



Appeal Decision

Site visit made on 17 January 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/Z1510/W/19/3237376

Land South of Penlan, Lamarsh Hill, Bures Hamlet CO8 5EH

Grid Ref Easting: 589849, Grid Ref Northing: 234280

- 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 and Mrs G Holloway against the decision of Braintree District Council.
 - The application Ref 19/01055/FUL, dated 11 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is a detached 3-bedroom single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The main parties refer to policies from the Braintree District Publication Draft Local Plan (2017). In accordance with paragraph 48 of the National Planning Policy Framework (the 'Framework'), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any substantive details of the status of the emerging plan, and therefore I attribute the plans and policies very limited weight as a material planning consideration.

Main Issues

3. The main issues are (i) whether the proposed development would provide a suitable and accessible location for housing; (ii) the effect of the proposal on the character and appearance of the area; and (iii) the effect of the development upon highway safety.

Reasons

Location of development

4. It is proposed to erect a single storey dwelling at the appeal site. The proposed dwelling would be set back from the roadside. The existing vehicular access would be stopped up and a new vehicular access and turning area would be created.

5. Policy RLP2 of the Braintree District Local Plan Review (2005) (the 'LP') states that new development will be confined to areas within Town Development Boundaries and Village Envelopes. Outside of these areas countryside policies will apply and new development will not normally be permitted. The supporting text to LP Policy RLP2 explains the purpose of the policy is to protect the countryside surrounding settlements; to prevent the extension of ribbon development and sporadic development; and to protect non-renewable and natural resources.
6. The appeal site is located outside of the defined village envelope for Bures Hamlet. In addition, it does not form part of an allocated site for residential development. Therefore, for the purposes of Policy RLP2 of the LP the appeal site is within the countryside where new development will not normally be permitted.
7. The main parties agree that the village of Bures Hamlet provides a number of facilities and services. The appellant argues that the facilities and services, including public transport options, would be accessible on foot or by cycling from the appeal site. Therefore, the appellant contends that the appeal site is a suitable location for residential development.
8. However, the Council explain that occupiers of the proposed development would have to walk on the road for approximately 280 metres to reach the nearest pavement at Parsonage Hill, which links up with the wider network of pavements within the village. As such, the Council argue that occupiers of the proposed development would be predominately reliant on the private motor vehicle.
9. On my site visit, I observed that most of the services and facilities, including the train station, are located near to the centre of the village, which is approximately 600 metres from the appeal site. The section of Lamarsh Hill outside the appeal site has no pavement, no street lighting and a 60 mile per hour speed limit. In addition, the road has a fairly steep gradient and views of on-coming traffic are restricted by bends in the road.
10. Given the distance between the site and local services and facilities, including the train station, and the aforementioned road conditions, even if vehicle speeds were slower than the speed limit, the use of the road by the occupiers of the proposed dwelling, especially during the winter months where daylight hours are limited, to walk and/or cycle to the local services, facilities and the train station within Bures Hamlet, would not be an attractive alternative to the use of the private motor vehicle for most journeys.
11. In terms of other public transport options, the appellant states that Bures Hamlet is served by a 'pre-book' bus service, which would be accessible to future occupants of the proposed dwelling and offer access to the immediate and wider locality. However, no substantive evidence has been put forward about the location of the bus stop, the bus route(s) or the frequency of the service.
12. Based on the evidence before me, I cannot conclude that there are frequent bus services within Bures Hamlet which would provide a suitable and alternative means to commute to and from work on a daily basis. Consequently, the uncertainty relating to this matter is such that I am unable

to conclude that bus services are available that would provide an attractive alternative to the use of the private motor vehicle for most journeys.

13. I accept that the proposed dwelling on the site would be no less accessible to the services and facilities within Bures Hamlet, when compared to the occupiers of the existing dwelling on the opposite side of the road near to the appeal site. However, the existing property appears to pre-date the development plan and the Framework. Consequently, a precedent has not been set in favour of allowing the appeal.
14. For the reasons set out above, I conclude that the proposed development would not provide a suitable and accessible location for housing. As such, the proposal would not accord with Policy RLP2 of the LP which seeks to direct new development within Town Development Boundaries and Village Envelopes and restrict development in the open countryside in order to protect its rural character. In addition, the proposal would not accord with Policy CS7 of the CS, which states that future development will be provided in accessible locations to reduce the need to travel.
15. In reaching the above conclusion, I am cognisant of the fact that the proposal would not result in the creation of an isolated home in the countryside in the context of paragraph 79 of the Framework, in so far as that the dwelling would be in close proximity to a number of existing buildings. However, this is not a matter which overcomes the very weighty conflict with the identified development plan policies above.

Character and appearance

16. The appeal site is a parcel of land with an existing vehicular access on to Lamarsh Hill. The site is largely grassed, and the boundaries are predominately marked by a mix of mature hedgerow, trees and wire fencing. The topography of the land rises gently upwards from the roadside until it plateaus around the centre of the site.
17. The appeal site is situated between a large allotment site to the south and agricultural land to the north. The mature hedges, trees and low density of existing properties located along Lamarsh Hill, with agricultural land beyond, gives the immediate area an intrinsically rural character.
18. The undeveloped nature of the appeal site contributes positively to the intrinsically rural character of the surrounding area. Despite the single storey scale and traditional design of the proposed building, the proposal would nonetheless introduce a sporadic form of residential development onto an undeveloped site within the countryside. Whilst I note that the views of the site from the roadside are largely screened by mature planting and trees, the effectiveness of the existing screening would be greatly reduced in the winter months when the trees and planting would lose their leaves, and, in any event, it cannot be relied upon in perpetuity to screen the development. Consequently, I conclude the proposed development would cause significant harm to the character and appearance of the area.
19. The appellant argues that further planting could be secured as part of the development, which would provide additional screening. Whilst this may be the case, this would not outweigh or overcome the harm I have identified above.

20. For the reasons set out above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with Policy RLP80 of the LP and Policy CS5 of the CS which requires new development to successfully integrate into the local landscape; and to protect and enhance the landscape character of the countryside. In addition, the proposal would not accord with Policy CS8 of the CS, insofar as it requires development to have regard to the character of the landscape and its sensitivity to change.
21. Given the above, the proposal would also be inconsistent with paragraph 170(b) of the Framework, which requires planning decisions to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Highway safety

22. The appellant argues that the visibility splays provided as part of the proposed development would be suitable for the proposed use. The appellant explains that vehicle speeds along Lamarsh Hill are typically lower than the 60 mile per hour speed limit due to the existing road conditions, which includes 'SLOW' markings. In addition, the appellant states that the proposal would represent a 'three-fold improvement' when compared to the existing access, which is in regular use.
23. However, no technical information has been put forward by the appellant to demonstrate the actual vehicle speeds along the stretch of Lamarsh Hill where the proposed access would be located. In addition, no information has been provided to demonstrate that the amount of vehicle movements associated with the existing access would be comparable to the proposed residential use. To this regard, I note that the Local Highway Authority have objected to the proposal on highway safety grounds.
24. In the absence of specific details to demonstrate that the proposed vehicle access onto Lamarsh Hill would be appropriate to serve the proposed dwelling, I am unable to conclude that the proposal would preserve highway safety. As such, I cannot conclude that the proposal would accord with Criterion (viii) of Policy RLP90 of the LP which states that the design and layout of new development should promote a safe and secure environment with the maximum amount of natural surveillance of roads and paths.
25. Furthermore, I cannot conclude that the proposal would accord with Policy DM1 of the Essex County Council Development Management Policies (2011) which states that the Local Highway Authority will protect the highway network for the safe and efficient movement of people and goods by all modes of travel by ensuring that proposals will not create a significant potential risk or be detrimental to the safety of the highway network.
26. Given the above, the proposal would be inconsistent with paragraph 110(c) of the Framework, which states that developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles. In addition, paragraph 109 of the Framework advises that development should be refused if there would be an unacceptable impact on highway safety.

Planning Balance

27. The appellant has drawn my attention to several appeal decisions¹ which conclude that the Council are unable to demonstrate a five-year supply of deliverable housing sites.
28. In addition to the above, the appellant argues that Policy RLP2 of the LP and Policy CS5 of the CS do not align with the Framework because they are blanket policies, which restrict housing development in some types of settlements. As such, the appellant contends that the policies are out of date and should not be afforded full weight. To this regard, the appellant has drawn my attention to an appeal decision² where an Inspector provides an interpretation of Policy CS5 of the CS. However, I am not aware of the full circumstances in relation to that case. In any event, it is necessary that I determine this appeal on its individual planning merits.
29. The Council argue that the previous decisions are no longer representative of the Council's current housing land supply position, which exceeds five years. In terms of the development plan policies, the Council contend that they are consistent with the Framework and therefore carry full weight.
30. The provision of one dwelling would make a positive contribution to the Council's housing land supply which weighs in favour of the proposal, albeit that the contribution would be modest due to the quantum of development proposed. In addition, there would be some limited benefits arising out of the proposal, most notably, in terms of the construction industry and from the spend of future occupiers. As such the proposal would have social and economic benefits.
31. Even if I were to accept the appellant's argument that the Council is unable to demonstrate a five-year supply of deliverable housing sites and that the most important policies for determining the application are out of date; I have found that occupiers of the proposed development would be predominately reliant upon the private motor vehicle, and this would conflict with Chapter 9 of the Framework, which promotes sustainable transport. In addition, the proposal would cause significant harm to the character and appearance of the area and highway safety. All of which would be adverse impacts of the development at odds with the development plan and the Framework, and would significantly and demonstrably outweigh the proposal's limited benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, this is not a point that suggests the appeal should be determined other than in accordance with the development plan.

Other Matters

32. Reference has been made with regards to the Council's handling of the planning application. However, this is not in itself relevant to the consideration of the appeal proposal.
33. A local resident states that the proposal would enable elderly farmers to retire into a whole life, highly energy efficient dwelling built on their land. Such benefits would not be significant enough to alter or outweigh my conclusions on the main issues.

¹ Appeal Refs: APP/Z1510/W/18/3214136 and APP/Z1510/W/18/3197293

² Appeal Ref: APP/Z1510/W/18/3219233

34. The appellant argues that the proposed development would deliver biodiversity enhancements at the appeal site such as bird boxes and log piles. In addition, the appellant explains that the proposal would be environmentally sustainable through the incorporation of renewable energy provision, water efficiency measures and the installation of energy efficient white goods. However, no technical information has been put forward by the appellant to this regard. In any event, this would not overcome the very weighty conflict that I have identified with the development plan policies as outlined in the main issues above.

Conclusion

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

Christopher Miell

INSPECTOR