
Appeal Decision

Site visit made on 10 November 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2021

Appeal Ref: APP/Z1510/W/20/3247261

Land between Paddock House and White Barn, Coggeshall Road, Kelvedon, Essex CO5 9PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Johnson against the decision of Braintree District Council.
 - The application Ref: 18/01833/FUL, dated 27 September 2018, was refused by notice dated 22 August 2019.
 - The development proposed is described as detached dwelling and detached garage.
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Decision

1. The appeal is dismissed

Procedural Matters

2. Although the emerging Braintree Local Plan (LP) is at an advanced stage, it is yet to be adopted and its policies may be subject to further change, which limits the weight to be attached to it. The saved policies of the Braintree District Local Plan Review (2005) (LPR) and the Braintree District Core Strategy (2011) (CS) therefore constitute the development plan for the purposes of the appeal. I will determine the appeal on this basis.

Main Issue

3. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the proposed development's location is suitable and accessible, with particular reference to reliance on the private car and vitality of the rural community.

Reasons

Character and appearance

4. The appeal site comprises grass and trees on a plot of land located off a private road that adjoins a rural stretch of the B1024 Coggeshall Road. The site is outside settlement boundaries and so designated as countryside in the development plan.

5. From what I saw during my site visit, the vicinity of the site reads 'on the ground' as a spacious cluster of larger detached dwellings of various size and footprint, located off a private no through road which culminates at a property neighbouring the appeal site. The appeal site sits within the cluster between dwellings to the north and south. A twentieth century mock Tudor style is noticeable within the cluster, with some 'Italianate' styling to one of the properties. White render, clay tile and soft red brick are recurring materials. A farmhouse of traditional appearance on the opposite side of Coggeshall Road from the host cluster adds further variety to the local character. The site does not comprise heritage assets. The cluster of properties is set within a mature sylvan framework, which includes perimeter hedging and trees on the appeal site, the latter of which are protected by Tree Preservation Order.
6. The above together give the host cluster a 'baseline' of traditionally inspired style with some grandeur, with touches of eclecticism and modernity in the mix. This developed cluster contrasts visually with the open, arable character of fields beyond.
7. I am mindful of concern about consolidation of sporadic development, as expressed by the Council in relation to the current proposal, and by a previous Inspector regarding a proposed dwelling on the site in 1999. However, the full details of the previous proposal and evidence of the character of the site and the area, around two decades ago, are not before me. Furthermore, character and appearance analysis of other appeal sites elsewhere in the district has a limited bearing on my decision as the current appeal site has its own setting and circumstances. Looking freshly at the appeal proposal, including the current character of the site and its setting, I assess this case on its own merits.
8. The eastern part of the host cluster comprises a linear sequence of residential properties located between Coggeshall Road and Paddock House. This provides a relative regularity of development pattern which is not sporadic. The proposed dwelling would be sited between existing dwellings on neighbouring plots, within the eastern half of the existing cluster of residential development. Consequently, the proposal would not consolidate sporadic development.
9. The majority of trees on site, including most of the perimeter trees and some of the frontage hedging would be retained, thereby preserving the sylvan framework which is characteristic of the host cluster. Furthermore, a high quality landscape scheme could be secured by planning condition.
10. Within this context, the proposed detached house with its two-storey form, pitched gabled roofscape, jettied elements and relatively conventional fenestration style would give the appearance of a traditionally inspired, detached home with touches of individuality, set within a sylvan framework. As such the proposal would acceptably blend in with the host cluster's character mix. Consequently, the proposal would appear as a sympathetic infill development which would not diminish the character and appearance of the host cluster or the wider arable landscape. Nor would the proposal diminish the sense of separation between the host cluster and Kelvedon village.
11. Given my above findings and that each case is to be assessed on its own merits, the proposal would not set a precedent for consolidation of sporadic development or further infilling of large gaps.

12. In conclusion, the proposal would not harm the character and appearance of the area, including the landscape character of the area. As such, in respect of this main issue it would not conflict with Policies RLP9, RLP10, RLP16, RLP80, RLP81 and RLP90 of the LPR, and Policies CS5, CS8 and CS9 of the CS. Together the policies seek to ensure that, among other things, development complements local character.
13. While Policy RLP2 of the LPR does not explicitly mention character, it sets out that countryside policies apply outside settlement boundaries. As the proposal would not harm the character of the countryside, it would not conflict with Policy RLP2 in respect of character.
14. Policy CS7 of the CS does not cover local character and so is not engaged in terms of this main issue.

Whether a suitable location

15. Based on the main parties' descriptions, the proposal is located between around 1km and 1.4km from Kelvedon and its services and facilities including the railway station, and a similar distance from the settlement of Coggeshall.
16. It is likely that future occupants of the proposed dwelling would provide custom for local facilities and services, thereby contributing, on a small scale, to the vitality of the rural community. In this respect, the proposal would not be unsuitably located and would not conflict with the relevant development plan policies cited by the Council in this case.
17. However, the lack of footpath and street lighting on the stretch of B1024 Coggeshall Road in the vicinity of the appeal site would make walking into Coggeshall or Kelvedon to access the nearest bus or train services and other facilities in those settlements unsafe and unrealistic for future occupants of the proposed development. Therefore, future occupants are likely to have a high reliance on the private car to access services and facilities including employment, healthcare and leisure.
18. Electric vehicle charging points on the appeal site could be secured by planning condition. However, given the locational factors described above, even if electric vehicular transport were used by future occupants, this is not likely to result in replacement of reliance on the private car by alternative transport modes of walking, cycling and/or public transport.
19. Furthermore, for the reasons described above, the proposal would fail to suitably locate future residential development in order to promote non-car modes of transport in the district. This would undermine future achievement of this objective.
20. My attention is drawn to various other planning appeal decisions on other sites elsewhere in the district and beyond, as cited by the appellant, in respect of transport modes among other issues. These other cases differ from the current appeal cases in various ways. Either the site had easier access to public transport, substantially more dwellings were proposed, the site was in another local planning authority area, the benefits were found to outweigh the harm, or a combination of some of the above.

21. Council decisions on other sites cited by the appellant also differ from the appeal proposal in that they were not for a new dwelling or were outline and for a larger number of dwellings.
22. The above factors limit the extent to which the other cases are analogous to the current appeal proposal. Moreover, full details of the other cases are not before me and the appeal proposal has its own setting and circumstances. As such, I assess this case on its own merits.
23. In conclusion, the proposed development's location is not suitable and accessible, with particular reference to reliance on the private car. Therefore, it would conflict with Policy CS7 of the CS which seeks to locate development where it will reduce the need to travel, in the interests of accessibility and environmental sustainability.
24. While Policy RLP2 of the LPR does not explicitly mention reliance on the private motor car, its supporting text paragraph 3.14 explains the intention to protect non-renewable and natural resources, through concentration of future development within settlement boundaries and envelopes. In this respect, the likely resource impact of reliance on private motor cars instead of more environmentally sustainable, non-car modes of transport would lead the proposal into conflict with Policy RLP2 of the LPR.
25. The proposal includes parking space for future occupants and so Policy RLP56 of the LPR would not be contradicted.
26. Policy CS5 of the CS aims to protect the landscape character and biodiversity, geodiversity and amenity of the countryside. As the identified harm does not fall within the scope of Policy CS5, it is not engaged in respect of this main issue.

Other Matters

27. Following submission of a further ecological report by the appellant, the Council sets out that it does not offer any further evidence to continue to support the third reason for refusal, which related to bat survey and protection. In the light of the further report, the Council's ecology officer raises no objection to the proposal on ecological grounds and sets out that the matter could be addressed by planning condition. In the light of the above and proposed retention of the majority of trees on site, it is not necessary for me to consider this matter further.
28. The site falls within the zone of influence for European designated coastal habitat. As I am dismissing the appeal on other grounds, I have not undertaken an Appropriate Assessment of the proposal. Accordingly, it is not necessary for me to address this matter in further detail.
29. I note local residents' concerns about privacy, construction phase matters and highway safety which are beyond the scope of the reasons for refusal. As I am dismissing the appeal on other grounds, it is not necessary for me to address these matters further in this instance.

Planning Balance and Conclusion

30. According to the Council's Appeal Statement there is around half a year's shortfall of deliverable housing sites in the district. As such, policies which are

most important for determining the application are to be considered out of date. Therefore the 'tilted balance' as set out in paragraph 11 of the National Planning Policy Framework (the Framework) applies.

31. The absence of harm in terms of character and appearance is a neutral factor which does not weigh in favour of the proposal.
32. The proposal would contribute to local housing supply in the form of one new four bedroom dwelling, with associated socio-economic benefit to the area during and after construction. The lack of substantively detailed proposals for 'green' building technologies limits the weight attached to this suggested aspect. Overall, the public benefit would be limited by the scale of the proposed development. Furthermore, I have identified significant harm in relation to the suitability and accessibility of location.
33. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
34. As such, given the identified harm, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal fails.

William Cooper

INSPECTOR