



Appeal Decision

Site visit made on 4 July 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 1st August 2017

Appeal Ref: APP/Z1510/W/17/3170748

Park Farm House, 53 Witham Road, Black Notley CM77 8LQ

- 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 Mulvaney against the decision of Braintree District Council.
 - The application Ref 16/01728/FUL, dated 13 October 2016, was refused by notice dated 22 February 2017.
 - The development proposed is construction of 3 no. new dwellings together with associated access off Witham Road, parking, garden space and associated development.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would provide a suitable location for housing, having regard to the character and appearance of the area and the accessibility of local services and facilities.

Reasons

3. The Council highlights that the appeal site is located beyond the village envelope for Black Notley and is considered to fall within the countryside. Policy RLP2 of the Braintree Local Plan Review 2005 (LPR) and Policy CS5 of the Braintree Core Strategy 2011 (the Core Strategy) restrict development outside of village envelopes in order to protect and enhance the countryside. The site forms part of the grounds to Park Farm and contains a number of small trees that gives it the character and appearance of an orchard.
4. Black Notley is a small village to the south of Braintree. The majority of the village's residential development is focused to the south-east of the recreation ground. To the north-west of the recreation ground, residential development is more sporadic along Witham Road, with extensive areas of vegetation and open space next to the road. This is particularly the case along the north-east side of the road between The Old Rectory and the veterinary surgery, which includes the grounds of Park Farm and the appeal site, but also on the opposite side of the road between 44 Witham Road and Buck Hill. This gives the area between Braintree and the main part of Black Notley a spacious, green and semi-rural nature and helps to separate the two settlements. As part of the grounds to Park Farm, the appeal site makes a positive contribution to the character and appearance of this area.

5. The proposed development would result in three detached dwellings of a similar design closely spaced together facing Witham Road. While there is nothing objectionable in terms of their design, they would erode the spacious, green and semi-rural nature of this area and encroach into the countryside. Notwithstanding boundary planting, the dwellings would be conspicuous when seen from the road.
6. The appellant argues that the appeal site constitutes previously developed land as it comprises a private residential garden beyond the built-up area of Black Notley. I am inclined to agree based on the definition of such land in the National Planning Policy Framework (NPPF). Nevertheless, paragraph 17 of the NPPF encourages the re-use of land that has been previously developed provided that it is not of high environmental value. For the reasons given above, the appeal site does have such value as green open space forming part of the separation between settlements. Thus, the development would result in harm to the character and appearance of the area.
7. In terms of access to services and facilities, Black Notley has a limited range that includes a shop, public house, church, recreation ground and village hall. The appeal site is connected to these services and facilities by pavement with street lighting, making it possible to walk to them. Cycling is also possible given the speed limit of 30mph along Witham Road, although the road appeared busy with traffic at my late morning site visit.
8. The pavement continues in the opposite direction over the A120 bridge to Braintree, although there are few facilities on this edge of the town other than schools. In terms of walking to these schools, the distance is comparable to services and facilities in Black Notley and so would be feasible. The speed limit increases on the road between the site and the edge of Braintree, which combined with the busy nature of the road would not encourage cycling into Braintree. However, the bus service along Witham Road is hourly or half hourly depending on the time of day. Based on all these considerations, the development would have acceptable access to services and facilities with realistic alternatives to the private car.
9. The appellant has referred to two appeal decisions¹ elsewhere in Essex where Inspectors have accepted that the semi-rural location of development requires some level of car use. I do not know the full details of each decision, but in any case have assessed this appeal proposal on its own merits.

Planning balance

10. It is recognised by the Council and the appellant that the Council is unable to demonstrate a five year supply of housing land. The Council, in the officer's delegated report, considers the supply to stand at 3.8 years. As a consequence, relevant policies for the supply of housing should not be considered up to date in accordance with paragraph 49 of the NPPF, which would include Policies RLP2 and CS5. However, the weight to be attributed to them remains a matter for the decision-maker. I consider that they remain broadly consistent with the NPPF in terms of recognising the intrinsic value of the countryside and landscape character and so carry reasonable weight.

¹ APP/X1545/W/15/3003529 and APP/J1535/W/15/3134332

11. Where relevant policies are out of date, paragraph 14 of the NPPF states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies of the NPPF indicate development should be restricted.
12. The provision of three additional dwellings would provide social benefits in terms of boosting the supply of housing mindful of the current shortfall. It would also result in economic benefits through the construction process and the subsequent investment into local services and facilities from occupiers of the dwellings. However, these benefits are moderated by the scale of development and the limited contribution it would make in addressing the housing land supply deficit. Thus, I can only afford these benefits modest weight in favour of the proposal. The acceptable access to services and facilities counts as a neutral factor in the overall balance.
13. Turning to the adverse impacts, the development would erode the green and semi-rural nature of the area and reduce the separation between settlements with a conspicuous form of development. As such, I give significant weight to harm that would be caused to the character and appearance of the area. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a consequence, the proposal would not represent sustainable development.
14. In conclusion, while the proposed development would provide acceptable access to local services and facilities, it would not have an acceptable effect on the character and appearance of the area. In these circumstances, it would not provide a suitable location for housing. Therefore, it would not accord with Policy RLP2 of the LPR or Policy CS5 of the Core Strategy which seek to restrict development outside of village envelopes in order to protect and enhance the countryside.

Conclusion

15. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR