



Appeal Decision

Site visit made on 16 July 2019

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/Z1510/W/18/3217678

Land to the north of 63 Rectory Road, Stisted, Essex CM77 8AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Braintree Golf Club Ltd against the failure of Braintree District Council to give notice within the prescribed period of a decision on an application for planning permission.
 - The application Ref 18/01665/OUT is dated 13 September 2018.
 - The development proposed is the erection of 3 dwellings.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 3 dwellings on land to the north of 63 Rectory Road, Stisted, in accordance with the terms of the application, Ref 18/01665/OUT, dated 13 September 2018, subject to the conditions in the attached Schedule.

Procedural Matter

2. The Council has indicated that had it been in a position to determine the application it would have refused planning permission. Its objections were that the proposal would be ribbon development in the countryside and would be reliant on private car travel for access to services and facilities. It was not therefore considered to be a sustainable form of development that would conform with local plan policy or the National Planning Policy Framework (the Framework).
3. The application was in outline form with only access reserved for consideration at this stage.

Reasons

Planning policy context

4. The appeal site is a rectangular plot of overgrown land, some 0.3 hectares in extent, on the eastern edge of Braintree Golf Course. It has an open frontage to Rectory Road and beyond that is a tall field hedge and open fields. The village of Stisted is immediately to the south. Policy RLP 2 in the Braintree District Local Plan Review (2005) (LP) makes clear that outside of the development boundaries countryside policies will apply. Policy CS 5 in the Braintree District Local Development Framework Core Strategy (2011) (CS) seeks to strictly control uses in the countryside in order to protect and enhance landscape character and amenity, amongst other things. The spatial strategy concentrates growth in the Main Towns and Key Service Villages. Stisted is one

of the smaller villages where development is restricted to that required to serve local needs or support local services. The Braintree District Publication Draft Local Plan is currently undergoing examination although from the information provided it appears that there are a number of outstanding issues. In the circumstances the emerging document has very limited weight. Nevertheless, the appeal proposal would conflict with LP policy RLP 2 and CS policy CS 5.

5. The Framework sets out the Government's objective of significantly boosting the supply of homes. With that in mind it requires local planning authorities to identify a five-year supply of deliverable housing sites to meet their up-to-date housing needs. The Council's Monitoring Report Addendum (April 2019), which uses the standard methodology based on 2014 household projections, indicates that a 5.29 years supply of housing land can currently be demonstrated.
6. However, in June 2019 the Secretary of State issued an appeal decision concerning development on a site in Braintree¹. Although the appeal was dismissed, he considered that several of the sites in the April 2019 trajectory did not meet the requirement of deliverability in the National Planning Policy Framework. He therefore concluded that there was a supply of 4.15 years. There is no reason to doubt that the Secretary of State carefully considered the housing trajectory against the requirements of his own policy. In the absence of anything to the contrary, this seems to me to provide the most up-to-date evidence of the Council's housing land supply position that is available at the present time.
7. The adopted spatial strategy relies on the development boundaries established in the LP and the strategic growth sites identified in the CS. However, for the reasons given above these and other sites in the Council's trajectory are insufficient to meet current housing needs over the next 5 years. In such circumstances the housing supply policies in the development plan are out-of-date and these include the development boundaries, which restrict housing delivery. The location of the appeal site beyond the Stisted village envelope is therefore not a reason to object to the principle of development in this case.

Effect on the character and appearance of the area

8. Stisted is a small village that is centred on The Street. Development generally follows the frontages of this and other roads radiating out into the surrounding countryside. Rectory Road is the main route to the north and along here the predominantly linear development pattern is mainly along the western side of the road. To the north of the appeal site is Stisted Lodge. From the information provided this property has been considerably extended and is now a house of considerable proportions. Its southern elevation, which faces towards the appeal site has cream coloured elevations and a large steeply pitched red tiled roof punctuated by two arrays of solar panels. Due to the sparsity of vegetation along the common boundary this building is a prominent feature in the landscape immediately to the north of the appeal site. Although the appeal site itself is overgrown and unkempt, it is at the eastern end of the golf course. This is an open green space studded with trees but nevertheless it has an orderly appearance in contrast to the agricultural fields on the eastern side of Rectory Road.

¹ Land at north and south of Flitch Way, Pods Brook Road, Braintree (APP/Z1510/W/18/3197293).

9. The development boundary is drawn tightly around the limits of existing built development. However, for the reasons already given this in itself is insufficient to restrict further development beyond its confines in this case. The actual harm that would be caused to the rural character of the site or the pattern of development in the village would be small scale and localised. I appreciate that there is a public footpath adjacent to the southern boundary that runs across the golf course and that the new development would be visible from here as well as from Rectory Road. However, there would be little visual impact on the wider countryside to the north of the village and the proposal would effectively continue the existing pattern of development by filling the gap on the western side of Rectory Road between No 63 and Stisted Lodge. The golf course would be to the rear of the new houses as it is to the rear of the existing dwellings in the northern part of the village.
10. The layout of the site and the size and external appearance of the new dwellings are not matters to be considered at this stage. However, the illustrative drawings indicate that three houses could be placed on the site in a manner that would be compatible with the existing development immediately to the south. There is no reason why this should not be a development of high standard and quality that respects the local vernacular. I see no conflict with design policies in the development plan or the Framework.

Accessibility

11. Stisted is a small village with limited facilities. There is a church, a village hall, a public house and a shop. It would appear that the public house, which was seemingly converted to a restaurant, is currently closed. From all accounts the shop is staffed by volunteers and only opens for a couple of afternoons a week. There is also a primary school. I note that some objectors comment that it is at capacity. However, there is no evidence from the local education authority or indeed the school itself that the small number of additional children could not be accommodated. New occupiers could walk into the village to reach these facilities and this would be beneficial, especially in respect of the school. I appreciate that Rectory Road has no footway and that street lighting only begins further to the south. However, there is no evidence that it is heavily trafficked or inherently dangerous or that existing residents do not walk safely into the village, including to the school.
12. The Framework indicates that in order to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities. There is no particular evidence in this case that the additional households would be necessary to support the aforementioned existing local services or indeed facilities in the surrounding villages. The nearest large town that offers a full range of services is Braintree, which is about 3 miles away. Here there is also a railway station with mainline services to London. Some might ride a bicycle into the town, but the route from the site would include narrow lanes and a busy main road and would not be attractive to many cyclists, in my opinion.
13. There is a bus service to Braintree but that appears to be irregular and it seems likely that most of these journeys would be by car, albeit that the trip would be relatively short. This would not meet the requirement of policy CS 7 in the CS, which includes a provision that future development will be provided in accessible locations. However, the Framework recognises that the

opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this is a factor that is not fully recognised in policy CS7. Nevertheless, the accessibility credentials of the site are not particularly high and I consider that this is a matter that counts against the scheme in the planning balance.

Other matters

14. The proposal has been put forward as a form of enabling development to provide funding for the golf club. A great deal of information has been provided about the existing facility and its importance to the local community. It is run as a non-profit making organisation although it is a private facility that members pay a fee to join. The Appellant's representations explain that the golf course and clubhouse are expensive to maintain and that membership income is falling. Funding is considered necessary to upgrade and improve the facilities in order to compete with other clubs elsewhere and put the club on a sustainable footing. The club has indicated that it plans to improve and expand existing facilities and add a new private function suite.
15. A Planning Obligation by Unilateral Undertaking (UU) has been submitted that covenants to pay the proceeds of the sale of the appeal site to the golf club to carry out the various improvements. This has not yet been completed but I have, in any event, reservations about the draft document. The first is that I am doubtful that the obligations in the schedule to the UU would fall within the scope of Section 106 of the Act or the other powers mentioned in section 2.2 of the Deed. However, even if they did, it seems to me that the provisions could not guarantee to be effective. This is because the various listed improvements include projects that would require planning permission. There is no evidence that this has either been sought or granted. In such circumstances there is no assurance that the improvements considered necessary to return the club to a sustainable footing would materialise in a timescale that would secure its future. Furthermore, I have considerable reservations about whether this could be considered as true enabling development due to the private nature of the beneficiary. For all of these reasons I would have given the UU very little weight as a benefit of the development, even if it had been a fully executed document.
16. I note the concerns of the owner of Stisted Lodge regarding loss of light and privacy. However, the detailed layout and siting of the proposed dwellings is not to be determined at this stage. I am satisfied that the site is of sufficient size to ensure that 3 dwellings could be accommodated without undue impact on the living conditions of the occupiers of Stisted Lodge or, indeed, the residential properties to the south.
17. A single access would be provided towards the centre of the site frontage. Traffic generation from three dwellings would be relatively small and no objections have been raised by Essex County Council as local highway authority. From my observations I am satisfied that visibility in both directions would be acceptable to ensure that new occupiers could enter and leave the site securely without detriment to the safety of highway users.

18. The Council has referred to an appeal decision for a dwelling on land off The Street, Stisted². This site is well outside the development boundary within what the Inspector described as a loose knit cluster of buildings around the church. It also fronts onto an unmade track. To my mind it is therefore quite different in terms of character and location to the present appeal site. My colleague also considered the suitability of the site with regards to accessibility to shops and services and concluded that it would be contrary to policy CS 7 in the CS. For the reasons I have given I do not consider that this policy is wholly consistent with the Framework. Whilst I largely concur with my colleague with regards to his conclusions about the facilities available in the village and car dependency, his decision turned on a different balance of considerations and is therefore not comparable in terms of outcome.

Conclusions and planning balance

19. In the absence of a housing shortfall, the provision of 3 new dwellings would make a small but important contribution to the Council's housing land supply. This is a material factor to which I give considerable weight. There would also be economic benefits in terms of new employment opportunities during construction and to the local economy through spending by new residents. These factors also weigh in favour of the appeal proposal.
20. Whilst the Framework recognises the intrinsic character and beauty of the countryside, in this case little harm would ensue in terms of the character and appearance of the rural area. There would be conflict with LP policy RUR 2 and CS policy CS 5 but this is of limited weight because the lack of a 5-year housing land supply renders these policies out-of-date. The site has relatively poor accessibility. Whilst there are some local facilities, many day-to-day requirements would involve the short journey into Braintree, which would be likely to be undertaken by car. This is a matter that weighs against the appeal proposal. The scheme would also be contrary to policy CS 7, although this is not fully consistent with the Framework because it does not recognise that people living in rural areas have less opportunity to exercise sustainable travel choices. In the circumstances the conflict with this policy is only of limited weight.
21. In this case paragraph 11 of the Framework is engaged and the presumption in favour of sustainable development applies. For all of the reasons I have given my overall judgement is that the adverse impacts in this case would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. The proposal would be a sustainable form of development and material considerations indicate that, in this case, planning permission should be granted, notwithstanding conflict with development plan policy.

Planning conditions

22. The Council has suggested a list of conditions, which I have considered having regard to paragraph 55 of the Framework and the Planning Practice Guidance. I have changed the wording where necessary in the interests of precision and enforceability. Pre-commencement conditions have been imposed as suggested by the Council and the Appellant has agreed to these conditions in writing.

²Appeal dismissed for one dwelling on land off The Street, Stisted, dated 19 June 2019 (APP/Z1510/W/18/3209378)

23. The standard outline conditions are necessary to comply with statutory regulation and ensure that development is implemented in a timely manner. Conditions relating to landscaping matters are unnecessary and the suggested details can be provided when reserved matters are submitted. There are no trees on the site and the landscaping reserved matters can include the means by which retained boundary trees and hedges are to be protected. Details of materials and means of enclosure can be submitted when reserved matters concerning appearance and layout respectively are submitted. There is no evidence that the site suffers from contamination and therefore the condition suggested is unnecessary and would be unduly onerous.
24. A raft of conditions has been suggested to ensure that the new access is satisfactory and that visibility splays are provided and retained. These conditions are necessary in the interests of highway safety. Construction activity can be inconvenient and disruptive to local residents and highway users. To minimise any adverse impact, it is necessary to require a Construction Method Statement to be adhered to during the construction period. There is no evidence that protected species would be affected by the proposal and so I have not included the requirement to include a method statement for their protection. The Parish Council has suggested limiting construction hours and this seems reasonable in view of the location of the site at the edge of the village. However, it is for the Council to consider the hours that would be necessary and appropriate. The evidence indicates that the site lies within an area of archaeological potential and therefore a programme of evaluation and mitigation is necessary.
25. I note that the Parish Council has suggested some other matters that it wishes to see incorporated as planning conditions. However, for various reasons these would not meet the requirements in the Framework and Planning Practice Guidance. In terms of precedent, all proposals must be considered in the context of the development plan and all other material considerations. In this case the scheme has been found to be acceptable. Any other proposal would be considered on its own merits. I have already commented on the golf club and the legal undertaking above. Clearly there is no reason why the Appellant should not voluntarily use the funds raised from the sale of the land for improvements to the golf club, subject to the necessary permissions being obtained from the Council.
26. The size of the dwellings would be a matter to be considered at reserved matters stage. Whilst I acknowledge the desire to reduce the speed limit on Rectory Road this is not a matter that would be within the control of the Appellant. It is a matter of good practice for developers to act responsibly and avoid or make good damage by construction traffic. The public footpath is to the south of the site and there is no evidence to suggest that the proposed development would result in access to it being impeded.
27. I have considered all other matters included in the written representations but have found nothing to alter my conclusion that the appeal should succeed.

Christina Downes

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, landscaping, layout and scale, hereinafter called "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.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
3. The development hereby permitted shall take place not later than 3 years from the date of approval of the last of the reserved matters to be approved.
4. No development shall be commenced until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - means of access to the site during the construction period;
 - 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 hoardings;
 - 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 and construction working hours.

The approved CMS shall be adhered to throughout the construction period for the development.

5. No dwelling shall be first occupied until the new access and an appropriate dropped kerb vehicular crossing of the highway verge has been provided. Notwithstanding the details shown on the submitted access plan, the width of the access at its junction with the highway shall be no less than 5.5 metres and shall be retained at that width for 6 metres within the site. The vehicular visibility splays shall be kept clear of any obstruction at all times.
6. No dwelling shall be first occupied until a 2.4 metres wide parallel band visibility splay across the entire site frontage to Rectory Road has been provided and this shall be kept clear of obstruction at all times.
7. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
8. The gradient of the new vehicular access shall be no steeper than 4% (1 in 25) for the first 6 metres and no steeper than 8% (1 in 12.5) thereafter.
9. No new boundary landscaping shall be planted within one metre of the visibility splays referred to in conditions 6 and 7.
10. No development, including preliminary groundworks, shall be commenced until:
 - a programme of archaeological evaluation has been secured and undertaken in accordance with a written scheme of investigation that has

first been submitted to and approved in writing by the local planning authority;

- a mitigation strategy detailing the excavation and preservation work required has been submitted to and approved in writing by the local planning authority;
- the mitigation strategy has been carried out in accordance with the approved details.

End of conditions 1-10