Whilst I appreciate that the ARS are in somewhat poor condition, in my view they contribute positively to the historic significance of the CA as well as the setting of adjacent listed buildings at Factory Lane East. The loss of any of these features would therefore be harmful.

### *Assessment*

17. The appellant's Heritage Statement acknowledges that the existing trees at the appeal site are important in longer views from the southern side of Halstead. Overall, I find that the site's verdant nature, together with its historic ARS, contribute positively to the significance, character and appearance of the CA and the setting of the listed buildings within it.
18. In order to accommodate the quantity of development, the proposal would introduce a high proportion of urban form to the appeal site. This would include large blocks of flats with limited external amenity space and a mix of terraced,

semi-detached and detached houses with relatively small gardens. Parking for these properties would be scattered throughout the scheme. In addition, there would also be two community buildings towards the north western site boundary. In my view, this level of urban development would strictly limit the space available for soft landscaping and public open space, giving the scheme a cramped and overdeveloped appearance. This, together with the loss of a significant number of trees, would give this part of the CA a much harsher edge, to the detriment of its character and appearance.

19. Turning to the setting of listed buildings, large buildings (such as lasts 33-47 and building CM1 as illustrated on submitted plans) would be sited close to the edge of the site. There would be no open space as a 'buffer' between them and the site boundaries. Consequently, I find that the scale and positioning of these buildings would compete inappropriately with adjacent listed buildings at High Street and the former Congregational Church at Parsonage Street.
20. Moreover, the loss of trees would harm the vegetated backdrop of listed buildings along High Street. The small gardens of many of the proposed houses would also contrast unfavourably with their historic burgage plots. Furthermore, the proposal is likely to increase traffic and parked vehicles within the town centre. This would result in additional clutter within the streetscene that would harm the setting of listed buildings within this part of the CA, including St Andrews Church, in a limited way.
21. Lastly, the proposal would appear to result in the loss of most of the historic ARS at the site as well as another small building associated with them. This would erode the historic significance of the group of ARS and that of the CA as a whole. It would also harm the setting and significance of listed buildings at Factory Lane East.
22. Taking everything together, I consider that the proposal would harm the quality of identified designated and non-designated heritage assets. In reaching this view I am aware that the scheme at this stage is indicative only, and the detailed design of the scheme would be reserved for consideration at a later stage. However, I am not satisfied that a layout that would assimilate with the historic environment could be achieved for this quantum of development through reserved matters applications.
23. I therefore conclude that the proposal would be harmful to the significance of the CA and neither its character nor appearance would be preserved or enhanced. It would also result in harm to the setting of listed buildings within it. The proposal would therefore conflict with saved Policies RLP3, RLP9, RLP10, RLP90, RLP95 and RLP100 of the LPR and Policy CS9 of the CS. Amongst other things, these seek to ensure that developments have an appropriate density and massing in relation to surrounding development, are of a high standard of design and respect, respond and relate to their local context, including conservation areas and the setting of listed buildings.
24. This harm would be less than substantial within the meaning of the Framework. Any such harm nevertheless merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development. I will return to this in my overall planning balance.

### *Safe and Suitable Access*

25. The main vehicular access for the development would be taken from St Andrews Road. A secondary access would also be provided from The Centre. Several pedestrian accesses would be taken from Factory Lane East, High Street and The Centre. On the basis of the limited information provided, the highway authority (HA) objected to this proposal as it was not satisfied that sufficient visibility could be achieved at the proposed vehicular accesses. It also presented concerns that there could be insufficient land available within its ownership or that of the appellant to ensure that vehicles could safely enter and exit the accesses from The Centre, given the existing parking scheme in operation at this location.
26. In the absence of an appropriate transport assessment, it is not possible to define the necessary visibility splays for proposed accesses. Neither do I have any evidence to show that the concerns of the HA could be overcome through the submission of detailed plans. I therefore cannot be certain that the proposed accesses would not be detrimental to highway safety.
27. In addition, without clarification of the intended use for the proposed community buildings, there is uncertainty regarding their requirements for parking spaces. Moreover, it would appear that there would be a deficit of parking spaces for some of the flatted units at the site. On the limited information provided, I am therefore not satisfied that the number of parking spaces proposed throughout the site would comply with the Council's parking standards. This reinforces my concerns in terms of highway safety, particularly as vehicles could be displaced to High Street where there already appears to be existing parking pressures.
28. There are no public rights of way into the site and it would appear that three of the proposed pedestrian accesses would require land which is outside of the appellant's ownership. It is unclear if pedestrians would have a right of access over such land. Consequently, I cannot be certain that suitable pedestrian routes in and out of the site would be provided to connect it to surrounding development.
29. For these reasons, I am not satisfied that safe and suitable access to and from the site for all users could be achieved. The proposal would therefore conflict with Policy CS7 of the CS which seeks to improve accessibility for all. It would also conflict with the Framework insofar as it seeks to provide safe and suitable access for all users of development.

### *On-Site Affordable Housing and Public Open Space*

30. Policy CS2 of the CS requires that 30% of the proposed dwellings (21 units) would be delivered as affordable housing on the site. No affordable housing has been proposed and I have no evidence to show that it would be impractical to achieve this on-site. Neither has a scheme for off-site affordable housing provision been proposed or a financial contribution secured in lieu of affordable housing provision. Consequently, I find conflict with Policy CS2 of the CS.
31. Policy CS10 of the CS requires that new developments make appropriate provision for publicly accessible green space. The Council's Open Space Supplementary Planning Document (SPD) sets out details on how this should be achieved. In this instance, it would appear that this scheme would be

required to make provision on-site for informal open space, amenity green spaces and an outdoor equipped play area. Whilst there would be space for some limited areas of public open space, submitted plans do not show the inclusion of a play area. Neither is there a legal agreement before me to secure such a feature. Consequently, I am not satisfied that the proposal would align with the development plan's requirement for on-site open space provision.

32. For the reasons given, the proposal would not provide a suitable level of affordable housing and public open space at the site. It would therefore conflict with Policies CS2 and CS10 of the CS and the SPD which seek to achieve this.

#### *Local Infrastructure and Services*

33. The Council show that the proposal would increase demand for Early Years and Childcare, healthcare services, outdoor sports facilities and allotments. This could be addressed through contributions which could be secured by a planning obligation. However, in the absence of such an obligation the proposal would result in unacceptable pressure on existing infrastructure and services.
34. I therefore conclude that the proposal would bring about the need for investment in off-site infrastructure and services, without which the proposal would not be acceptable. It would therefore conflict with Policies CS10 and CS11 of the CS insofar as they seek to ensure that adequate infrastructure, services and facilities are provided to meet the future needs of the community.

#### *Other Considerations*

35. The Council's officer report identifies that the site is within a Zone of Influence for the Blackwater Estuary Special Protection Area (SPA). It adds that an appropriate assessment has been completed. It would appear that the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy would have required financial contributions to mitigate the impacts of the proposal on the SPA. Although such contributions were not requested by the Council, as I am dismissing the appeal for other reasons, I have not taken the matter further.
36. I also note that the officer's report raises other areas of concern with this proposal, including the effects on bats (a protected species) and flood risk. Given the limited information provided in relation to these matters, which it would not be appropriate to seek through any reserved matters applications, I am not satisfied that the scheme would be acceptable in this regard.
37. The appeal site is allocated as a Comprehensive Development Area (CDA) within the Council's development plan. Policy RLP121 of the LPR states that a mixed use on this site should include shoppers' car parking. The CS builds on this allocation and states that land to the east of High Street could include additional retailing and car parking with strong links to High Street. The indicative scheme does not include a shoppers' car park or provide information about the nature and long-term management of the community uses. Consequently, the scheme would not accord with the development plan's aspirations for this appeal site. Furthermore, given the topography of the land to the south of the site, there is potential for harm to the living conditions at No 6 Vicarage Meadow, in terms of privacy.
38. Notwithstanding the above, given my findings in relation to the main issues, I have not considered these matters any further.



## **Planning Balance**

39. The Government is seeking to significantly boost the supply of housing. The proposal would deliver both social and economic public benefits arising from the construction and occupation of the 73 dwellings and the provision of community buildings. However, the absence of any affordable housing reduces the social benefits of the scheme and I have found that it would fail to afford safe and suitable access for all users. In addition, in the absence of a planning obligation to secure contributions to local services and facilities, the scheme would place an unacceptable burden on existing ones. These factors weigh against the proposal, considerably reducing the associated public benefits of the scheme.
40. Moreover, I have found that the proposal would result in harm to designated heritage assets, including the CA and the setting of nearby listed buildings, all of which contribute to the significance of the historic development of this part of Halstead. It would also result in the regrettable large scale loss of designated and non-designated ARS. Collectively, these harms to heritage assets, both designated and non-designated, carry significant weight against the proposal.
41. Taking the above factors into consideration, I am not persuaded that a clear and convincing justification for permitting the less than substantial harm to the heritage assets has been demonstrated. Such harm would therefore outweigh any public benefits associated with this scheme. Having regard to paragraph 11(d)(i) of the Framework, there is therefore a clear reason to dismiss the appeal, even if the Council is unable to demonstrate a five year supply of deliverable housing land.

## **Conclusion**

42. For the reasons given, I conclude that the proposal conflicts with the development plan. There are no other considerations, including the advice of the Framework, that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

*M Heron*

INSPECTOR