

Planning Committee
7th January 2020

Agenda item 5a - Application No. 19 01388 FUL
- Land rear of 1 and 3 Castle Lane, Castle Hedingham

This is Appendix 1, a copy of the Appeal Decision, referred to on
page 11 of the Agenda in respect of the above Planning
Application

The Agenda can be accessed [here](#)



Appeal Decision

Site visit made on 2 February 2010

by **K E Down (MA(Oxon) MSc MRTPI MBS)**

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

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Decision date:
18 February 2010

Appeal Ref: APP/Z1510/A/09/2111033

Land to the rear of 1-3 Castle Lane, Castle Hedingham, Essex, CO9 3DL

- 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 Mr R Beagrie against the decision of Braintree District Council
- The application Ref 08/01963/FUL, dated 14 October 2008, was refused by notice dated 31 March 2009
- The development proposed is a single dwelling below ground level together with a garage and bin store at ground level

Decision

1. I allow the appeal, and grant planning permission for a single dwelling below ground level together with a garage and bin store at ground level at land to the rear of 1-3 Castle Lane, Castle Hedingham, Essex, CO9 3DL in accordance with the terms of the application, Ref 08/01963/FUL, dated 14 October 2008, and the plans submitted with it, subject to the conditions set out in the schedule attached to this Decision.

Main issue

2. There is one main issue which is the effect of the proposed development on the character or appearance of the Castle Hedingham Conservation Area.

Reasons

3. The Castle Hedingham Conservation Area comprises the village centre together with the adjacent castle site. The castle is located on higher ground than the village. The central part of the village is characterised by intimately arranged older buildings, including mediaeval houses. In the vicinity of the appeal site these are set along St James Street and in the narrow lanes leading from it. The appeal site is located between the castle and the central part of the village, close to newer development on Bayley Street and adjacent to a former commercial garage site which has consent for residential redevelopment. The appeal site is understood to have been former garden land but is now separated from adjoining properties by hedgerows. There are a number of trees near the perimeter of the site but its essential characteristic is its openness which makes a positive contribution to the character and appearance of the conservation area. From St James Street there are views over the appeal site and adjoining land up towards the castle site, although the castle itself is screened from view by intervening trees.

4. The proposed dwelling would be underground and would have no material effect on the longer views across the site. Owing to boundary screening, which is mostly to be retained, views from adjoining properties would also be limited. The proposed roof lights would be visible from windows in the upper floors of nearby dwellings but these would be seen at some distance and as they would be close to ground level they would not affect the open character of the site. Concern is expressed regarding possible light pollution from the roof lights. However, the appellant would be willing to use a glazing system that minimised light escape which in my view would avoid the dwelling appearing intrusive during hours of darkness. An appropriate glazing system could be required by condition. Fencing would be required around the proposed stair wells but the design of this, together with any other above ground walls or fences, could be controlled by condition, which would ensure that its appearance was compatible with its surroundings.
5. The proposed above ground garage and bin store would be sympathetically designed and carefully located, close to rising land and an existing building and near the site of the proposed garages on the former commercial garage site. In this location they would have no material effect on the character of the site or important views across it.
6. I accept that a dwelling would lead to a likely increase in the level of usage of the site and the amount of domestic paraphernalia. However, the plot is former garden land and although it is currently disused I am not persuaded that the presence of items such as a washing line or garden furniture or the comings and goings of domestic life would be incongruous in what is essentially a predominantly residential area. The withdrawal of permitted development rights to erect outbuildings and other structures within the site, which I consider would be justified in this case in order to preserve the character and appearance of the conservation area, could be achieved by condition.
7. It is suggested that the backland location of the appeal site and the futuristic design of the dwelling would make it inappropriate in the conservation area. However, backland development need not be inappropriate where satisfactory access and layout can be achieved and although the design is unlike other buildings in the area *Planning Policy Guidance: Planning and the Historic Environment* (PPG15) makes clear in paragraph 4.17 that what is important is not that new buildings should directly imitate earlier styles, but that they should be designed with respect for their context. I consider that the proposed dwelling achieves this objective and note that this view is supported by the comments of the Essex County Council Historic Buildings Adviser.
8. Overall, I conclude on the main issue that the proposed development would preserve or enhance the character or appearance of the Castle Hedingham Conservation Area. In consequence I find that, taken in the context of other more general policies, there would be no conflict with Policy RLP95 of the adopted Braintree District Local Plan Review which seeks to ensure that development in conservation areas does not detract from the character, appearance or essential features of the area and is in harmony with the existing street scene and sympathetic with its surroundings.
9. A number of other matters have been raised by third parties, to which I have given careful consideration. I am satisfied that the proposed access and

parking arrangements would be acceptable and consider that, owing to the distance of separation, the living conditions for occupiers of 3 Castle Lane with respect to privacy and noise would not be materially affected by the proposed dwelling. I accept that there would be some general disturbance during the construction period but, other than during the ground excavations when noise and traffic movements are likely to be greater and when it would be appropriate to control hours of working by condition, I am not persuaded that any significant disturbance from this small development would occur. Neither do I consider that the living conditions of future occupiers of the proposed dwelling, whilst clearly unconventional, would be unacceptable. Finally, reference is made to a Village Design Statement. This has not been provided to me in evidence. Nevertheless, I have had regard to the references made in written representations but nothing I have seen or read alters my conclusion on the main issue.

10. The Council has suggested a number of conditions in addition to those I have already identified as being necessary. These include conditions to control the external materials, details of openings, including roof lights, details of hard and soft landscaping and a scheme to protect those trees and shrubs at the site that are to be retained, all of which are needed to preserve the appearance of the conservation area. Also necessary is a condition to secure a site drainage system to ensure satisfactory ground conditions at and around the site, and a condition to secure a programme of archaeological work to enable the investigation and recording of any archaeological features at the site. A condition requiring details of water and energy efficiency measures, and facilities for the segregation and storage of recyclable and waste materials at the dwelling is required in order to secure a sustainable form of development in accordance with adopted Local Plan policies and national planning objectives. However, I do not propose to condition these matters during the construction phase, or to require details of renewable energy resources in the development, since what the appellant would be required to do is not in my view sufficiently clear to meet the tests of Circular 11/95. A condition to control the surface finish of the driveway is needed in the interests of highway safety. I also consider that in this case permitted development rights to alter the roof of the dwelling should be withdrawn to protect the appearance of the area. However, I do not consider that other permitted extensions to the dwelling need be restricted. Where necessary for clarity or to comply with advice in *Circular 11/95: The Use of Conditions in Planning Permissions*, I have adjusted the Council's suggested wording. Finally, a condition to ensure that the development is carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning.
11. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should be allowed.

KE Down
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 08.215/01; 1227/5a; 1227/6; 1227/7.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 4) No development shall take place until drawings showing the details of proposed windows and doors shown in section and elevation and roof lights shown in section and plan at scales of between 1:20 and 1:1 as appropriate, and details of the glazing system to be used in the roof lights to minimise escape of light, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and shall thereafter be retained.
- 5) 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. These works shall be carried out as approved, in accordance with an approved written timetable, and shall thereafter be retained. Details of hard landscape works shall include: means of enclosure, including gates, walls and fences; and hard surfacing materials, including details of construction methods. Details of soft landscape works 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 the development; and proposed seeding treatment, species of trees and shrubs and their sizes and positions, and the specification and timetable for their planting. If, within a period of 5 years from the date of planting, any tree or plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
- 6) No development shall take place until details of a system of sustainable drainage to control the movement of water through the ground around the building have been submitted to and approved in writing by the local planning authority. The system shall be installed as approved and shall thereafter be retained.
- 7) No development shall take place until the applicant or their agent or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which shall include a timetable for the investigation, and which has been submitted to and approved in writing by the local planning authority.
- 8) No development shall take place until a scheme setting out details to secure each of the following has been submitted to and approved in writing by the local planning authority:

- (a) the efficient use of water within the development, including the recycling of rainwater and grey water;
- (b) the efficient use of energy within the building, including the thermal efficiency of the walls, windows and roof; and energy efficient heating and lighting systems, including external lighting;
- (c) the segregation and storage of recycled and waste materials;

The development shall be carried out in accordance with the approved details which shall be implemented before the first occupation of the dwelling and thereafter be retained.

- 9) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) no gate, fence, wall or other means of enclosure (other than as expressly authorised by this permission) shall be erected or constructed within the curtilage of the site.
- 10) Notwithstanding the provisions of Classes B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) no enlargement of the dwelling house consisting of an addition or alteration to its roof or other alteration to the roof shall take place nor the erection within the curtilage of any building or enclosure (other than those expressly authorised by this permission).
- 11) The development shall be carried out in accordance with the details set out in the Arboricultural Impact Assessment by DF Clark Bionomique Ltd dated 2 February 2009 unless otherwise required under the terms of the conditions attached to this permission.
- 12) No excavation works, including the export of excavated materials from the site, shall take place outside the following times:
 - Mondays to Fridays 0800 – 1800
 - Saturdays 0800 – 1300
 - Sundays and Bank Holidays no working permitted