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# Appeal Decision

Site visit made on 5 January 2021

**by J Bell-Williamson MA MRTPI**

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

**Decision date: 2 February 2021**

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**Appeal Ref: APP/Z1510/W/20/3256120**

**Land to West of Water Lane, Pebmarsh CO9 2NA**

- 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 C W and D M Chamley against the decision of Braintree District Council.
  - The application Ref 20/00441/OUT, dated 4 March 2020, was refused by notice dated 30 April 2020.
  - The development proposed is two detached 3 bedroom dwellings.
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## Decision

1. The appeal is allowed and outline planning permission is granted for two detached 3 bedroom dwellings at land to West of Water Lane, Pebmarsh CO9 2NA. The permission is granted in accordance with the terms of the application Ref 20/00441/OUT, dated 4 March 2020, subject to the conditions included in the Schedule at Annex A.

## Preliminary Matters

2. The application is for outline planning permission with all matters reserved for subsequent consideration. Drawings have been provided which show the layout of and access for the proposed dwellings on the site, although I have treated these as illustrative as these are reserved matters.
3. The Council refers in its decision notice to a number of policies from the Publication Draft Local Plan 2017, which is at examination stage. The National Planning Policy Framework (the Framework) indicates that weight may be given to relevant policies in emerging plans depending on a number of factors<sup>1</sup>. In this case, I accept that the plan is at a relatively advanced stage in its preparation, but it is not fully clear whether there are unresolved objections to any of the policies and, if so, how significant these are. For this reason, I find that only limited weight can be given to these emerging policies for the purposes of this appeal. Consequently, I have relied on the policies referred to from the adopted development plan.

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<sup>1</sup> Paragraph 48.

## **Main Issues**

4. The Council contends that there is insufficient information provided with the outline application to demonstrate the effects of the proposal on the surrounding area, including the settings of the Pebmarsh Conservation Area and nearby listed buildings. However, taking the appeal submissions as a whole I consider that sufficient information does exist to consider the effects of the proposal with regard to these matters and, therefore, the main issues in this case are as set out below.
5. The main issues are:
  - having regard to local and national policies, the suitability of the appeal site for the proposed development, including whether there would be adequate access to services and facilities for future occupiers; and
  - the effect of the proposed development on the character and appearance of the surrounding area, including whether it would preserve or enhance the character or appearance of the setting of the Pebmarsh Conservation Area and the effect on the settings of nearby listed buildings.

## **Reasons**

6. The appeal site forms part an agricultural field on the western side of Water Lane, close to the junction of Water Lane and The Street. It is outside but adjoining the Pebmarsh village envelope.
7. The appellants refer to the appeal proposal in the context of a pre-application enquiry for three dwellings, one of which has largely been built on land to the north of and adjoining the appeal site<sup>2</sup>. I have, however, considered this separate application for two dwellings on its individual merits, having regard to all the appeal submissions and circumstances on the ground at the time of the inspection.

### *Suitability of the Appeal Site*

8. Policy RLP 2 of the Braintree District Local Plan Review 2005 (the Local Plan) says that new development will be confined to the areas within Town Development Boundaries and Village Envelopes, and that outside these areas countryside policies will apply. As the site is outside the village envelope and the proposal does not comply with certain locational criteria in Local Plan Policy RLP16, Policy CS5 of the Braintree District Core Strategy 2011 (the Core Strategy) applies. This policy says that development outside settlement boundaries will be strictly controlled to uses appropriate to the countryside, in order to protect and enhance the landscape character and biodiversity, geodiversity and amenity of the countryside.
9. Both the Local Plan and Core Strategy pre-date the Framework, which does not preclude residential development in the countryside. The Framework says that policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside<sup>3</sup>. It also says that development of isolated homes in the countryside should be avoided unless

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<sup>2</sup> In accordance with permission ref 18/01626/FUL.

<sup>3</sup> Paragraph 170 a) and b).

particular circumstances apply<sup>4</sup>. Therefore, to the extent that these local policies require development to protect and enhance the countryside's character I give them weight with regard to considering this issue for the purposes of this appeal<sup>5</sup>.

10. The effect of the proposal on the character and appearance of the area is considered under the second main issue and, therefore, my consideration under this first main issue is confined to the question of whether there would be adequate access to services and facilities for future occupiers.
11. Policy CS7 of the Core Strategy concerns promoting accessibility and, amongst other matters, says that future development will be provided in accessible locations to reduce the need to travel. In this regard, this policy is consistent with the Framework, which stresses the importance of provision of sustainable transport modes and travel choice. However, the more recent national policy also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making<sup>6</sup>.
12. The Council indicates that Pebmarsh is a third tier village in the settlement hierarchy that lacks most of the facilities required to meet day-to-day needs. However, there is a bus stop, a public house, a playground, village hall and a primary school within walking distance of the appeal site. The nearest convenience store and hairdresser are just over a kilometre away.
13. The site is next to the village boundary and there is development on the opposite side of the road at Kings Mead and Pearson Close. Given these existing dwellings and the site's proximity to a number of facilities, it cannot reasonably be said to be an isolated location in the terms of the Framework. As already noted, the Framework recognises that maximising sustainable transport solutions will vary between urban and rural areas. It is to be expected, therefore, that some travel by private vehicle is likely in rural areas such as this. However, in this case there is also some opportunity to use public transport given the available bus service that is relatively close to the appeal site. In addition, due to the existing dwellings adjacent to the appeal site and its proximity to the village as whole, the addition of two dwellings will not significantly add to the journeys that already occur from this location.
14. The appellants draw attention to a recent appeal decision for a single dwelling, also outside the village envelope and not significantly distant from the appeal site<sup>7</sup>. In that case the Inspector noted the availability of the same services and facilities, and concluded for the same reasons as above that the site would not be in an isolated or inaccessible location.
15. Therefore, taking these findings as a whole, I conclude that there would be adequate access to services and facilities for future occupiers of the proposed dwellings and, therefore, no harmful effects in this regard. Consequently, there is no conflict with Policy CS7 of the Core Strategy, or with relevant policy in the Framework, as described above.

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<sup>4</sup> Paragraph 79.

<sup>5</sup> In accordance with paragraph 213 of the Framework.

<sup>6</sup> Paragraph 103.

<sup>7</sup> APP/Z1510/W/20/3250258 dated 29 October 2020.

*Character and Appearance and Designated Heritage Assets*

16. The appeal site is the north-eastern corner of a large agricultural field that lies to the south of The Street and west of Water Lane. This land is at a higher level than the village surrounds and, as such, it rises sharply away from Water Lane with a steep bank in the vicinity of the appeal site. Consequently, the proposed development would not impinge on any sense of openness or views across the field as these are not currently available from the lane. Moreover, the existing development on Kings Mead and Pearson Close means that the proposal would not harm the street scene opposite, which comprises largely detached dwellings as proposed here.
17. Given the height of the site above the surrounding area, the proposed dwellings would be unduly prominent and incongruous unless the ground were lowered to the same level as the surrounding dwellings. I note that the Council suggests a condition to require this matter to be addressed through the reserved matters, which I agree is necessary for the reasons given.
18. The boundary of the Pebmarsh Conservation Area runs along the southern side of The Street opposite the appeal site. Given the proximity of the site to this part of the conservation area, the appeal site forms part of its setting. There are a number of listed buildings located along The Street. The closest to the appeal site are the King's Head public house, directly opposite the junction of Water Lane with The Street; and Great Lengths, a detached dwelling on the opposite corner of the junction. Both buildings are Grade II listed. Due to their proximity, the appeal site also forms part of the setting of these buildings.
19. The conservation area encompasses the historic settlement, formed around the Grade I listed church. This part of the area near the appeal site reflects the largely linear pattern of development along The Street and roads running off it, with predominantly historic buildings but some more recent development also. The addition of the proposed dwellings would reflect this general development pattern and careful siting and design of the dwellings, through the reserved matters, to reflect their surroundings would aid their visual integration. As such, the proposal would preserve the character and appearance of the conservation area.
20. Approaching along Water Lane from the south the King's Head public house is a central feature visible across the road junction, which views contribute to its significance. From more distant views along the lane the listed building is framed by the bank to the left and vegetation to the right, despite the presence of development on Pearson Close and Kings Mead. Subject to the reserved matters, it is to be expected that the dwellings would be set back from the site frontage and together with the lower land form and appropriate landscaping, the dwellings would not impinge upon views of the public house. From views closer to the road junction, there is a transition to the more developed part of the village with the junction of Kings Mead and the garden fence running up to The Street, as well as the recently built dwelling on the opposite corner.
21. The new dwellings would be visible in relation to the King's Head nearer to the junction and, to a lesser extent, to the listed building known as Great Lengths. However, the listed buildings are already surrounded by existing development and, subject to the appropriate siting and appearance of the dwellings as well

as landscaping of the site, the proposal would preserve the settings of the historic buildings. In reaching these findings I am particularly mindful of the statutory requirements for decision makers to have special regard to the desirability of preserving the setting of a listed building<sup>8</sup>.

22. I acknowledge the Council's concern that allowing this proposal could set a precedent for further development. However, I am mindful of the principle that development proposals must be considered on their individual merits and I have found above that no unacceptable harm would result from the current proposal. Any future development proposals would need to be similarly considered on their merits against policies and circumstances pertaining at the time. However, current concerns about such proposals coming forward are not of sufficient weight to alter the above findings.
23. Accordingly, for all the above reasons, I conclude that the proposed development would not have a harmful effect on the character and appearance of the surrounding area and would preserve the character and appearance of the settings of the Pebmarsh Conservation Area and of nearby listed buildings. Consequently, it is not contrary to the following Local Plan policies: RLP95, concerning the preservation and enhancement of conservation areas and RLP100 concerning the effects of development on listed buildings and their settings; or to Policy CS9 of the Core Strategy, concerning protection and enhancement of the built and historic environment.
24. Local Plan Policy RLP90 concerns the layout and design of development and, therefore, is more appropriate to the subsequent consideration of reserved matters. The proposal is also not contrary to Policies RLP 2 and CS5, described under the first main issue, insofar as these address the effects of development on the character and appearance of the countryside.

### **Other Matters**

25. It is common ground between the main parties that the Council cannot identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework<sup>9</sup>. Consequently, footnote 7 to paragraph 11d) requires that permission should be granted, subject to two exceptions. However, given the above findings with regard to the main issues, there is no need to weigh this matter in the balance as the appeal succeeds irrespective of it. Nonetheless, I give significant weight to the fact that the two dwellings will make a small but important contribution to housing supply in circumstances where there is an acknowledged shortfall.
26. I have had regard to a number of other matters raised by interested parties. Some of these, including concerns about adverse effects on neighbouring properties' amenity and access and parking, are more appropriately considered at reserved matters stage. I have no substantive evidence before me to suggest that two additional dwellings in this location will put an undue strain on local infrastructure, would result in harm from flooding, traffic generation or loss of wildlife and habitat.

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<sup>8</sup> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

<sup>9</sup> Paragraph 73.

27. Neighbouring residents' lack of awareness of the proposal is a procedural matter outside the scope of this appeal, as is concern about the effect on property values, which is not a planning matter. The proposal will involve a minimal loss of existing farmland, and concerns about the effects of construction activity can be managed by an appropriate condition. Concern is also expressed that there are better, alternative locations for this development and that the housing should be affordable. However, I am required to consider the proposal before me on its planning merits.
28. Therefore, while I have had regard to these other matters, for the reasons given they do not lead me to reach a different overall conclusion. Accordingly, for the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

### **Conditions**

29. In addition to those conditions already referred to, of the Council's suggested conditions I have imposed the standard reserved matters and commencement conditions. I agree that the proposal should be undertaken in accordance with the approved site area (shown on drawing No. 200221-167). However, the other site plan referred to in the suggested condition (drawing No. BDD\_021\_01) shows the layout of the dwellings and site access, which are reserved matters. For this reason, I have excluded reference to this drawing from the condition.
30. Given the above findings, a condition specifying the landscaping details is necessary, as is one controlling working hours, to protect the living conditions of neighbouring residents.
31. Due to the position of the site opposite existing development and the relatively narrow lane, I agree that a condition requiring a Construction Method Statement is needed. As this can only reasonably be submitted for approval before development commences, a pre-commencement condition is necessary and justified<sup>10</sup>. The appellants' agreement to it was sought and has been given<sup>11</sup>. Accordingly, I have imposed the condition.

*J Bell-Williamson*

INSPECTOR

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<sup>10</sup> In accordance with paragraph 55 of the Framework.

<sup>11</sup> In accordance with The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018.

Annexe A

**Schedule – conditions**

- 1) Details of the access, 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 three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two 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 plan: Site Plan – Drawing No. 200221–167.
- 5) Any reserved matters submission seeking approval for scale, access, appearance and/or layout, as required by Condition 1) of this permission, shall incorporate full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels.
- 6) The landscaping scheme required by Condition 1) of this permission shall incorporate a detailed specification of hard and soft landscaping works. This shall include plant/tree types and sizes, plant numbers and distances, replacement and additional hedge planting to mitigate the new access point, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage, signs and lighting. All areas of hardstanding shall be constructed using porous materials laid on a permeable base. All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier. Any trees or plants which die, are removed, or become seriously damaged or diseased within a period of five years from the completion of the development, shall be replaced in the next planting season with others of a similar size and species.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of any security hoarding; wheel washing facilities; measures to control the emission of dust and dirt during construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following hours: Monday to Friday - 08:00-18:00 hours; Saturday - 08:00-13:00 hours; Sunday and Bank and other Public Holidays - no work.

[End of Schedule]