



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: 3 February 2021

Appeal Ref: APP/Z1510/W/20/3259413

**Land adjacent to Sweetings Farmhouse, Thistley Green Road, Braintree
CM7 9SF**

- 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 Y. Bekir against the decision of Braintree District Council.
 - The application Ref 20/00198/OUT, dated 29 January 2020, was refused by notice dated 1 June 2020.
 - The development proposed is described as erection of 2 bed chalet bungalow for disabled person and a carer.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Both main parties have commented on the Council's emerging Local Plan, which has been submitted for examination. As the emerging plan is still some distance from adoption, its policies attract limited weight in the determination of this appeal.
3. The application was made in outline with all matters reserved for later considerations. The submitted plans have therefore been treated as indicative on all matters of detail.
4. The appeal site falls within the zone of influence of the Blackwater Estuary Special Protection Area and Ramsar Site. Therefore, as the effect of the proposal on a habitat site is potentially a determinative issue, I have elevated this matter to a main issue.

Main Issues

5. The main issues are therefore:
 - The effect on a habitat site,
 - Whether the appeal site is in a sustainable location for housing, having regard to its accessibility to local services and facilities; and,
 - The effect of the development proposed on the character and appearance of the area.

Reasons

Blackwater Estuary

6. The need to protect designated sites comes from national legislation rather than the development plan. Any proposals are therefore considered in the light of the Conservation of Habitats and Species Regulations 2017 (the Regulations). Prior to granting permission for a development that is likely to have a significant effect on such a site, the decision maker must carry out an Appropriate Assessment of the implications of the development on the site. Permission can only be granted where there would be no adverse impact on the integrity of the site, or where the adverse impact could be satisfactorily addressed through mitigation.
7. The Blackwater Estuary is valued as a habitat for birds, plants and invertebrates. It is vulnerable to increased recreational pressure both from individual developments, and from the cumulative impact when taken with other developments.
8. The appeal proposal would create one additional house. It would be likely to result in increased recreational pressure on the habitat site from walkers, dog walkers and other activities. Consequently, it is part of my duty as the competent authority to carry out an Appropriate Assessment in relation to the effect of the development on the integrity of the habitat site.
9. The Council allows for the making of a financial contribution towards offsite visitor management at habitat sites for development of this scale. The appellants have indicated a willingness to make this contribution, but there is no evidence that this has been done.
10. In the absence of any secured mitigation to address the likely significant effect from the development, the appeal proposal would be likely to affect the integrity of the designated site. It therefore conflicts with the Regulations and the National Planning Policy Framework (the Framework).

Location

11. The appeal site lies in the countryside, outside of Braintree. Policy RLP2 of the Braintree Local Plan 2005 (the LP) states that new development will be confined to the areas within Town Development Boundaries and Village Envelopes. Policy CS7 of the Braintree Core Strategy 2011 (the CS) seeks to ensure that new development is provided in accessible locations to reduce the need to travel.
12. The site lies on a narrow and unlit country road which is paved from the A131 up to the vicinity of the host property, but which deteriorates in condition further along. Thistley Green Road is separated from the built-up area of Braintree by the A131, with no crossing point or pavement in the vicinity of the junction with this busy main road.
13. The edge of the settlement lies just on the other side of the A131. However, the town centre with its services and facilities lies 1 mile from the site, and the nearest bus stop providing access to the town centre also lies on the far side of the A131. Given the limitations on access it is likely that future residents would rely on private transport to access day-to-day services.

14. My attention has been drawn to a decision by the Council to approve a mixed-used development comprising 1,000 new homes, commercial and employment uses, a primary school and early years/childcare facilities on the edge of Braintree. However, that site had been allocated for development in the emerging Local Plan, and this draft allocation was accorded some weight in the Council's decision. In addition, the development was of a scale to include services and facilities for future residents. These would be closer to the appeal site than those existing in Braintree but would still be some distance from the site on the far side of the A131. This approved development is therefore materially different to the appeal proposal and consequently carries limited weight in the determination of this appeal.
15. The appellants have also drawn to my attention a recent appeal decision in which permission was granted for 265 homes on the edge of Bocking. However, that scheme was for such a fundamentally different development to the development proposed, with access to facilities within walking distance on Church Street, that it can also only carry limited weight in the determination of this appeal.
16. The development proposed would therefore conflict with the requirements of Policy RLP2 of the LP and Policy CS7 of the CS, the requirements of which are set out above.

Character and Appearance

17. The appeal site is overgrown land at the end of the garden of the host property. It is visible from the road passing the site, from which it would be a prominent feature in a largely rural and undeveloped landscape with mature trees lining both sides of the road. The proposed house would extend the existing group comprising of St Peters Cottage and Sweetings Farmhouse, with the Lodge some distance away from that pair of houses.
18. Due to the size of the plot any house erected would necessarily be small, and the detailed scale, layout and appearance of the development are reserved matters. However, the introduction of a further dwelling, together with the accumulation of associated domestic paraphernalia, would result in an intensification of urban character in this location that would be harmful to the generally rural character of the site and wider area.
19. Consequently, the appeal proposal would be harmful to the character and appearance of the area. It would conflict with Policies RLP16, RLP80 , RLP81 and RLP90 of the LP, and Policies CS5, CS8 and CS9 of the CS. Together these policies require, amongst other things, that development have regard to the character of the landscape and be in harmony with the character and appearance of the surrounding area.

Other Matters

20. The appellants have stated that the proposed house would provide accommodation for a family member with medical needs. However, national guidance is that, in general, planning is concerned with land use in the public interest. There is no detailed evidence, for example from doctors or other medical professionals, to show that the family member's medical needs could only be met by the appeal proposal. This therefore attracts very limited weight in favour of the development proposed.

Planning Balance

21. There would be harm to the character and appearance of the area from the appeal proposal. However, this would be limited given the modest scale of the site and development that it could accommodate and the relatively secluded location. In addition, the appeal site lies in the countryside and is not in a particularly sustainable location. There would therefore be moderate cumulative harm arising from the development from these issues.
22. With regard to the issues of character and appearance and whether the appeal site is in a sustainable location, I have found that the appeal proposal would conflict with Policies RLP2, RLP80, RLP81 and RLP90 of the LP, and Policies CS5, CS7, CS8 and CS9 of the CS. Taken together these policies address matters of character and appearance and proposals on sites outside the defined development boundaries. This appeal seeks outline planning permission with all matters reserved, so the most important policies for its determination are Policy RLP2 of the LP, and Policies CS5 and CS7 of the CS.
23. The Council cannot demonstrate a five year supply of housing land. Where this is the case, the presumption in favour of sustainable development set out in paragraph 11 of the National Planning Policy Framework (the Framework) applies unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
24. Taken together, Policies RLP2 and CS5 seek to limit development in the countryside to uses considered appropriate. This is not consistent with the Framework. The weight attributed to the conflict with these policies is therefore limited.
25. Policy CS7 seeks to improve accessibility and reduce the need to travel. The conflict with this policy attracts full weight, as the policy is consistent with the aims of the Framework.
26. Policies RLP80, RLP90, CS8 and CS9 collectively seek a high standard of design and quality of development, including avoiding harm to the landscape and promotion of sustainable modes of transport. Policy RLP81 encourages the retention of native trees. These aims are consistent with the Framework, so the conflict with these policies attracts full weight.
27. The development proposed would contribute to the supply of housing land, which attracts moderate weight given the existing shortfall and the Government's stated objective of significantly boosting the supply of homes, although only one new house would be created. There would be economic benefits from the development, including from the construction of the house.
28. In addition, the development would provide accommodation for a member of the appellant's family with specific medical needs. However, as set out above, this carries very limited additional weight in the determination of this appeal.
29. If the only harm arising from the appeal proposal were that resulting from the effect on character appearance and from the unsustainable location that harm would not, in this instance, significantly and demonstrably outweigh the resulting benefits, when assessed against the policies of the Framework taken as a whole.

30. However, as the appeal proposal would be likely to have a significant effect on the integrity of the Blackwater Estuary the application of policies in the Framework provide a clear reason for refusing the development proposed.

Conclusion

31. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR