
Appeal Decision

Site visit made on 6 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: Z1510/W/20/3250258

Land North of Hamsters Close, Oak Road, Pebmarsh, CO9 2AW

- 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 D P Nott & Sons Limited against the decision of Braintree District Council.
 - The application Ref 19/01956/OUT, dated 28 October 2019, was refused by notice dated 4 February 2020.
 - The development proposed is erection of 1 no. detached one and a half storey dwelling with parking/garage and new vehicular access from Oak Road.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 1 no. detached one and a half storey dwelling with parking/garage and new vehicular access from Oak Road, at Land north of Hamsters Close, Oak Road, Pebmarsh, CO9 2AW, in accordance with the terms of the application, Ref 19/01956/OUT, dated 28 October 2019 and the conditions in the schedule attached to this decision letter.

Procedural Matters

2. The appeal seeks outline planning permission with all matters reserved except for access. I have treated any matters other than access shown on the submitted drawings as being purely illustrative.
3. Reference has been made to the Braintree District Publication Draft Local Plan 2017. As this is still undergoing changes I am unable to afford it any significant weight in my decision.

Main Issues

4. The main issues are whether or not the proposed development would 1) be in a suitable location having particular regard to access to services; and 2) would result in any unacceptable harm to the character and appearance of the area.

Reasons

Location

5. The appeal site comprises part of an arable field, situated alongside a small residential cul-de-sac development on the edge of the village of Pebmarsh. All parties are agreed that the site lies outside of the village envelope and as such, for the purposes of planning policy, it is defined as being in the countryside.

6. Pebmarsh is a relatively long settlement, which is interspersed, in parts, by open fields. This is not uncommon in rural areas. Although I am advised that Hamsters Close and other residential development along Oak Road lies outside of the village envelope, it does, in my view, form part of the built up area of the village. In reaching this view, I observed on my site visit that the village sign posts and 30mph speed limit signs, which apply to built up residential areas, are located to the north of the site on Oak Road, to the west of the junction of Oak Road adjacent to the village playing field, and to the east of the village adjacent to the Londis convenience store and other facilities.
7. Residents of Pebmarsh benefit from a number of services and facilities including a primary school, convenience store, a restaurant/cafe, hairdressers, a community run public house, village hall, playing field and a church. These are all within reasonable walking and/or cycling distance of the appeal site albeit it is noted that new Courtyard retail units are located at the opposite end of the village to the site, approximately a 15-20 minute walk away. There is also a bus stop approximately 200 metres from the site offering services to and from the larger settlements of Halstead and Sudbury. Buses leave approximately every hour during the daytime, except on Sundays when there are no services.
8. The council point out that there is no footpath and street lighting along Oak Road. However, I observed on my site visit that the short stretch of road between the site and the junction of Oak Road, where the nearest bus stop is located and where the footpath begins, is within the 30mph zone. It is lined by residential properties with off road parking and there are well maintained grass verges along much of the route. The road was not busy and the absence of a footpath and lighting would not deter people from walking or cycling to the bus stop and to other nearby services in the village. Other sections of the village also have no footpath and limited street lighting, which is not unusual in rural areas.
9. As such future residents of the proposed dwelling would not be isolated, would have access to a reasonable level of facilities and would have a choice of transport options for accessing local services, including those in nearby villages and larger settlements. Whilst it is inevitable that some journeys would be undertaken by car, paragraph 103 of the National Planning Policy Framework (the Framework) acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
10. Both parties have referred to numerous appeal decisions that they consider to be comparable. However, as I am unaware of the full circumstances of any of those cases I have determined this case based upon its own merits and my own observations from my site visit.
11. The proposed development would conflict with policy CS5 of the Braintree Core Strategy 2011 (CS) and saved policy RLP2 of the Braintree Local Plan Review 2005 (BLPR), which seek to ensure that development outside of village envelopes will be restricted to uses appropriate to the countryside or to other rural exceptions.
12. However, for the reasons given above, I conclude that the site would not be in an isolated or inaccessible location and I therefore find no conflict with policy CS7 of the Core Strategy.

Character and appearance

13. Being located on the edge of the village the site is very rural in terms of its character and appearance. It is bound to the south by a small modern cul-de-sac comprising low rise bungalows and one and a half storey dwellings. Other properties along Oak Road are generally two-storeys high. There is an established hedgerow along the site frontage, the retention or replacement of which could be secured as part of the landscaping reserved matter. A permanent gap in the hedgerow would be required in order to facilitate the new vehicular access. However, this would not result in any significant harm.
14. The new dwelling and its curtilage would extend no further west than the adjoining Hamsters Close development and no further north than the residential curtilage of the dwelling on the opposite side of Oak Road. Moreover, the size of the plot would not be dissimilar to that of the dwelling opposite the site. Although scale is a reserved matter, the description of development refers to a one and a half storey dwelling. This would reflect the height of adjacent dwellings.
15. The council's decision notice refers to the size and scale of the footprint of the proposed dwelling as being overly dominant and incongruous. However, these matters are reserved for future consideration and the drawings submitted are for illustrative purposes only, with the exception of the access details. As such saved policy RLP90 of the BDLP and policy CS9 of the CS, which relate to design and layout, are not relevant at this stage.
16. For the reasons given above, I conclude that subject to appropriate scale, siting, appearance and landscaping details being agreed at the reserved matters stage, the proposal for a single one and a half storey dwelling, would have a very limited visual impact, which would not diminish the rural character and appearance of the countryside. Accordingly the proposal would not conflict with saved policy RLP80 of the BDLP or policy CS8 of the CS, which seek amongst other things to ensure that new development has regard to the character of and can be successfully integrated into the local landscape.

Planning balance

17. The council has confirmed that its latest five year housing land supply position is 4.52 years. The absence of a five year housing land supply does not automatically mean that planning permission should be granted. However, it does mean that the development plan policies which are most important for determining the appeal are out of date. Moreover, those policies that I have identified a conflict with (BLPR policy RLP2 and CS policy CS5) are not entirely consistent with the Framework, which has a more flexible approach to new housing in rural areas, provided it would not be isolated.
18. Consequently, the tilted balance is engaged and planning permission should be granted unless the policies in the Framework provide a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The proposal would result in some short term economic benefits in terms of the employment provided during the construction of the dwelling and the purchase of construction related materials. Over the longer term, future occupiers of the

development would support the local economy by utilising local services and facilities, assisting in maintaining their viability.

20. The social benefit of the proposal would be the provision of a new home, which can be delivered quickly and would make a modest contribution to the council's housing land supply. Future occupants of the dwelling would contribute to the vitality and viability of the rural community in accordance with paragraph 78 of the Framework.
21. In environmental terms I have found that the dwelling would be located close to a bus stop, offering a reasonable level of services for a rural location, as well as being close to a number of local services and facilities. As such future residents would not need to be entirely dependent upon a private car to meet their day to day needs. The proposal also offers the opportunity to provide biodiversity gains through the introduction of appropriate new landscaping that can be secured at the reserved matters stage.
22. The council consider the benefits from a single dwelling to be minor. However, modest growth is often all that is required to support rural villages, which do not have the level of infrastructure and services required to accommodate large scale growth.
23. The provision of a single dwelling on the edge of a built up area would have a minimal visual impact on the character and appearance of the countryside, which can be mitigated with landscaping in order to avoid any harm. Whilst cars may be used for some journeys, alternative modes of transport are available. The adverse impacts I have identified are very limited and would not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole. The presumption in favour of sustainable development would therefore apply.
24. In conclusion, the proposal would conflict with BLPR policy RLP2 and CS policy CS5, which seek to avoid new housing in the countryside other than in exceptional circumstances. However these policies are not entirely consistent with the Framework and in the absence of a five year housing land supply these policies are out of date. The weight afforded to these policies is therefore very limited. I have found that the proposal would result in some positive benefits and no significant harms. The proposal would constitute sustainable development and accordingly, despite the conflict with the development plan, planning permission should be granted.

Conditions

25. I have imposed standard conditions relating to the submission and timing of reserved matters applications and the commencement of development. It is necessary to require compliance with the submitted plans, but only in relation to the access, which is not reserved. I have imposed conditions relating to the construction and surfacing of the access, visibility splays and piping of the ditch beneath the new access in the interests of highway safety and satisfactory drainage. Whilst there is nothing before me to suggest that piling would be necessary, in the event that it is necessary, I have imposed a condition requiring details to be agreed as to how the resultant noise and vibration would be mitigated in order to protect residents living adjacent to the site. Finally, I have imposed a condition to ensure that in the event any contamination is

discovered, it is reported and dealt with appropriately in the interests of protecting the environment.

26. I have not conditioned materials, tree protection, landscaping and boundary treatment, all of which will be covered by a future reserved matters application. As the dwelling is intended to be occupied by the appellant, who is familiar with the local area, the provision of a travel pack would not in my view be necessary or meet the relevant tests for conditions. The construction of a single dwelling is unlikely to result in any significant noise and disturbance over a long period of time and the burning of waste can be controlled under other legislation. As such I do not consider it necessary to impose conditions restricting construction times and burning.

Conclusion

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

Rachael Bartlett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, hereinafter called "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. 2620/01 location plan and Drawing No. 2620/03 proposed site plan. In respect of Drawing No. 2620/03 only the means of access is hereby approved.
- 5) Prior to occupation of the development, the access at its centre line shall be provided with a visibility splay with dimensions of 2.4 metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of obstruction above 600mm at all times.
- 6) Prior to occupation of the development, the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres, shall be retained at that width for the first 6 metres and shall be provided with an appropriate vehicular crossing over the highway verge.
- 7) No unbound material shall be used in the surface finish of the driveway within 6 metres of the highway boundary.
- 8) Prior to the access being constructed, the ditch beneath it shall be piped or bridged, in accordance with details that shall first be submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in accordance with the approved details and shall thereafter be so retained.
- 9) No piling shall be undertaken on the site in connection with the construction of the development until a scheme to minimise noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be adhered to throughout the construction process.
- 10) In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. The agreed remediation measures shall be completed in full prior to the occupation of the dwelling.