



## Appeal Decision

Site visit made on 1 October 2020

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> October 2020**

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**Appeal Ref: APP/Z1510/W/20/3249484**

**Land at Clifton House, Harrow Cross Road, Sible Hedingham CO9 3RR**

- 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 Mr M Jennings against the decision of Braintree District Council.
  - The application Ref 19/01335/OUT, dated 25 July 2019, was refused by notice dated 7 November 2019.
  - The development proposed is the erection of 2 pairs semi-detached two bedroomed dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The original application was made in outline with all matters reserved. An illustrative layout plan (ref 18/053-01B) has been provided to show a potential form of development. While I have had regard to this plan, I have treated all elements shown as indicative only.
3. A recent letter from the Inspector examining the Braintree Draft Local Plan (DLP) considers the plan as submitted is unsound. Therefore, little weight can be given to any of the DLP policies referenced in the decision notice.

### Application for costs

4. An application for costs was made by Mr M Jennings against Braintree District Council. This application is the subject of a separate Decision.

### Main Issues

5. The main issues are:
  - a) whether the location of the development would provide acceptable access to services and facilities;
  - b) the effect of the development on the character and appearance of the area, including trees; and
  - c) the effect of the development on protected species.

### Reasons

#### *Accessibility*

6. The appeal site comprises a plot of woodland adjacent to a small number of properties clustered along School Road and Harrow Cross Road beyond the

- settlement of Sible Hedingham. There is also a scrap yard for cars immediately to the south east. Beyond the site and cluster of properties are fields and further woodland.
7. The site lies outside the settlement boundary for Sible Hedingham and so is considered to be with the countryside in terms of the development plan. Policy RLP2 of the Braintree Local Plan Review 2005 (LPR) and Policy CS5 of the Braintree Core Strategy 2011 (CS) restrict development outside of settlement boundaries to protect the countryside and natural resources.
  8. Sible Hedingham is classified as a Key Service Village in the CS. It contains a good range of services and facilities including primary and secondary schools, shops, a post office, two petrol stations and a doctors' surgery with pharmacy. The site is approximately 1.2km from the centre of Sible Hedingham. Such a distance can be travelled by foot or bicycle in under 30 minutes. The CS defines accessible locations as within 30 minutes' walk or cycle of a retail centre, schools and doctors' surgery.
  9. The shortest route between the site and the village centre is along School Road and either Alexandra Road or Church Street/Rectory Road. Over half of the route is along pavements with street lighting and a 30mph speed limit. It would be straightforward to walk or cycle this section. However, between the site and the primary school there is no pavement or lighting, the road is only wide enough for a single vehicle and the national speed limit applies.
  10. The distance between the site and school is not insignificant and there are few passing places. It would not encourage future occupiers of the development to walk or cycle, particularly at night, in poor weather conditions, or if they had young children. Therefore, even though the route is physically within a 30 minute walking or cycling distance, future occupiers are likely to be largely reliant on the private car to access services and facilities. This is regardless of whether or not there would be unacceptable impacts on highway safety.
  11. The route may be preferable to the route from Cobbs Fenn to the village centre via Lamb Lane, which is very narrow and enclosed, but it still does not provide good accessibility by all modes of transport. The public footpath that runs south past the site and then east towards the village centre would only be suitable in daylight and good weather. The appeal decision at Foxearth<sup>1</sup> found that accessibility by cycle weighed in favour of allowing that proposal. However, I have insufficient information on the site and route involved in that appeal and so can give it limited weight.
  12. In conclusion, while the development would not be isolated, its location would not provide acceptable access to services and facilities. Therefore, it would not accord with CS Policy CS7 which seeks to promote accessibility for all and states that future development will need to be provided in accessible locations to reduce the need to travel. The development would also not accord with LPR Policy RLP2 and CS Policy CS5 insofar as they seek to ensure that most development is located within settlement boundaries.

*Character and appearance, including trees*

13. The area surrounding the site consists of detached dwellings with a good level of separation space and vegetation between properties. There is also a large

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<sup>1</sup> APP/Z1510/W/17/3172400

amount of woodland on the eastern side of School Road which provides a green backdrop to the properties. Thus, the area has a strong rural character with a cluster of properties surrounded by countryside.

14. As an outline application with all matters reserved, the details of the dwellings provided by the appellant are illustrative only. Semi-detached properties do not have to be mirror images of each other. However, even with asymmetrical design, it would be obvious that there were two pairs of semi-detached properties in terms of elements such as front doors and car parking. There would be no separation between each pair of semi-detached properties.
15. The housing would represent a form of infill development and would be set back from the road. It is possible that internal and external space standards could be met. However, the site itself is not overly large and so the properties are likely to appear cramped compared to the existing pattern of housing. This would result in a more suburban form of development at odds with the rural character and appearance of the area.
16. The site also contains a number of well-established trees. No arboricultural information has been provided with the application or this appeal regarding the condition of the trees but it is apparent that they are fairly mature and of reasonable quality. They form part of the green backdrop to the existing area.
17. The Council's validation checklist states that all applications where trees are potentially affected by development should provide a tree survey. Whether the Council should have requested such a survey before validation does not justify its absence, neither does the lack of comments from the Council's landscape adviser on the previous application. Without arboricultural information, the extent of tree retention is not clear. However, it is plausible that the eventual layout of the development would result in the loss of many trees within the site. This would have a negative effect on the rural character of the area.
18. Concluding on this main issue, the development would have a negative effect on the character and appearance of the area including trees. Therefore, it would not accord with LPR Policies RLP80 and RLP90 or CS Policies CS5 and CS8 which, amongst other things, require development to safeguard the countryside and landscape features such as trees, and be of a high standard of layout and design to reflect local distinctiveness. The development would also not comply with section 12 of the National Planning Policy Framework (NPPF) which seeks well-designed places that are sympathetic to local character and the surrounding landscape setting.

#### *Protected species*

19. The Council's ecology adviser requested a preliminary ecological appraisal at the application stage. The Council's validation checklist confirms that surveys are required for areas of natural habitat and/or existing buildings likely to provide a habitat for protected species. The failure to request a survey at the validation stage and the lack of previous comments from the ecology adviser does not automatically justify its absence.
20. The main parties have provided little information on whether the site constitutes an area of natural habitat. However, given the number of trees on site, there is a reasonable potential for protected species being present and affected by the development. Natural England standing advice clarifies that it is

necessary to be certain of impact on protected species prior to the determination of an application. The absence of an ecological appraisal makes it difficult to conclude for certain on the presence of protected species.

21. Concluding on this main issue, the development is lacking in sufficient information to show that there would be an acceptable impact on protected species. Therefore, it would not accord with LPR Policy RLP80 or CS Policy CS8 which, amongst other things, require development to include an assessment of their wildlife impact and protect the district's habitats and biodiversity.

#### *Planning balance*

22. The Council accepts that it is currently unable to demonstrate a 5 year housing land supply. The Council considers the figure stands at 4.52 years whereas the appellant states it is 4.15 years. In either case, there is a shortfall. In addition, LPR Policy RLP2 and CS Policy CS5 restrict housing outside settlement boundaries which is not entirely consistent with national policy that seeks a role for all settlements in delivering sustainable development in rural areas.
23. As a consequence, policies that are most important for determining the proposal are out of date based on NPPF paragraph 11(d) and footnote 7. NPPF paragraph 11(d) states that permission should be granted unless one of two criteria apply. The parties have not sought to argue that the first criterion applies in terms of areas of particular importance, so I have focused on the second criteria in paragraph 11(d)(ii).
24. Moving onto the second criterion in NPPF paragraph 11(d)(ii), there are a number of social and economic benefits arising from the development. This includes the provision of 4 new dwellings which could be promoted as starter homes for young families. It would help to boost the supply of housing mindful that the supply could be as low as 4.15 years. There would be investment in the local economy and services from the construction phase and also once the dwellings were occupied. This would help to enhance or maintain the vitality of rural communities in line with NPPF paragraph 78. However, the limited number of homes means that such benefits would be modest at best.
25. In terms of environmental benefits, the development would be energy efficient and make use of internet technology to reduce trips. However, such benefits could apply equally to housing in any location. With the limited number of dwellings they only carry modest weight. There is little evidence to conclude that the site is previously developed land. In any case, I have found that the development would harm character and appearance rather than improve it and so any benefit from re-using the land would be limited in this instance.
26. In terms of the adverse impacts, there would be a large reliance on the private motor car. While the amount of development would restrict the number of trips, there would still be an inefficient use of resources and a lack of accessibility to services. In addition, the development would have a negative effect on the character and appearance of the area, including trees, while insufficient information has been provided to demonstrate that the effect on protected species would be acceptable. Therefore, the adverse impacts carry significant weight and would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework assessed as a whole. As a consequence, the presumption in favour of sustainable development in NPPF paragraph 11 would not apply.

27. In conclusion, the development would conflict with LPR Policies RLP2, RLP80, RLP90 and CS Policies CS5, CS7 and CS8. While the weight to be given to LPR Policy RLP2 and CS Policy CS5 is tempered by consistency issues with national policy, there would still be conflict with the overall adopted development plan. There are no considerations that lead me to conclude against the development plan and the adverse impacts I have identified.

### **Conclusion**

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

*Tom Gilbert-Wooldridge*

INSPECTOR