
Appeal Decision

Site visit made on 4 February 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2020

Appeal Ref: APP/Z1510/W/19/3238890

Land West of Church Road, Coes Meadow, Church Road, Bulmer CO10 7EL

- 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 Rowe against Braintree District Council.
 - The application Ref 19/00900/FUL, is dated 13 May 2019.
 - The development proposed is construction of 7 dwellings.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr & Mrs Rowe against Braintree District Council. This application is the subject of a separate Decision.

Procedural Matters

3. Upon the application form the applicant's name is indicated only with a surname. In the interests of clarity, and as specified on the appeal form, I have used the titles Mr and Mrs when naming the appellants above.
4. I have identified the main issue in this appeal having reviewed the Council's appeal statement, which sets out its main concerns with respect to the proposal. Had the Council been in a position to determine the planning application that is now the subject of this appeal, it would have refused planning permission for reasons related to the loss of visually important space, the removal of trees and the effect upon the character and appearance of the Bulmer Conservation Area (the Conservation Area) and wider rural area. As these issues are interrelated, my reasoning is set out under a single main issue below.
5. Whilst not specifically referred to in the Council's suggested refusal reasons, various references are made within their appeal statement to the Grade I listed St Andrew's Church (the Church), which is contained within the Conservation Area. The Council has suggested that the proposal would fail to preserve the Church's special interest. It is my statutory duty to have special regard to the desirability of preserving any features of special architectural or historic interest, and this is reflected in the phrasing of the main issue.
6. The Council has confirmed that their emerging Local Plan (Publication Draft 2017) (the ELP) has reached examination stage. However, it is my

understanding that its adoption is not anticipated imminently. Given that the content of its policies may yet change prior to formal adoption, the ELP is at a stage that attracts limited weight. For the avoidance of doubt, this applies to all parts of the ELP notwithstanding any previous public consultation carried out.

7. Since the submission of this appeal the Government has published the 2019 Housing Delivery Test (HDT) results, which indicate that, based on recent delivery performance within the Braintree District, the buffer to be applied to demonstrate a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing against the Council's housing requirement has increased. Both main parties have been given the opportunity to provide any observations upon the implications for this appeal and I have given due consideration to the representations received.

Main Issue

8. The main issue in this appeal is whether or not the proposal would preserve or enhance the character or appearance of the Conservation Area, including consideration of the effect of the proposal upon the setting of the Church, a Grade I listed building.

Reasons

9. The significance of the Conservation Area as a designated heritage asset is drawn, in-part, from its range of historic buildings, including the prominent Grade I listed Church, and the presence of notable areas of undeveloped open space. Indeed, these features are relevant to the historic evolution and rural history of the village. As set out in the Bulmer Conservation Area Appraisal (March 2009), the openness of the Church's setting is significant to the Conservation Area's character. Despite modern development at Vicars Orchard, the Church's relationship with its surrounding rural landscape is still much in evidence. The Church's special interest is drawn, in-part, from its historic origins, its prominence in the landscape and its various ornate architectural features.
10. The appeal site itself is made up of an area of undeveloped land that sits alongside a wider area of predominantly grassed open space known as Coes Meadow (the Meadow). Both the site and the Meadow are situated close to the Church and thus fall within its setting. Despite providing opportunities for recreation, the Meadow has retained a rural appearance and is contained within planted boundaries. The appeal site contains various vegetation, including shrubs and hedgerow as well as trees to its southern and eastern sides, and is designated in the Braintree District Local Plan Review (July 2005) (the Local Plan) as an Area of Visually Important (VIS). VIS is defined in the supporting text to Policy RLP4 of the Local Plan as an area of open land which contributes to the character of an area, or is important visually.
11. The proposal would introduce a linear form of development, which is reflective of the typical pattern of development within the Conservation Area. However, in this case development is proposed to a stretch of Church Road that is defined by the presence of planting and adjacent undeveloped land. Indeed, the site itself provides a soft landscaped edge to the village that contributes in no small part to the Conservation Area's rural qualities and charm and offers a clear indication as to the reasons why the site is designated as VIS.

12. The proposed dwellings are intended to be setback a short distance from Church Road and would be positioned in such a way that has sought to minimise potential conflict with existing trees. Nevertheless, the line of planting that is in place to the site's eastern edge would need to be punctuated in order to provide vehicular access into the site. Indeed, the submitted tree survey and accompanying site plan¹ indicate that several trees of varying quality would need to be removed in order to accommodate the development.
13. Furthermore, I observed from inspection that the existing screening does not provide a solid buffer to views into the site from Church Road. Vegetation situated towards the opposite western side of the Meadow was visible in places from Church Road, which offers a strong indication that the proposed dwellings, which would be relatively generously sized and scaled, would have a visual presence and an urbanising influence when viewed from Church Road. This is particularly when noting the intended tree removals that have been identified.
14. I have already found that the Church's open setting is integral to the Conservation Area's character. Indeed, the Church is positioned away from the main built up extent of the village and the openness of its setting can be viewed and experienced from various publicly accessible locations. These locations include, perhaps most pertinently, the Meadow, from where the Church is viewed alongside (and from within) verdant surroundings. Indeed, intervening residential development at Vicars Orchard is of low scale and is not visually prominent to the Church's foreground. The development would lead to the openness of the Church's setting being eroded, and it would have a pronounced urbanising influence upon the Meadow and how it would be experienced by its users. Indeed, the Meadow's function in providing a largely unfettered and distinct break between different parts of the village at the heart of the Conservation Area would be unduly compromised by the introduction of 7 dwellings to its eastern edge.
15. Any supplemental landscaping that could be brought forward to the site's various boundaries in the interests of providing further visual mitigation would take time to properly establish, would be reliant on continual management to maintain a consistent buffer to views and could not be substantial in extent given the size of the site and the amount of development that is proposed.
16. I accept that there are modern influences within the Conservation Area and that a variety of different building forms and styles exist. However, this does not justify the proposed development in this sensitive location. For the above reasons, the proposal would lead to less than substantial harm being caused to the significance of the Conservation Area and to the significance of the Church (through development within its setting). As set out in the National Planning Policy Framework (February 2019) (the Framework), any less than substantial harm should be weighed against the public benefits of the proposal.
17. The scheme would deliver 7 additional housing units, which is a benefit of the scheme. Indeed, the Framework reaffirms the Government's objective of significantly boosting the supply of homes. The HDT results illustrate that the number of homes delivered has fallen short of the number of homes required to meet housing need in the District in each of the past three assessment years, which has led to a 20% buffer needing to be allowed for when calculating the supply of deliverable housing sites.

¹ Ref 7351-D-AIA

18. The Council has acknowledged that it cannot currently demonstrate a 5 year supply of deliverable housing sites and calculate that the current supply figure in the District is 4.51 years. Whilst the appellants have not specifically set out what they consider the current supply figure to be, a recent Secretary of State decision within the District has been referred to where it was found (before the latest HDT results were published) that a 4.15 year supply and thus greater shortfall existed.
19. The contribution of 7 additional dwellings, whilst meaningful in extent and likely to be able to be delivered quickly and in broad accordance with local needs, would not make a clear and noticeable difference to the overall housing land supply position in the District. Thus, even were I to accept the appellants' stance that only a 4.15 year supply of deliverable housing sites could be demonstrated in the District before the latest HDT results were published (which would be anticipated to correspond to an even lower current supply figure given the increased buffer that now applies), I apportion the benefit of 7 additional dwellings moderate weight.
20. The scheme would also generate jobs and investment during the construction phase and expenditure in the local economy and support for local community facilities in the area once occupied. These are benefits that attract limited weight given the relatively modest scale of development under consideration. Any potential biodiversity improvements encouraged by new landscaping or the removal of competing plants would be minimal, particularly given that existing vegetation would need to be removed in order to facilitate the development. I acknowledge that the proposed housing would offer surveillance over the Meadow, but any associated security benefits would be minimal and attract limited weight. This is particularly as I have not been made aware of any specific existing or past crime/anti-social behaviour issues at the Meadow.
21. I have noted that a Public Benefit Plan has been submitted in support of the scheme, which indicates the intended provision of a pavement alongside the site's Church Road boundary and a sewer connection for a potential toilet block at the Meadow. The pavement would not run for an especially long distance and I note that its installation could hold the potential to place further pressure upon adjacent trees. Also, I have not had sight of any correspondence from the Highway Authority specifically indicating that they would want to see this installed. Furthermore, I have not been made aware of any imminent plans to install a toilet block at the Meadow. I thus apportion limited weight to these intended scheme benefits.
22. Whilst the harm I have identified to the significance of designated heritage assets would be less than substantial under the terms of the Framework, the identified harm would not be minor in nature and attracts great weight in my determination of this appeal. The public benefits of the proposal outlined above would be, in combination, fairly modest and would not outweigh the identified loss of significance that would be caused to either the Conservation Area or the Church.
23. For the reasons set out above, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area and would thus cause harm to the significance of this heritage asset. Harm would also be caused to the significance of the Church, a Grade I listed building, as a result of the proposal being development within its setting. The proposal conflicts with

Policies RLP4, RLP9, RLP80, RLP81, RLP90, RLP95 of the Local Plan and with Policies CS8 and CS9 of the Braintree District Council Core Strategy (September 2011) (the Core Strategy) in so far as these policies require that the development of open areas which are important visually and contribute to the character of the settlement will not be permitted, and that designs shall recognise and reflect local distinctiveness and be sensitive to the need to conserve local features of architectural, historic and landscape importance.

Other Matters

24. There are further listed buildings located both close to the site and inside the Conservation Area. These are The Old Vicarage and Dower House, which are both Grade II listed and situated on the opposite side of crossroads that are positioned adjacent to the north-eastern corner of the site. They are both grand houses and their significance and special interest as designated heritage assets is drawn in-part from their elegant traditional designs and connection to the rural history of the village.
25. The surroundings of both The Old Vicarage and Dower House are defined to a notable extent by expanses of open and undeveloped land, which would be impinged upon to some degree by the proposal. However, I note the proximity of these heritage assets to other existing development and their set back position from the highway beyond walled perimeter treatments. I am satisfied that any loss of heritage significance that would be caused to each of these individual assets, by introducing the proposed development within their settings, would be minor and outweighed by the scheme's public benefits (as set out above). For the avoidance of doubt, this does not alter my findings with respect to the main issue in this appeal.
26. It is my understanding that the appeal site is contained within Bulmer's defined village envelope. On this basis the proposal satisfactorily accords with Policy RLP2 of the Local Plan and with Policies CS5 and CS7 of the Core Strategy in so far as these policies place strict controls upon development outside of village boundaries and require development to be provided in accessible locations. Indeed, I am satisfied that the site is appropriately located in the context of its accessibility to facilities and services locally.
27. I am also content that the proposal suitably accords with Policy RLP8 of the Local Plan, in so far as it requires a range of house types and sizes to be provided in order to meet local needs. Indeed, a mix of 3 and 4 bedroom properties is proposed that responds satisfactorily, in broad/loose terms, to the local housing needs that are set out in the Bulmer Village Design Statement (August 2011).
28. I have noted reference to a January 2019 appeal decision² at Back House Croft, Bulmer Street. Whilst this decision relates to the settlement of Bulmer, it is of limited relevance to my considerations here. Indeed, that site is not contained within the Conservation Area and is not designated as VIS. Thus, heritage and character and appearance related considerations would have been different when compared to the proposal that is before me here. Indeed, a contrasting combination of development plan policies are relevant here when compared to that case. It does not follow that development should be promoted at the

² APP/Z1510/W/18/3199016

appeal site because Back House Croft is located outside of Bulmer's defined village envelope. Each case must be considered upon its own individual merits.

29. Similar principles to those stated above apply to outline planning permissions that have been granted at the settlements of Ridgewell and Gosfield, which have been referred to in the evidence before me. Notwithstanding the rural locations of these sites as well as the presence of nearby designated assets, the related landscape and heritage considerations are not directly comparable between these other cases and the appeal scheme. Indeed, the appeal site sits in proximity to the Church at a very sensitive and important location within the Conservation Area.
30. I have noted objections raised by interested parties with respect to matters including highway and wildlife impact. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
31. For the avoidance of doubt, even though the Council cannot currently demonstrate a 5 year supply of deliverable housing sites, I have not applied the presumption in favour of sustainable development as set out in paragraph 11 of the Framework. This is because I have identified that the proposal would lead to less than substantial harm to designated heritage assets that would not be outweighed by public benefits, which provides a clear reason for refusing the proposal. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

32. For the reasons set out above, the appeal is dismissed and planning permission is refused.

Andrew Smith

INSPECTOR