



Appeal Decision

Site visit made on 14 December 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Appeal Ref: APP/Z1510/W/20/3255306

Land adjacent to Fox House, Church End, Shalford CM7 5HA

- 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 & Mrs Matthews against the decision of Braintree District Council.
 - The application Ref 20/00008/OUT, dated 2 January 2020, was refused by notice dated 11 March 2020.
 - The development proposed is described as "outline planning permission for the construction of a single dwelling house with all matters reserved apart from access".
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Decision

1. The appeal is allowed and outline planning permission is granted for construction of a single dwelling house with all matters reserved apart from access at land adjacent to Fox House, Church End, Shalford, CM7 5HA in accordance with the terms of the application, Ref 20/00008/OUT, dated 2 January 2020, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council has submitted its emerging Local Plan for examination. The emerging plan is some way from adoption, and consequently its policies attract limited weight in the determination of this appeal.
3. The application was made in outline with all matters other than access reserved for later consideration. The submitted plans have therefore been treated as illustrative on all other matters.

Background and Main Issues

4. A preliminary ecological appraisal was submitted with the appeal in response to the Council's third reason for refusal. The Council has accepted that this reason for refusal is overcome, subject to an appropriately worded condition.
5. The main issues are therefore:
 - The effect of the development proposed on the character and appearance of the area; and,
 - Whether the appeal site is in a sustainable location for housing, having regard to its accessibility to local services and facilities.

Reasons

Character and Appearance

6. The appeal site is visible in the street scene as a gap between Fox House and Acorns. This side of the street is characterised by houses leading into Church End with spacing between individual houses or pairs of houses. Fox House, the host property, is attached to Old Fox Cottage. The garden to that property leads into the built-up area of the village, although the gap formed by that garden is largely obscured in the street scene by planting. The appeal site is therefore a substantial gap in the row of houses leading into the village that contributes to the low density, rural character of the area.
7. While the detailed scale, layout and appearance of the development are reserved matters, the introduction of a house and resulting proliferation of domestic paraphernalia would be harmful to the open, rural character of the site and the wider area.
8. The development proposed would therefore be harmful to the character and appearance of the area. It would conflict with Policies CS5, CS8 and CS9 of the Braintree Core Strategy 2011 (the CS) and Policy RLP90 of the Braintree Local Plan 2005 (the LP). Together these policies require, amongst other criteria, that development protect and enhance the landscape character of the countryside and that it shall be in harmony with the character and appearance of the surrounding area.

Location

9. The appeal site lies a short distance outside the built-up area of Church End. Policy RLP2 of the LP states that new development will be confined to the areas within Town Development Boundaries and Village Envelopes, and that outside of these areas countryside policies will apply.
10. Policy RLP16 states that individual dwellings may be acceptable where they would infill a gap in a defined nucleus of at least ten dwellings, where it would not be detrimental to the character of the surroundings.
11. Policy CS7 of the CS states that future development will be provided in accessible locations to reduce the need to travel.
12. The appeal site is outside of any defined village envelope and is not part of a defined nucleus of at least ten dwellings. The footpaths and pavements within the village do not extend to the site, while the road is unlit and curves past the site on the approach into the village, somewhat limiting visibility of pedestrians and cyclists in the road. There is a limited local bus service serving neighbouring settlements, and Church End has some services including a primary school, shop and village hall. However, residents of the proposed dwelling would still need to travel further afield to reach other services and facilities and would mainly be reliant on private transport to do so.
13. The development proposed would therefore conflict with the requirements of Policies RLP2 and RLP16 of the LP, and CS7 of the CS, which are set out above.

Other Matters

14. The Council considers, subject to an appropriate layout and design secured at reserved matters stage, that the development would not cause demonstrable harm to the living conditions of neighbouring occupiers. I see no reason to

disagree with this conclusion, given the size of the site and ability to control the size and siting of any house built on the site, as well as the size and siting of any windows.

15. Both parties have drawn my attention to appeal decisions that they consider to be relevant to this appeal. The Inspectors determining the cases highlighted by the Council found in each instance that the appeal sites were a significant distance from services and facilities. These appeals all therefore differ from this case, where the appeal site is relatively close to the nearest facilities and services. I have therefore given my colleagues' decisions limited weight in determining this appeal.
16. The appeal decisions referred to by the appellant were either for sites in different authorities operating under different development plan policies, for substantially larger developments or both. They therefore attract limited weight in the determination of this appeal due to the materially different circumstances. With regard to the 2017 High Court decision, the site is not isolated and therefore the decision is not of direct relevance to this appeal.
17. The appellant has also referred to the decision by the Council to grant permission for development of land adjacent to Old Fox House. However, that site had been allocated for development in the emerging Local Plan. While only a draft allocation, this was nevertheless given weight by the Council in determining the application. The appeal site does not benefit from any such allocation, and consequently the Council's decision attracts limited weight.
18. There is an established tree within the site, the retention of which would be of ongoing benefit to the character of the surrounding area. This can be secured through consideration of the layout of development at the reserved matters stage.

Planning Balance

19. Harm to the character and appearance of the area would result from the development proposed, although the appeal site lies within a row of houses several of which occupy similarly sized plots. In addition, the appeal site lies in the countryside, and is not in a particularly sustainable location in terms of access to services and facilities, although some are available within the village. There would therefore be modest cumulative harm arising from the development proposed.
20. I have found that the development proposed would overall conflict with the criteria of Policies RLP2, RLP16 and RLP90 of the LP, and Policies CS5, CS7, CS8 and CS9 of the CS. Collectively these address matters of character and appearance and proposals on sites beyond the defined development boundaries. As this is an outline application with most matters reserved, the most important policies for the determination of this appeal are Policies RLP2, RLP16, CS5 and CS7.
21. The Council cannot demonstrate a five year supply of housing land. Where this is the case, paragraph 11 of the National Planning Policy Framework (the Framework) states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. However, this does not change the statutory status of the development plan as the starting point for decision making.

22. Policies RLP2 and CS5 broadly seek to limit development in the countryside only to uses considered appropriate. This is not consistent with the Framework, and therefore the weight attributed to the conflict with these policies is limited.
23. Policy RLP16 seeks to limit housing in the countryside based on a number of criteria. While these primarily relate to matters of character and appearance, given the shortfall in housing land supply only moderate weight can be attributed to the conflict with this policy.
24. Policy CS7 seeks to improve accessibility and reduce the need to travel. This policy is consistent with the aims of the Framework, and the conflict with this policy attracts full weight.
25. Policies RLP90, CS8 and CS9 broadly seek to ensure a high standard of design and quality of development, including having regard to the character of the landscape and the promotion of the use of the most sustainable modes of transport. The conflict with these policies attracts full weight, as they are consistent with the Framework.
26. The development proposed would create a single unit of additional housing. The ongoing occupation of the dwelling would result in economic and social benefits from the support for local services and facilities, as well as short-term economic benefits from the construction of the house. The benefits resulting from a single dwelling would overall be moderate given the existing shortfall in the Council's housing land supply and the Government's stated objective of significantly boosting the supply of homes.
27. Given the moderate harm that would result from the development proposed, it would not significantly and demonstrably outweigh the resulting benefits, when assessed against the policies of the Framework taken as a whole.

Conditions

28. I have had regard to the conditions suggested by the Council, and where necessary amended their wording to better reflect national Planning Practice Guidance.
29. I have imposed standard conditions relating to the submission of reserved matters, commencement of work and confirming the approved plans.
30. A condition is necessary to ensure that appropriate biodiversity mitigation and enhancement measures are put in place as part of the development.
31. Finally, two conditions are required to ensure that the site access is appropriately located to allow safe visibility in both directions, and to avoid loose material spilling onto the highway.
32. Conditions relating to details of external materials and landscaping are not necessary, as these would be addressed as part of any reserved matters application.

Conclusion

33. For the reasons set out above, the appeal succeeds.

M Chalk

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 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: 11702 01A; Preliminary Ecological Appraisal; 11702 04 (only insofar as it pertains to the access).
- 5) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (The Ecology Partnership, June 2020) as submitted with the appeal and agreed in principle with the local planning authority prior to determination.

This may include the appointment of an appropriately competent person e.g. an ecological clerk of works to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

- 6) Prior to occupation of the development, the access shall be provided as shown in submitted drawing 11702 04 with a clear to ground visibility splay with dimensions of 2.4 metres by 70 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the dwelling is first occupied and shall be retained free of any obstruction at all times.
- 7) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.