

Appeal Decision

Site visit made on 1 August 2016

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/Z1510/W/16/3148072

Land off Braintree Road, Great Bardfield, Essex CM7 4BJ

- 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 and Mrs Reed against Braintree District Council.
 - The application Ref 15/01354/OUT, is dated 29 October 2015.
 - The development proposed is the erection of up to 37 dwellings.
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Decision

1. The application is allowed and planning permission is granted for the erection of up to 37 dwellings at land off Braintree Road, Great Bardfield, Essex CM7 4BJ in accordance with the terms of the application Ref 15/01354/OUT, dated 29 October 2015, and subject to the conditions in the following schedule.

Application for costs

2. An application for costs was made by Mr and Mrs Reed against Braintree District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline, with all matters reserved for subsequent approval except means of access. A masterplan was submitted for illustrative purposes and I have determined the appeal on that basis.
4. An executed planning obligation, dated 29 June 2016 was submitted whereby the appellant has agreed to provide affordable housing and infrastructure contributions. I deal with this in more detail below.

Background and Main Issues

5. While the Council did not determine this application it indicated that it would have refused planning permission. Having regard to the evidence before me including the Council's submission, I consider the main issues to be:
 - Whether the proposal would be appropriately located, having regard to national and local planning policy;
 - Whether future residents would have reasonable access to services and facilities; and
 - Whether there would be a significant loss of the best and most versatile agricultural land.
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Reasons

6. The site comprises approximately two hectares of agricultural land at the south eastern edge of Great Bardfield. It wraps around a recent housing development at Castle Shot. The northern boundary of the site abuts the rear gardens of residential properties on Alienar Avenue and to the south and east are agricultural fields. There is an existing access from the north western corner of the site via Braintree Road.
7. The site lies outside, but directly adjacent to the settlement boundary of Great Bardfield. Saved Policy RLP2 of the Braintree District Local Plan (LP) (2005) seeks to restrict development outside settlement boundaries. Core Strategy (CS) (2011) CS Policy CS 5 seeks to strictly control development outside town development boundaries, village envelopes and industrial development limits to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside. The proposal would be contrary to both of these policies.
8. The appellant contends that the Council has only about 3 years housing land supply whereas the Council considers it has over 3.5 years supply. Nonetheless, since the appeal was submitted, the parties now agree that the Council is unable to demonstrate a five year supply of deliverable housing sites. As such its policies relevant to the supply of housing cannot be considered as up to date, as set out in paragraph 49 of the Framework (the Framework). Consequently, according to paragraph 14, planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Location of development

9. Great Bardfield is designated in the CS as an 'other village.' These settlements are at the bottom tier of the settlement hierarchy, with a limited range of services. The CS allocates 300 dwellings to be accommodated within 51 Other Villages over the plan period. The parties have stated that the proposal would result in an increase in the population of Great Bardfield of between about 8% and 12%. This would not overwhelm the existing settlement and as the policies for the supply of housing in the CS are out of date its strategy for the location of housing is not, in itself, a compelling factor. Although the quantum of development to be provided within these smaller settlements over the plan period is expected to be relatively small, there is nothing before me to suggest that local infrastructure and services would not cope adequately with the additional demands arising from future residents of the development.
10. The Council determined not to take forward the appeal site as an allocation in the emerging local plan following a call for sites exercise, but that assessment was based on a larger site of which the appeal site formed part. The Council has also pointed to progress made with the development of large sites in the District, but nonetheless there remains a shortfall in housing supply that the proposal would make a contribution to.
11. I acknowledge that there are relatively limited employment opportunities within Great Bardfield, and the Inspector in a recent appeal at Bardfield Centre¹

¹ APP/Z1510/W/15/3141307

accepted the loss of some of the employment floorspace due to a lack of demand. However, the Planning Practice Guidance (PPG) on *Rural Housing* observes that all settlements can play a role in delivering sustainable development in rural areas and that rural housing is essential to ensure viable use of local facilities. An increase in the population of the village may generate demand for further goods and services.

12. Taking all of the above into account, I conclude that the proposal would be appropriately located.

Access to services and facilities

13. The centre of Great Bardfield is less than a kilometre away and includes local shops and facilities and includes two pubs, a village hall and primary school, a small supermarket and a small number of local shops. There is also a post office and shops a few hundred metres south of the appeal site on Bardfield Road, albeit there is no segregated footway along this route. However, there would be quite good access to a range of services and facilities nearby which could meet some daily needs of future residents.
14. There is no primary health care facility or secondary school within the village, although this is not uncommon within rural areas where such facilities tend to be sited in larger centres, and there is an hourly bus service during weekday peak hours to higher order centres such as Finchingfield and Braintree, about 3 and 5 miles away respectively. There is also a school bus service to Newport Secondary School. This would provide reasonable access by public transport within the context of a rural district. The frequency of services would be reduced during evenings and weekends, and thus a significant proportion of journeys to and from the site are likely to be made by private motor vehicle. However, Paragraph 29 of the Framework recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas, and thus a higher proportion of journeys by car may be expected within such locations. Overall I conclude that future residents would have reasonable access to services and facilities.

Supply of agricultural land

15. Paragraph 112 of the Framework states that local planning authorities should take into account the economic and other benefits of the best and most versatile land. There would be some harm arising from the loss of grade 2 agricultural land, and the Council has pointed out that there are other sites available for development with lower quality grade 3 agricultural land to the north of Great Bardfield. However, the District is well supplied with good quality agricultural land and in this context the proposal would not involve significant development of agricultural land. I therefore conclude that the proposal would not have a major adverse impact on the available resource of farming land in the area. Consequently the proposal would cause limited harm in this respect.

Other Considerations

16. The proposed houses would be near to, and viewed as part of, the existing residential properties nearby. In addition, the development would be well screened by existing mature trees and hedges on the approach to Great Bardfield along Braintree Road. Although there is no natural boundary to the

south and east, further planting could provide a sufficient transition to the open countryside, and a detailed scheme of landscaping could be secured by condition.

17. A preliminary ecology appraisal has indicated potential for roosting bats within an Oak Tree on the western boundary of the site. The PPG confirms that an ecological survey is necessary in advance of a planning application if the type and location are such that the impact on biodiversity may be significant. As the Oak Tree is on the periphery of the site and would be retained within the proposed development, I am satisfied that a scheme could be devised to avoid harm to protected species, with protection or mitigation measures secured by condition.
18. The Council requires planning contributions for affordable housing and infrastructure, in accordance with CS policy CS2. The submitted unilateral undertaking would provide for 14 affordable housing units, with a tenure mix that would meet the Council's policy requirements.
19. Contributions would also be secured towards a new playground and pavilion building at Playing Field, Bendlowes Road, and replacement of temporary accommodation at Great Bardfield Primary School, at a rate in accordance with the Council's Open Space Supplementary Planning Document (2016), and an estimated child yield for flats and houses. The development would generate demand for these local facilities which future occupiers would expect to use.
20. The undertaking would also provide funding for pupils to travel to secondary school in Great Dunmow, but there is no evidence that this contribution would not be pooled with that of other schemes, and thus I cannot be certain that it would not conflict with regulation 123 (3) of the Community Infrastructure Levy (CIL) Regulations 2010. Accordingly, I am unable to take it into account in determining this appeal.
21. I am therefore satisfied that with the exception of secondary school transport, the contributions sought would be necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind, and would meet the tests in the Community Infrastructure Levy Regulations 2010 and the Framework.
22. Concerns have been expressed regarding the potential impact on heritage assets including the Bluegate, a former gatekeeper's lodge. However the lodge is some distance from the appeal site and the new housing would be viewed against the backdrop of adjacent residential development. I also note that the Council's conservation officer did not consider the setting would be affected. I am therefore satisfied that the special interest of the listed building would be preserved.
23. Furthermore, appropriate boundary treatments around the appeal site can be required by condition to avoid any undue overlooking of adjacent properties, including adjacent to the proposed pedestrian and cycle access.

Balancing and Conclusion

24. The proposal would be contrary to LP policy RLP2 and CS Policy CS5 and with the development plan as a whole. Planning permission should not therefore be granted unless material considerations indicate otherwise.

25. I have found that there is likely to be some reliance on the private car to access services and facilities outside of peak times when bus services are not as frequent. I have also found that there would be limited harm arising from the loss of best and most versatile agricultural land. Furthermore, economic opportunities within the village itself are relatively limited. In combination, these adverse impacts carry moderate weight.
26. Set against this harm are the social and economic benefits of addressing the under supply of housing in the District. I attach significant weight to the provision of up to 37 units, 40% of which would be affordable. There would also be a modest benefit to the local economy during the construction phase and in the longer term new residents would help to support shops and services in the village through an increase in local household spending. A further consequence would be the financial contributions toward primary education and sport and leisure facilities within the village.
27. Overall the adverse impacts identified above do not significantly and demonstrably outweigh the social and economic benefits. Consequently the proposal would represent sustainable development as defined in the Framework, and material considerations indicate that planning permission should be granted for development that is not in accordance with the development plan.
28. I therefore conclude that the appeal should succeed.

Conditions

29. I have found that the development would be acceptable subject to certain conditions, with regard to the Planning Practice Guidance. I have attached conditions limiting the life of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act, to include details of existing and proposed ground levels. I have also specified the approved plans for certainty.
30. In addition to the conditions I have already referred to, I shall impose conditions requiring a highways visibility splay to be created and maintained, provision of adequate car parking, and the delivery of a footway from the access to the existing footway along Braintree Road at the junction with Castle Shot, both in the interests of highway safety. However, there is no need to repeat the Council's parking standards, as suggested.
31. A construction method statement, limits on construction hours, details of refuse storage, boundary treatments and an external lighting scheme are required to safeguard the amenities of neighbouring occupiers. A condition is also required to address any contamination found on site during development that was not previously identified to safeguard the living conditions of future residents. Details of the surface water drainage arrangements are required in accordance with the submitted Flood Risk Assessment, to minimise the risk of flooding within the site and to minimise surface water run-off rates beyond the site.

32. Finally, I shall require a condition for further surveys to be undertaken in order to assess the potential for bats roosting within the site, to safeguard protected species, and to avoid clearance of trees, shrubs and hedges during the bird nesting period to ensure nesting birds are not disturbed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) Details of the scale, appearance and layout of the buildings and the landscaping of the site (hereinafter referred to as the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. An application for the approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this planning permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 2) The submission of reserved matter applications pursuant to this outline planning permission shall together provide for no more than 37 dwellings, parking, public open space, landscaping, surface water attenuation and associated infrastructure and demonstrate compliance with the approved plans.
- 3) Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floor(s) of the proposed building(s) in relation to existing ground levels.
- 4) Car parking provision across the development shall be provided in accordance with the minimum standards set out in the Essex Parking Standards Design and Good Practice (2009) and retained as such thereafter.
- 5) Prior to the first occupation of the development the access shall be implemented as shown on drawing F14177/01 REVB. Visibility splays shall be provided as shown on the approved drawing and shall be permanently maintained thereafter. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.
- 6) Prior to the first occupation of the development the proposed footway as shown on approved drawing F14177/01 REVB located on the eastern side of Braintree Road and running from the proposed access point to the site in a northerly direction to link up with the existing footway on the eastern side of Braintree Road which currently terminates at Castle Shot shall be constructed.
- 7) No development shall commence, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The statement shall provide for: safe access to/from the site including details of any temporary haul routes and the means by which these will be closed off following the completion of the construction of the development; the parking of vehicles of site operatives and visitors; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved CMS shall be adhered to throughout the construction period for the development.

- 8) No vehicular movements relating to the construction of the development to, from or within the site, or site clearance, demolition or construction work shall take place outside the following times: Monday to Friday 0800 hours to 1800 hours; Saturday 0800 hours to 1300 hours. There shall be no site clearance, demolition or construction work and no vehicular movements on Sundays, Public and Bank Holidays during the construction of the development.
- 9) The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of flooding within the site and off-site flooding caused by surface water run-off from the development has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved outline details in the Flood Risk Assessment (FRA) submitted in support of the application, ref RAB: 1109B version 4, RAB consultants, 2 December 2015. In particular the detailed drainage scheme shall provide the following: a drainage scheme layout showing SuDs features, reflecting the FRA drainage modelling results to show 1 in 1, 1 in 30 and 1 in 100 year plus climate change critical design events; sizing of SuDs features based on impermeable areas of the positive draining areas; considering the cumulative impact of multiple SuDs features; demonstrating consideration of SuDs hierarchy options; provision of the appropriate number of treatments stages from the different areas of development; and provision of a layout of the exceedance flow routes and how this will be managed away from any residential buildings.
- 10) No development shall commence until a Maintenance Plan indicating who is responsible for different elements of the surface water drainage system and maintenance activities/frequencies has been submitted to and approved in writing by the local planning authority. The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon request by the local planning authority.
- 11) Prior to first occupation of the development hereby approved details of all gates, fences, walls or other means of enclosure within the relevant phase of development shall be submitted to and approved in writing by the local planning authority. The details shall include the position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development and shall be permanently retained as such thereafter.
- 12) No above ground works shall commence until details of the location and design of refuse bins, recycling materials storage areas and collection points shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details prior to the first occupation of each respective unit of the development and retained as such thereafter.
- 13) Details of any proposed external lighting to the site shall be submitted to and approved in writing by the local planning authority prior to installation. The details shall include a layout plan with beam orientation and schedule of equipment in the design (luminaire type, mounting height, aiming angles, luminaire profiles and energy efficiency measures). All lighting shall be

installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.

- 14) Should contamination be found during development that was not previously identified or not considered in the Phase 1 contamination report (May 2015) submitted with the application, that contamination shall be made safe and reported immediately to the local planning authority. The site shall be re-assessed by a competent person and a remediation scheme shall be submitted to and agreed in writing with the local planning authority. Such agreed measures shall be implemented and completed prior to the first occupation of any parts of the development.
- 15) No clearance of trees, shrubs or hedges in preparation for (or during the course of) development shall take place during the bird nesting season (March to August inclusive) unless a bird nesting survey has been submitted to and approved in writing by the local planning authority to establish whether the site is utilised for bird nesting. Should the survey reveal the presence of any nesting species, then no development shall take place within those areas identified as being used for nesting during the period specified above.
- 16) No clearance of trees, shrubs or hedges in preparation for (or during the course of) development shall take place until a bat survey has been submitted to and approved in writing by the local planning authority. Should the survey reveal the presence of any bat roosts on the site, then no development shall take place within those areas identified as being used for roosting until details of mitigation measures, including the provision of alternative roost sites for bats has been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details prior to the first occupation of the dwellinghouses and maintained as such thereafter.