
Appeal Decision

Site visit made on 27 August 2019

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019

Appeal Ref: APP/Z1510/W/19/3229575

Mygunya, North End Road, Little Yeldham, Essex CO9 4LE

- 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 Keith Broyd against the decision of Braintree District Council.
 - The application Ref 18/01821/FUL, dated 5 October 2018, was refused by notice dated 18 December 2018.
 - The development proposed is a detached two storey private dwelling and detached garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Drawing 18/150-01 shows a new garage adjacent to Mygunya outside the red line area for the appeal proposal. This does not form part of the appeal and I have not considered it further.

Main Issues

3. The main issues are (i) whether or not the site is a suitable location for development having regard to national and local planning policy, and (ii) the effect of the proposal on protected habitats.

Reasons

Suitability of the location for development

4. Mygunya sits between the Old Rectory and Bendysh House. The appeal site is within this group, between the host dwelling and Bendysh House. Being outside the village envelope defined in Policy RLP2 of the Adopted Braintree District Local Plan Review 2005 (the Local Plan) and adopted Policy CS5 of the Braintree Local Development Framework Core Strategy 2011 (the Core Strategy) this group is in the open countryside.
5. Those policies require that development outside development boundaries and village envelopes be strictly controlled and, with exceptions that do not apply in this case, be limited to uses appropriate to the countryside in order to protect the intrinsic character and beauty of the countryside.

6. On plan, the separation between the Old Rectory and the last house in the defined settlement on the opposite side of the road is somewhat limited. However, in views along North End Road, although the group appears close to the edge of the village, it clearly lies beyond it.
7. While the distance by road to Little Yeldham is relatively short and open in nature, it is nonetheless unlit and without a footway. It follows that while residents of the proposed development could walk or cycle this route, this would be unlikely at night or in inclement weather.
8. Furthermore, the narrower and more enclosed nature of the roads onwards to Great Yeldham, which are also unlit and without footways, would not encourage the regular use of more sustainable means of transport to access the limited services there, or indeed, to connect to higher-tier and better-served settlements beyond. In this respect I note that public transport, whilst available in several forms, is limited.
9. In arriving at this view, I acknowledge that the National Planning Policy Framework (the Framework) identifies the potential cumulative effect of development in smaller settlements supporting services in a village nearby. However, the appeal site lies outside a village which itself has no services, relying on limited services in Great Yeldham and supplemented by higher-tier settlements beyond.
10. The appellant has drawn my attention to a number of similar appeals and, in particular, provided decision reference 3129233 in full. However, I consider that the current appeal is sufficiently distinct, in terms of its access in particular, context and nearby facilities, that the same conclusions cannot be reached.
11. The appellant has also suggested that these appeal decisions support their case that the level of private-car usage arising from the development would not be unusual in a rural area, and that as a result, the appeal site can be considered a suitable location for development. However, both local and national policy seeks to reduce reliance on the private-car and encourage non-car, more sustainable means of transport such as walking, cycling or using public transport. The proposal would not meet those aims.
12. Whilst I note the passages quoted from those appeals, I do not have the full decisions before me. I have set out above why I do not consider the location of this appeal proposal to be suitable for development, having regard to its specific characteristics and the aims of national and local planning policy.
13. The proposal therefore conflicts with the aims of Policy RLP90 of the Local Plan, Policy CS7 of the Core Strategy and the Framework, to encourage the use of sustainable transport and ensure that safe and suitable access to the site can be achieved for all users.

Protected habitats

14. The Essex coast Recreational Disturbance Avoidance and Mitigation Strategy (Essex coast RAMS) is an emerging strategy that looks to ensure that mitigation is provided for any development that would adversely impact upon various protected habitats along the Essex coast.

15. The Council have carried out an appropriate assessment that concludes that the proposed development (in combination with other residential development) would have a likely significant effect upon the protected habitats. It follows that mitigation is necessary for the proposed development to comply with The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 (the HR).
16. I acknowledge that the Council consider that the quantum of residential development likely to place before the adoption of the Essex coast RAMS will be 'de-minimis'.
17. Notwithstanding this however, an appropriate assessment has been undertaken that has found that the proposed development, in combination with other residential development, would have a 'likely significant effect' on the protected habitats. I would therefore be in contravention of the HR if I were to allow the appeal without suitable mitigation, and I have no mechanism before me that would provide such mitigation. If I were not dismissing the appeal for other reasons, then I would have no option other than to dismiss the appeal on this basis.

Other Matters

18. The appellant has presented evidence on the sufficiency or otherwise of the supply of deliverable housing sites in the Braintree district. However, in light of my conclusions above on protected habitats, footnote 6 to paragraph 11d of the Framework provides a clear reason for refusing the development.
19. Therefore, this leads me to conclude there are no material considerations that indicate a decision should be taken other than in accordance with the development plan.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

S Dean

INSPECTOR