
Appeal Decision

Site visit made on 16 October 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 6th November 2017

Appeal Ref: APP/Z1510/W/17/3180150

112 Colchester Road, White Colne, Essex CO6 2PP

- 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 planning permission.
 - The appeal is made by Mr & Mrs M. Adlem against Braintree District Council.
 - The application Ref 16/02187/FUL, is dated 23 December 2016.
 - The development proposed is the erection of a 4 bedroom detached dwelling complete with garage/office and related infrastructure, including an altered vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 4 bedroom detached dwelling complete with garage/office and related infrastructure, including an altered vehicular access at 112 Colchester Road, White Colne, Essex CO6 2PP, in accordance with the terms of the application, Ref: 16/02187/FUL.

Application for Costs

2. An application for costs was made by Mr & Mrs M. Adlem against Braintree District Council. This application will be the subject of a separate Decision.

Preliminary Matters

3. The appellants submitted their appeal following the Council's failure to give notice of its decision within the prescribed period (8 weeks in this case). The Council have provided an appeal statement¹ outlining concerns with the location of the proposal and its impact on the character and appearance of the area. I have therefore treated it as an indication from the Council that, had it been in a position to determine the application, it would have refused it for reasons along these lines. I have considered the appeal accordingly. In the absence of a decision notice I have taken the application number from the Council's submissions.

Main Issues

4. The main issues in this appeal are whether the appeal site is an appropriate location for housing with particular reference to:
 - Rural housing policies in the development plan;

¹ A committee report relating to a subsequent application (17/01354/FUL) at the appeal site for the same development

- The accessibility of the proposed development to services and facilities; and
- The effect of the proposed development on the character and appearance of the area.

Reasons

Rural Housing Policy

5. Saved Policy RLP2 of the Braintree District Local Plan Review 2005 (LP) directs new developments to sites within the defined settlement boundaries of towns and villages. Outside these areas countryside policies apply. Supporting text to Policy RLP2 of the LP explains that the settlement boundaries are in place to protect the countryside around villages and towns and protect non-renewable and natural resources. Policy CS5 of the Braintree District Council Core Strategy 2011 (CS) states that development in the countryside will be strictly controlled.
6. The appeal site is located in the countryside being outside the settlement boundary of White Colne. The Council suggests the settlement boundary is approximately 18 metres to 140 metres to the west of the appeal site, depending on which side of the road the measurement is taken. It is therefore in the countryside and there is nothing before me to suggest the appeal scheme would adhere to the countryside policies of the development plan. As such, the proposal would be contrary to the policies identified in the preceding paragraph. It would therefore undermine the broad strategy for the location of housing and the protection of the countryside contained in the development plan.
7. The National Planning Policy Framework (the 'Framework') does not specifically refer to settlement boundaries and this can be interpreted as a more flexible approach towards rural housing. However, the Framework requires recognition to be given to the intrinsic character and beauty of the countryside. The identification of settlement boundaries can be a useful and locally distinctive tool in addressing this aim and therefore Policy RLP2 of the LP and Policy C5 of the CS are broadly consistent with the Framework.

Accessibility to services and facilities

8. As established above, the appeal site is located in reasonably close proximity to the settlement boundary of White Colne where the principle of new housing is supported. Moreover, there is a pavement outside the appeal site along the northern side of the road and this provides a direct link into the village. Therefore, the settlement boundary of White Colne is not determinative in identifying whether the appeal site is reasonably well located to services and facilities. Instead, this judgement turns on the facts of the case.
9. The Council has not disputed the analysis of the appellants outlined drawing 1609-PP-21A that White Colne has a small selection of services and facilities including bus stops, vehicle repair garages, a fishing lake, a care home, a wedding venue, a village hall, a public house and a restaurant. Many of these are within a 1000 metres² of the appeal site and accessible by walking along the pavement. A primary school is within 1500 metres of the appeal site.

² When measures in a linear fashion. The walking route may be longer due to the alignment of the A1124.

10. Consequently, there is a reasonable range of services and facilities within a safe and convenient walk of the appeal site. The Council has not provided substantive evidence to suggest a walk of 1000 to 1500 metres would be excessive when considered against any recognised standards. Alternatively, the appellant has referred to guidance prepared by the Institute of Highways and Transportation which suggests a walking distance of up to 2000 metres may be an appropriate maximum depending on local circumstances.
11. Within 1500 and 2000 metres (linear distance) there are everyday services available within Earls Colne. The distance may discourage some future occupants of the appeal site from walking to Earls Colne regularly, but the presence of a linking pavement with no notable change in gradient means walking could be a realistic alternative to travelling by car on some occasions.
12. Moreover, the broadly level gradient would enable cycling to be a convenient transport solution, especially as Earls Colne would be a short cycle ride from the appeal site. Moreover, bus stops are located directly outside the appeal site and these provide a quick and convenient link with Earls Colne. There is also a rail station located to the east of the appeal site. As such, it is conceivable that future occupants of the appeal scheme would visit local services and facilities by means other than private car and this would support the vitality of the rural community and sustainable transport objectives.
13. Paragraph 29 of the Framework states that transport policies have an important part to play in facilitating sustainable development and that the transport system should be balanced in favour of sustainable transport modes. It also states that people should have choice over how they travel. However, it also acknowledges that opportunities to maximise sustainable transport solutions will vary from rural to urban locations. Furthermore, Paragraph 55 of the Framework seeks to locate housing where it will enhance or maintain the vitality of rural communities. As such, a balanced judgment is required that weighs the ambition to facilitate sustainable transport objectives with the need to locate housing in rural areas, where there will often be inherent limitations in maximising this aim.
14. When applying a balanced judgment, I am satisfied that the appeal site is well placed, in a rural context, to enable future residents of the development reasonable access to services and facilities by a range of transport modes. In effect, the future occupants would not be harmfully reliant on private motorised transport and therefore the development would not be functionally isolated. Consequently, I conclude that the appeal scheme would adhere to the broad aims of local and national policy to locate developments in accessible locations commensurate to the rural or urban context.

The effect on the character and appearance of the area

15. The appeal site encompasses part of the garden of 112 Colchester Road (No 112). Colchester Road is characterised by ribbon development that is mixed in scale, style and form. However, the houses generally face the road and are located towards the front of their plots. The appeal site is located in a small cluster of houses and is not isolated from built form and the settlement of White Colne.
16. Moreover, the appeal scheme needs to be considered in the context of an application for eight homes recently approved a short distance to the west of

the appeal site. The site in that instance was undeveloped with a roadside hedge that would require breaching. The approved houses would be arranged in a linear fashion that would continue the ribbon development along the A1124. This site is located closer to the settlement boundary of White Colne than the appeal scheme and was approved because the adverse impacts did not significantly and demonstrably outweigh the benefits. Nevertheless, if implemented³ it would change the local context and move the built form of White Colne closer to the appeal site. This is a matter weighing in favour of the appeal scheme.

17. The proposal is for the erection of a large detached dwelling that would be wider and deeper than surrounding structures and the existing barn it would replace. It would therefore notably intensify the existing loose knit development along Colchester Road where White Colne tapers off into more open countryside. It would also reinforce the ribbon development along the A1124. This could result in some harm to the character and appearance of the settlement edge of White Colne.
18. However, the house would be set back from the road behind a fence and outbuilding positioned in the garden of the neighbouring property. It would also be positioned on a lower site that slopes away from the road, the ridge height would not exceed that of No 112 and the house would follow the building line of the properties to the east. The contextual drawings submitted by the appellant demonstrate that the proposed house would not be a stark addition to the street scene for these reasons. Moreover, as the house would replace an existing barn it would not be an intrusion of built form where there is currently none. As such, any potential harm to the character and appearance of the area would be offset by these factors. Additionally, the proposed house would not be prominent in views from the wider landscapes including nearby footpaths.
19. On balance, the appeal scheme could result in some limited harm to the character of the settlement's edge through an intensification of the ribbon development. However, this is off set by the specific circumstance of the site and the design and layout of the proposal. The effect on the character and appearance of the area also needs to be considered in the context of a recently approved development. I therefore conclude that the proposal would preserve the character and appearance of the area, including that of the countryside, and thus a conflict with Policies RLP9 and RLP90 of the LP would not arise.

Other Matters

20. I share the view of the Council that the appeal scheme would not prejudice highway safety because the access can be suitably upgraded to serve two dwellings. In this respect I note that the Highway Authority have not objected to the proposal and substantive evidence has not been provided that would suggest I should move away from the impartial view of the highway engineers. Given the distance from neighbouring properties and the orientation of the proposed dwelling there would be no adverse impacts upon the living conditions of the occupants of neighbouring properties.

³ I have no reason to conclude it would not be

Planning Balance

21. As residential development outside the village envelope, the appeal scheme would be contrary to the strategy for housing in the development plan. Saved Policy RLP2 of the LP and Policy CS5 of the CS are broadly consistent with the Framework, which seeks to encourage development that supports the vitality of rural areas, prevent isolated homes in the countryside and promote travel choice. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a notable material consideration.
22. The Council cannot currently demonstrate a five years housing land supply as required to by the Framework. This is significant as the Council's policies for the supply of housing are therefore out of date and Paragraph 14 of the Framework is engaged. This indicates that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted. The Council have not suggested that the latter point applies and have instead applied the tilted planning balance, as shall I.
23. The appeal scheme would not be isolated from services or facilities, built form or a defined settlement and it would not harm the character or appearance of the countryside or the locality more generally. As such, the proposal would not offend the main underlying objectives of Policies RLP2 and Policy CS5 or relevant parts of the Framework, including Paragraph 55. As such, I afford the conflict with the settlement policies in the development plan very limited weight. The Council has referred to emerging settlement policies⁴, which the appeal scheme may offend. However, these are at a formative stage, awaiting examination and the extent and nature of unresolved objections to them is unclear. As such, they currently attract very limited weight. I have not identified any other adverse impacts that would arise from the appeal scheme. The absence of harm is a neutral matter in the balance.
24. Implementing the proposal would provide some economic benefits to the construction industry but these would be modest in scale and for a limited time. The proposal could also help support the vitality and viability of local services, the Council's housing land supply and enable the appellant to construct a home as a 'self-builder'. In this respect, the appeal scheme would support many of the aims of the Framework. However, these benefits would be limited due to the small size of the proposed development.
25. Consequently, the very limited weight I afford the conflict with the settlement policies in the development plan would not be an adverse impact that would significantly and demonstrably outweigh the limited benefits of the appeal scheme. I therefore conclude that the proposal would be sustainable development for which the Framework carries a presumption in favour.

Conditions

26. In allowing the appeal it would be necessary to impose planning conditions. In determining this I have had regard to the advice in the Planning Practice Guide, the Council's list of suggested conditions and the appellants' comments.

⁴ In the Braintree District Publication Draft Local Plan 2017

27. In the interests of safeguarding the character and appearance of the area and the living conditions of neighbours it is necessary to ensure the development is implemented in accordance with the approved drawings and details, for trees to be protected, for material samples and details of gates and fences to be approved and implemented and for a construction method statement to be approved and followed. The latter is necessary as the site is constrained and access is from a busy road. I have however consolidated some of the Council's requirements and it is unnecessary to prevent the burning of construction waste as there are other powers controlling this. It is necessary to secure the details before construction works commence so they are undertaken in an acceptable way.
28. It is necessary in the interests of, potentially as yet unknown, archaeology to secure archaeological investigation and recording. In the interests of highway safety it is necessary to impose those conditions recommended by the Council. Although, as the site slopes away from the road it is unnecessary to impose a condition preventing the discharge of surface water to the highway as this is unlikely to happen.
29. It is unnecessary to require further bats surveys. The presence or otherwise of protected surveys is a matter that should have been established during the consideration of the application. It is generally inappropriate to secure biodiversity surveys through a planning condition. The survey submitted with the application concluded that bats were not present and would be unlikely to enter the existing barn as it is well sealed and lacking in roosting places. The survey is a year old but the ecologist that undertook it confirmed that it is unlikely bats would colonise the building in the intervening period. The Council has not provided substantive evidence that draws me to an alternative conclusion. Nevertheless, bats are present in and around the appeal site and therefore in the interests of enhancing biodiversity it is necessary to install bat bricks or bat boxes as part of the approved development.

Conclusion

30. The appeal scheme would be contrary to the rural housing policies of the development plan but material considerations, principally the Framework and my conclusion that the proposal would be sustainable development, indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

Time Limit and Approved Plans

- 1) The development hereby permitted shall commence not later than three years from the date of this decision.
- 2) The development hereby permitted shall only be carried out in accordance with the approved plans listed below.
 - Aerial Photo Site Plan Plan Ref: 1608-PP-10A
 - Access Details Plan Ref: 1608-PP-11A
 - Floor Plan Plan Ref: 1608-PP-12
 - Floor Plan Plan Ref: 1608-PP-13A
 - Photograph Plan Ref: 1608-PP-14
 - Elevations Plan Ref: 1608-PP-15A
 - Garage Details Plan Ref: 1608-PP-16D
 - Section Plan Ref: 1608-PP-17
 - Street elevation Plan Ref: 1608-PP-18G
 - Site Plan Plan Ref: 1608-PP-19
 - Site Plan Plan Ref: 1608-PP-20A
 - Site Plan Plan Ref: 1608-PP-21A
 - Section Plan Ref: 1608-PP-22B

Requirements Triggered Before the Development Commences

- 3) No development shall take place until details have been submitted to, and approved in writing by, the local planning authority indicating the means of protecting all of the existing trees, shrubs and hedges within the site that are to be retained and may be affected or damaged by construction works. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of any of the existing trees, shrubs or hedges.

No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of any existing trees, shrubs and hedges unless the express consent in writing of the local planning authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the existing trees, shrubs, hedges.

- 4) No development shall take place, including demolition, until the applicant has secured and undertaken a programme of archaeological investigation and recording in accordance with a written scheme to be submitted to, and approved in writing by, the local planning authority.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide details of:

- The parking arrangements for the 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;
- Wheel washing and underbody washing facilities and a dust and mud control management scheme;
- The disposal of waste;
- The hours of all construction work, including deliveries;
- A system of piling (if relevant) and the resultant noise and vibration levels;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Requirements Triggered During the Construction Phase

- 6) No above ground development shall commence until samples of the materials to be used on the external finishes of the dwelling hereby approved have been submitted to, and approved in writing by, the local planning authority. The development shall only be implemented in accordance with the approved details.
- 7) Prior to their installation details of all gates /fences/walls or other means of enclosure shall be submitted to, and approved in writing by, the local planning authority. The details shall include position, design, height and materials of the screen walls/fences. The gates/fences/walls as approved shall be provided prior to the occupation of the building(s) hereby approved and shall be permanently maintained as such.
- 8) No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary of the site.

Requirements Triggered Prior to Occupation

- 9) Prior to first occupation of the proposed development, the proposed vehicular accesses shall be constructed in complete accord with the details shown in Drawing Numbered 1608-pp-11A and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- 10) Prior to first occupation of the proposed development, evidence shall be provided in writing to the local planning authority that an appropriate number of bat bricks or boxes have been installed at the appeal site. The bat bricks or boxes shall thereafter be retained in the form they were installed.
- 11) Prior to first occupation of the proposed development, the car parking and turning areas indicated on the approved plans shall be hard surfaced and provided. The vehicular parking spaces shall have minimum dimensions of 2.9m by 5.5m. The parking spaces shall thereafter be kept permanently available for the ancillary parking of vehicles in connection with the occupation of the dwelling and for no other purpose.