



Appeal Decision

Hearing Held on 12 & 13 November 2019

Site visit made on 13 November 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2020

Appeal Ref: APP/Z1510/W/19/3228753

Shardlowes Farm, Hedingham Road, Gosfield, CO9 1PL

- 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 Stockplace Investments Limited, The Tutton Family, Susan Stevens and L & D Minton (Mr Paul Denney) against the decision of Braintree District Council.
 - The application Ref 18/00279/OUT, dated 9 February 2018, was refused by notice dated 29 March 2019.
 - The development proposed is described as Outline application with all matters reserved except access, for the demolition of commercial buildings, erection of up to 135 dwellings including 54 affordable.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with access submitted for consideration. The appeal is considered on this basis. Therefore, whilst layout plans have been provided, they are purely indicative.
3. The scheme does not include details of the proposals for the listed building within the site. Therefore, it was agreed at the Hearing that the description of development should be amended to delete '*...and restoration of listed barn for employment use*' from the description of development. The banner heading of my decision reflects this change.
4. I have been referred to the policies of the emerging Braintree District Publication Draft Local Plan. However, this plan has not been examined and found sound. Therefore, I attach very limited weight to its policies.

Main Issues

5. The main issues in the appeal are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the site would be a suitable location for new housing, having regard to social and physical infrastructure in the locality;
 - The effect of the proposed development on the setting of the nearby Grade II listed barn;

- Whether the proposed development would preserve or enhance the character or appearance of the Gosfield Conservation Area.
- Whether the proposal would provide an appropriate surface water drainage strategy;
- The effect of the proposal on ecology;
- Whether the scheme would make appropriate provision for infrastructure, in particular affordable housing, education, primary health care, public open space, outdoor sports facilities and allotments.

Reasons

Character and appearance

6. The site would be accessed from Hedingham Road and would have some frontage to it. It would extend back from the road toward the dwellings in Highlands and along Halstead Road. The scheme proposes up to 135 dwellings on the site. I have been provided with an illustrative layout plan. I appreciate that the details of the layout could be subject to reserved matters and that the appellants are not tied to these plans. Nonetheless, the purpose of illustrative plans is to demonstrate that an acceptable scheme could be advanced at reserved matters stage for the development of the site.
7. The appellants have undertaken a Landscape Appraisal (LA) of the proposals¹. There is no dispute that the site falls within the Gosfield Wooded Farmland landscape designation². The settlement pattern of this area is described as being characterised by scattered farmsteads in field corners and by woodland edges, an open character with a sense of tranquillity throughout the area. Moreover, it is identified that there are networks of rural lanes and public rights of way that wind through the landscape. It is acknowledged that the area is described as having a relatively high sensitivity to change.
8. The LA described Gosfield as being a linear village which has developed along the A1017 Hedingham Road. The appellants' submission develops this by describing Gosfield as having a series of clusters of development³ shown in yellow on the submitted photograph, which the LA describes as visually contained within a limited sphere of influence. The submission identifies the existing industrial/agricultural buildings as forming a 'cluster'. In terms of assessing the effect of the provision of housing in the locality I do not consider that this is in fact a fair characterisation of the settlement. The other yellow areas on the photograph relate to areas of existing housing. Therefore, in considering the effect of the development on character and appearance I cannot agree with the appellants that the scheme would involve adding to existing clusters.
9. Along Hedingham Road and Halstead Road dwellings primarily front the road with generous plots and space around them. There are variations in design, scale and layout. Nonetheless, between the dwellings there are gaps where there are views to the mainly open landscape beyond. I appreciate that the

¹ The Landscape Partnership, Landscape Appraisal, March 2018

² Appendix LP4 to the Council's Statement of Case, Landscape Character of Braintree District

³ Appellants' Statement of Case, image at 5.11

site includes the existing building and the listed barn. However, the presence of farmstead, agricultural and vernacular buildings is something that is acknowledged in the Landscape Character Assessment⁴ that can add variety and interest to the landscape. Furthermore, it is fundamentally different to the provision of residential dwellings. Therefore, I consider that the appeal site sits within a primarily open landscape that provides a transition to the countryside beyond it to the south. In this regard, it forms an integral part of the character of the edge of Gosfield and its setting within the wider landscape.

10. In terms of the linear form referred to in the LA, development is mainly focussed on Hedingham Road and Halstead Road with roads and modest cul de sac development accessed from the main spine roads. I appreciate the indicative plans show that a group could front Hedingham Road. However, overall, the scheme would be creating a large area of housing which, whilst close to the settlement edge, would have very limited visual or physical affinity to the main roads in the village. In this regard the introduction of dwellings onto the appeal site would represent a form of development at odds with the prevailing pattern of Gosfield.
11. Whilst indicative, the plans show that to accommodate up to 135 dwellings on the site access would be taken from Hedingham Road. The dwellings would be laid out around a main spine road within the site, with some smaller cul de sacs taken from it. Some dwellings are shown as fronting the road and generous landscape and tree buffers and an area of public open space would be provided. Nonetheless the site area would extend back significantly from both roads. The provision of dwellings, and in depth, would not be reflective of the character of the main village area.
12. Travelling along Hedingham Road there are points where the appeal site and some of the existing dwellings would be appreciated together. The existing trees provide setting to the approach to the village against an open backdrop. I appreciate that the road is a busy A road and that within the site level changes may serve to limit the impact of new dwellings. Nonetheless, along Hedingham Road the scheme would extend built form into the countryside which would represent a marked change in character to the approach to the village.
13. I therefore conclude that the scale of housing proposed, namely up to 135 dwellings, would appear out of character with the existing settlement. As such it would have a harmful effect on the character and appearance of the area. It would therefore be in conflict with Core Strategy (CS) policy CS9 and Local Plan (LP) policies RLP90 and RLP80. These policies amongst other things require new development schemes to successfully integrate into the local landscape and enhance local distinctiveness.

Site location and the provision of housing

14. CS policy CS7 seeks to direct future development to accessible locations to reduce the need to travel. This objective is consistent with the National Planning Policy Framework (the Framework) which sets out that development proposals should consider opportunities to promote walking, cycling and public transport use whilst recognising opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

⁴ Appendix LP4 to the Council's Statement of Case, Landscape Character of Braintree District

15. The Council's statement identifies that within its settlement hierarchy Gosfield is identified as being an 'other village'. Nonetheless, the Council acknowledge that there are amenities/facilities available in the village. In particular the appellants point to the proximity of bus stops⁵ and the frequency of these services, the location of the primary school (which the appellants estimate to be about 785m from the site); community shop; eating and leisure facilities.
16. The services in Gosfield would be accessible on footpaths along Hedingham Road and Halstead Road. I appreciate that the Council are concerned about the use of an unmade, unlit and wooded public right of way to link the majority of the dwellings to the main roads. As part of my site inspection I walked along the footpath and both Halstead and Hedingham Road. The route into Gosfield would involve a relatively short section of the main road. Nonetheless, I agree with the appellants that the footpath is surfaced, of a reasonable width and has a verge. As such it offers a choice to future residents for access to the village.
17. The bus stops are in a reasonable walking distance of the site. The village is served by four bus routes which offer a service to Halstead and Braintree and other nearby settlements. The appellants argue that the services provide suitable access to daily services and facilities, as well as employment opportunities in larger settlements and other locations along the route. The services run regularly Monday to Friday and on Saturdays. The services would therefore provide reasonable access to daytime shopping, leisure, employment and services for future residents 6 days a week.
18. The appellants have referred to other planning permissions being granted and allocations being made in similar locations to the appeal site. In particular reference to a decision in Great Bardfield⁶. I note the Inspector's conclusions cited by the appellants on the issue of location. Nonetheless, the scheme referred to was assessed on its merits on the basis of the local services of Great Bardfield. Therefore, I give it very limited weight in consideration of this scheme which I have in any event assessed on its individual merits.
19. Consequently, whilst I recognise future residents would have some degree of choice over their mode of transport, that choice would not be to a range of services when choosing to walk or cycle and Gosfield is identified as an 'other village'. Therefore, to offer a genuine choice I consider that the sites location would need to be balanced in favour of sustainable transport options, which overall it would not be. As such, in this case it is probable that future residents would be largely reliant on private car in order to support services within nearby villages and maintain or enhance the vitality of those communities and to access services further away. The proposal would thus fail to contribute towards managing sustainable patterns of growth and the proposal would not be consistent with the character of the settlement. I conclude, therefore, that the proposal would not be a suitable location for new housing. It would therefore be in conflict with CS policy CS 7.

Heritage Assets

⁵ Intermodal Transportation Transport Assessment January 2018

⁶ APP/Z1510/W/16/3148072

20. There are designated heritage assets within the vicinity of the appeal site. There is the Grade II listed barn and Gosfield Conservation Area. The development has potential to affect the significance of these assets by a change to their settings. The appellants submit that the CS and LP policies are no longer consistent with the more up to date policy for heritage assets in the Framework. I therefore attach greater weight to the Framework in this case.

Setting of the Grade II Listed barn

21. The significance of the barn, which is timber framed, is derived primarily from its physical fabric. There is some agreement between the parties that the date of the building is 17/18th century. The list description refers to it being timber framed and clad in weatherboard with a half hipped corrugated iron roof. The Council describe the building as having been a 'pest house'. The appellants heritage statement also confirms this going on to state that it later formed part of the courtyard layout of the farm. There is agreement that the modern materials do not add to the historic fabric. Within the Heritage Statement the barn is described as a fine example of an early Napoleonic War era thrashing barn. It was once part of an integrated late 19th century farmyard. In terms of its setting the main contributors are the immediate curtilage and the surrounding site area. In its current form it is surrounded by a number of small workshops and stores which are mainly used for the alteration of motor vehicles.
22. There is a public right of way which follows the historic access route to the farm complex. There are views of the barn from this route. In particular the barn is appreciated when approaching from both the east and the west. I understand that, in its current form, the barn is seen within the environment of scrap vehicles around it including the small workshops and shed along with other business uses. In this regard the barn is currently experienced within a wider countryside setting and within an area of mainly non residential uses.
23. I appreciate that the appellants consider that the removal of the existing buildings and uses around the building would be a material improvement and they consider that a new setting could be created. Nonetheless, the Council make a valid point that historically the building would have been part of the wider agrarian landscape. In this context, whilst I note the benefit of the removal of existing buildings, the resultant setting of the barn if the scheme were to go ahead also requires consideration. I acknowledge that the agricultural setting of the barn has been disrupted by the presence of the existing buildings around it. I also appreciate that there are other dwellings that have been developed over time in the immediate locality. Nevertheless, I agree with the Council that the barn remains relatively isolated and in an agrarian landscape, which contributes significantly to its setting and how it is experienced.
24. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The glossary to the Framework states that the setting of a heritage asset comprises the surroundings in which it is experienced and that different elements of that setting may either make a positive or negative or neutral contribution to its significance.

25. The site plan submitted with the scheme is purely indicative as the matter of layout is reserved for future consideration. Furthermore, the appellants submit that the layout could be designed to accommodate additional space around the barn if required. Nonetheless, this plan shows how a scheme of up to 135 dwellings could be accommodated on the site. In particular this is the only plan before me that indicates a layout which could accommodate the quantum of development.
26. Accordingly, taking into account all of the above, including specifically the removal of the existing buildings around the listed building, I consider that the provision of this number of dwellings on the appeal site would not preserve the significance and special interest, including the setting, of the listed building. In the language of the Framework it would result in less than substantial harm to the barn. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect.
27. The appellants initially proposed a planning obligation to secure works to the listed barn. However, following disagreement between the parties about this matter the appellants submit that these works should now be secured by condition. However, there is no scheme in place with either planning permission or listed building consent secured. As such there is no clear time frame for these works. Therefore, I do not consider that imposition of a condition seeking to secure the works would be enforceable or reasonable as there is no certainty that all of the works could be performed within any time limit that would be imposed by this action. As such I cannot attach weight to this proposition as a benefit of the scheme or as securing its optimum viable use.
28. The Framework at paragraph 196 states that where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide new dwellings in the locality and . There would be social and economic benefits derived from that provision both during construction and after occupation. However, these benefits would be likely to be small in scale. Therefore, even though I have found that the harm to the designated heritage asset is less than substantial it is not to be treated as a less than substantial objection to the proposal. The public benefits attributable to the proposal in my judgement would not outweigh the great weight to be given to the harm to the designated heritage asset. As such, the proposal would be in conflict with the Framework and the guidance set out in section 16, LP policies RLP 90 and RLP 100 and CS policy CS 9, in so far as they seek to preserve and enhance the setting of listed buildings and protect the historic environment.

The Gosfield Conservation Area

29. The Gosfield Conservation Area (CA) encompasses the core of the village and Gosfield Hall and Park. The significance of the CA is derived from the buildings that make up its historic core. Beyond edge of the CA the area links to the open landscape beyond where development is more sporadic. The appeal site is separated from the CA by existing housing. Therefore, it would be close to but not in or adjacent to the CA.
30. The existing twentieth century housing on the edge of the CA already influences the approach to the CA along Hedingham Road. Specifically, that

the twentieth century housing is viewed when entering the CA and then moving further in the appreciation of the approach it evolves to take in the core. If the appeal scheme were introduced the area of open countryside to the north of the existing settlement would introduce additional dwellings into views from Hedingham Road. Overall, it would not change the fundamental appreciation of the approach to the CA along Hedingham Road. In this regard the effect on the significance of the CA would be neutral.

Surface Water Drainage Strategy

31. The primary concern of the Council relates to run off from the surface water drainage scheme and whether an appropriate scheme could be secured that would ensure that the scheme would not increase the risk of flooding. The submitted flood risk assessment⁷ includes a drainage strategy. The methods for this have been explained in principle.
32. The flood risk assessment establishes that an assessment of the practical use of sustainable drainage techniques has been carried out. Further that as soil types will not support the effective use of infiltration devices, it is proposed that surface water is attenuated through the use of permeable paving and detention basin prior to discharge into the existing drainage ditch system. The system has been modelled to ensure adequate storage and the appellants have demonstrated that on site a surface water system can be provided that is policy compliant.
33. The Council did not dispute at the Hearing that the appellants have demonstrated that the drainage from the site can be managed. Therefore, had I been minded to allow the appeal, I am satisfied that appropriately worded conditions could have secured this. I therefore conclude that the proposal would make provision for an appropriate surface water drainage strategy. This would accord with CS policy CS8 and LP policy RLP 69 which support the use of sustainable drainage techniques.

Ecology

34. The appellants have provided a Preliminary Ecological Appraisal (PEA) for the site⁸. This survey established that the habitats on the site are of moderate ecological value but that there are no significant ecological constraints that would prevent the proposed works. In addition, that additional surveys for bats, Great Crested Newts, reptiles, badgers and dormice are required to inform an ecological impact assessment of the site and an appropriate mitigation strategy.
35. Based on this information and without further detailed survey work there is a reasonable likelihood of protected species being present on or near the site. Without further survey work the effect of the proposal cannot be determined and I cannot, therefore, be satisfied that protected species would not be harmed. In light of the advice in the Framework it would not be appropriate to leave this to a condition.
36. I therefore conclude that the proposal would have an adverse effect on ecology and that it would conflict with paragraph 175 of the Framework which highlights that when determining planning applications, the aim should be to

⁷ Evans Rivers and Coastal, January 2018

⁸ Greenlight Preliminary Ecological Appraisal dated 20 February 2018

conserve and enhance biodiversity. It would also be in conflict with LP policies RLP 80 and RLP 84 and CS policy CS 8 which amongst other things seeks to resist development where there would be harm to protected species.

Provision of infrastructure

37. The appellants provided a certified planning obligation in the form of a unilateral undertaking as part of the appeal. This makes provision for 40% affordable housing and financial contributions towards the development's impact on early years and childcare facilities, primary school places, transport to secondary school, public open space within the site and outdoor sports facilities/allotments and local health care provision. It was agreed at the Hearing that the affordable housing provision would be policy compliant. It would be in accordance with the development, specifically CS policy CS2.
38. It was agreed by the Council that the education contributions in schedule 1 of the agreement would meet the requirements of the County Council. The school is at or near capacity in every year group. The development would add to need for places in the area. The contribution would mitigate the impact on primary provision and due to the location of the nearest secondary school a contribution is necessary to assist in funding of the transport provision.
39. Schedule 2 makes provision for outdoor sports facilities and allotment contributions whilst schedule 3 makes provision for public open space. the Council has not objected to the amount of open space or the current location on the indicative plans. Policy support for the provision of open space is within LP policy RLP138 and the Council's open space SPD whilst RLP139 refers to allotments. Schedule 4 seeks to secure a healthcare contribution. The Council confirmed that the amount is correct and that the money would be transferred to the NHS. The schedule would allow for it to be paid and transferred.
40. Based on the evidence presented, I consider that these contributions are necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind. Therefore, they would meet the tests within the CIL Regs and those in paragraph 56 of the Framework. The Council have pointed to a number of errors within the undertaking. However, as I am dismissing the appeal for other reasons, I have not pursued these matters. Overall, having regard to the matters secured by planning obligations and those which could be secured by condition I am content that through provision of the obligation the scheme would make adequate provision for the infrastructure needs arising from the proposal, consistent with the aims of the policies of the development plan.

Other material considerations

41. At the Hearing the appellants argued that the Council does not have a five year supply of land for housing suggesting it would be either 3.9 or 4.9 years depending on the method of calculation. An appeal decision was submitted⁹ which found that the Council's supply was in fact 4.45 years. Since the Hearing the appellants have submitted a further extract from a recent Council committee report. This sets out that the Council does not have a five year supply of land for housing stating that it is 4.51 years. In this context the appeal scheme would contribute to meeting the district's housing need and

⁹ APP/Z1510/W/18/3207509

thereby facilitate the government's aim of boosting significantly the supply of housing, through the contribution of up to 135 units.

42. Furthermore, within the planning obligation the scheme would contribute to meeting the need for affordable housing in the district with up to 54 affordable homes secured. This would accord with the requirements of the LP as well as the aims of the Framework. I consider that this obligation would be necessary to secure the affordable housing proposed in perpetuity, directly related to the development and fairly and reasonably related in scale and kind to the development. There would be no conflict with Regulations 122 & 123 of the Community Infrastructure Regulations 2010 (as amended) (CIL Regs) or paragraph 56 of the Framework. As such the provision of affordable housing would be a significant benefit of the scheme.
43. The scheme would also be likely to give rise to economic benefits. Construction employment and expenditure would be associated with the implementation of the scheme. Thereafter, future residents would be likely to support local services and facilities through direct as well as indirect expenditure. The appellants also submit that there would be benefits from local taxation and New Homes Bonus, although these are not quantified. The appellants also consider that the site would be an attractive and suitable location for housing. Moreover, it would provide a range of dwellings that would meet different needs. Nonetheless, I have found that, overall, the location of the site would not weigh in favour of the scheme. As such these economic and social benefits can only be apportioned limited weight.
44. In terms of environmental matters, I understand that the appellants submit that the site is close to existing housing, would have minor landscape effects, modest visual effects and simple design and landscape mitigation could be provided. In addition, the appellants consider that the existing 'blight' on the site, which they consider to be harmful, would be removed and there would be reuse and refurbishment of the listed building. However, for the reasons given, I have found that the scheme would have a harmful effect on the character and appearance of the area and the setting of the listed barn. As such the environmental aspects do not weigh in favour of the scheme.

Planning Balance and Conclusion

45. The appeal site is located outside of the defined development boundary for Gosfield. Therefore, for the purposes of the application of planning policies it is located in the countryside and would contravene policies for control of development in the countryside. As such it would be in conflict with RLP 2 and CS 5 in so far as it seeks to protect the countryside surrounding settlements. CS 5 seeks to protect and enhance the landscape character of the Countryside. respects. The revised Framework sets out the need to '*recognise the intrinsic character and beauty of the countryside*' at paragraph 170 (b). CS 5 is consistent with national planning policy in so far as it and seeks to protect the character of settlements and the countryside. As such I consider that this policy would not be out of date when considering the issue of landscape character and the effect of providing housing in this countryside location.
46. There is no dispute that the appeal site is not subject to any designations which indicate that development should be restricted for the purposes of footnote 6. Footnote 7 is clear that applications involving the provision of housing where the local planning authority cannot demonstrate a five year supply of housing

will render the most important policies out of date. In this regard policy RLP 2 is out of date and as such the tilted balance test at paragraph 11(d) is engaged.

47. The adverse impact relates to the harm to the character of the landscape by virtue of the change from countryside to housing. This would run counter to the core planning principle of recognising the intrinsic character and beauty of the countryside and to designing developments which add to the overall quality of an area. In addition, there would be harm to the setting of the Listed Barn and to protected species. In my judgement, this harm carries substantial weight. Further, I have found that the scheme would harm the character and appearance of the area. In this regard it would be in conflict with policy CS 5 and the Framework. In addition, the scheme would lead to harm to the setting of the nearby listed barn and ecology. These are matters to which I also attach significant weight.
48. In terms of benefits, the construction of up to 135 dwellings would deliver market and affordable housing which adds weight to the social benefits which this proposal might bring through the provision of homes. The appellants suggest that there are other social and economic benefits arising from the appeal which I have considered in turn in the paragraphs above. However, none of these amount to more than limited weight either individually or collectively.
49. If policies for the supply of housing land are not up to date then less weight must be given to policy objectives in relation to the location of development. Whilst this proposal would deliver social and economic benefits they would, to my mind, be significantly and demonstrably outweighed by the adverse effect of the provision of 135 dwellings and the associated environmental harm identified. Therefore, even if I were to conclude there is a shortfall in 5 year supply of the scale suggested by the appellants, the adverse impacts of granting permission that I have identified would significantly and demonstrably outweigh the benefit of the provision of dwellings in this case.
50. The proposal would be in conflict with development plan policies CS 5, CS 7, CS 8, CS 9, RLP 80, RLP 84, RLP 90, RLP 100. Therefore, it would be in conflict with the development plan as a whole. The proposal should also be assessed on the basis of the tilted balance set out at paragraph 11 of the Framework which is a material consideration. On this point I have found that the harm from the scheme would significantly and demonstrably outweigh the benefits of the provision of dwellings in this case. As such the Framework is a material consideration which also weighs against the proposal. Therefore, in the circumstances of this appeal the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.
51. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Robert Pomery	Pomery Planning Consultants
Lyndon Gill	Barton Willmore
Andrew Winter	Barton Willmore

FOR THE LOCAL PLANNING AUTHORITY:

Lisa Page	Braintree District Council
Kathryn Carpenter	Braintree District Council
Neil Jones	Braintree District Council
Nicolas Page	Essex County Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Appellants' table – Average build out rate from BDC Appendix 3
- 2 Appellants' table – Lead time and delivery rates in recent large sites in Braintree District as at end October 2019
- 3 Conservation Area Plan
- 4 IT1841/TA/02 – Proposed site access plan