



Appeal Decision

Site Visit made on 1 June 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2021

Appeal Ref: APP/Z1510/W/20/3264482

Land at Braintree Road, Shalford, Braintree CM7 5HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Alice Cox against the decision of Braintree District Council.
 - The application Ref 20/01208/FUL, dated 24 July 2020, was refused by notice dated 4 December 2020.
 - The development proposed is described as the “demolition of barns and mobile home and erection of new dwelling”.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mrs Alice Cox against Braintree District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council made its decision, additional evidence has been provided to confirm that it can demonstrate a five year housing land supply. The appellant was given an opportunity to consider this evidence and has provided supplementary comments.
4. Additionally, since the submission of the appellant’s appeal, the National Planning Policy Framework (the Framework) was revised and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and I have taken any subsequent responses into account in reaching my decision.
5. In February 2021, the Council adopted the Braintree District Shared Strategic Section 1 Plan which superseded Policies CS1, CS4, CS9 and CS11 of the Braintree District Council Core Strategy 2011 (the Core Strategy). The Council’s decision notice also refers to policies from the Braintree District Council Local Plan - Publication Draft For Consultation, June 2017 (Draft Local Plan) which, from the evidence before me, is currently under examination. Although the Draft Local Plan has reached an advanced stage, there is no certainty that the policies within this document would be adopted. Therefore, I afford them only limited weight.

Main Issues

6. The main issues in this appeal are 1) whether the site is an appropriate location for the proposal having regard to the Development Plan and 2) the effect of the

development on the character and appearance of the area and 3) the living conditions of future occupiers with particular regard to privacy.

Reasons

Location

7. The appeal site lies close to, but outside of, the settlement boundary of Shalford as defined within the Braintree District Council Core Strategy Local Plan Review 2005 (the Local Plan). Consequently, for the purposes of planning policy, the appeal site lies within the countryside. Policy RLP2 of the Local Plan and Policy CS5 of the Core Strategy state that developments will be confined to the areas that are within town development boundaries and village envelopes. Outside of such areas, countryside policies will apply. Exceptions to this are schemes for affordable housing which comply with Policy RLP6 of the Local Plan and housing sites with a capacity of 12 or more dwellings as detailed on the Proposals Maps. Policy CS7 of the Core Strategy also states that developments will be provided within accessible locations.
8. The village of Shalford has few services and facilities. Although it contains a pub and a church, additional facilities such as a primary school, shop and village hall are within Church End Shalford, some 1km to the south. The Council confirm that bus services in the area are limited and do not run at all at weekends. Therefore, although there are some services within walking and cycling distance, the private car would be an attractive alternative, particularly during bad weather and the winter months and for those with low mobility or those with children accessing the nearest primary school. Moreover, access to medical services, larger retail stores, commercial areas and employment are further afield.
9. I acknowledge that paragraph 79 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. However, I consider that the appeal site has poor accessibility even allowing for its rural location and given the low level of facilities available at Shalford and Church End Shalford, future occupiers would be likely to draw mainly on services in those areas with greater level of amenities, such as Braintree and Halstead.
10. Consequently, the proposal seeks a development beyond the settlement boundary of Shalford and within a location that is not particularly well served by alternative transport options to the private car. Thus, the development would not reduce the need to travel and would be in conflict with Policy RLP2 of the Local Plan and Policies CS5 and CS7 of the Core Strategy which seek to restrict development within the countryside and reduce the need to travel to promote accessibility for all.

Character and Appearance

11. The appeal site forms a parcel of land that contains various structures such as stables that are being used for the keeping of horses on the land. In addition, a static caravan is also on the site. The proposal seeks to remove the existing caravan and an additional barn and erect a three bedroom dwelling which would be sited in an area of the site that is mainly laid to grass and bound to the north by a mature hedge.

12. There is a distinct difference between the appeal site and the land to the north, which has a greater level of built development. Although adjacent to the settlement boundary of Shalford, the appeal site has quite a different character with a distinctly open and rural quality that is reinforced by the presence of mature landscaping within this countryside setting, to which the appeal site contributes.
13. I acknowledge that, despite its spatial limitations, the design of the dwelling is acceptable and that suitable materials could be employed. However, the introduction of a dwelling on the site, coupled with the large area of curtilage to be given over to the new dwelling, would fundamentally alter its appearance. It would suburbanise the site, eroding the rural qualities and the openness of the area, and would be generally harmful to its character and appearance. This harm would be evident from Braintree Road.
14. In addition to the impact of the building, it is also necessary to consider the visual impacts of the residential use such as the vehicle movements and parking associated with the development. Moreover, fencing, external lighting, domestic cultivation and items such as garden furniture and washing lines for the new dwelling would add to the suburbanising effect.
15. The appellant has suggested that a condition could be agreed to ensure that domestic paraphernalia is hidden from view. However, I have not been provided with the wording of such a condition or any evidence that it would meet the tests as set out at paragraph 56 of the Framework. Moreover, additional landscaping would take a considerable time to mature and cannot be relied upon to become permanent.
16. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with Policies RLP80 and RLP90 of the Local Plan, Policy CS8 of the Core Strategy and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments has regard to the character of the landscape and its sensitivity to change.

Living Conditions

17. The Council argue that the proposed dwelling would be overlooked by the development of nine dwellings on the adjoining "George Tanner Builders Yard" (GTBY) site, which has been partially implemented and as such, its planning permission from 2009¹ remains extant.
18. In particular, it is the siting of plots 8 and 9 within the GTBY development that is of concern. The Council acknowledge that the proposed dwelling has been designed to take the adjoining development into account, as it proposes a single dormer to serve a bathroom facing to the north and into the GTBY site. However, although the dwellings at plots 8 and 9 would be sited some 9m from the site boundary, this distance increases to some 26m when the wedge shaped parcel of land that would remain between the two sites is also taken into account. Therefore, this distance would alleviate mutual overlooking between the two sites. Consequently, I am not persuaded that overlooking to the rear garden would occur so as to cause significant levels of loss of privacy.
19. Thus, the development would not result in harm to the living conditions of future occupiers. It would not be in conflict with Policy RLP90 of the Local Plan

¹ 09/01116/FUL

and paragraph 130 of the Framework which seek, amongst other things, to ensure that developments have a high standard of amenity for existing and future users.

Other Matters

20. I acknowledge that the site does not lie within a Conservation Area and that there are no listed buildings close by. I also acknowledge the appellant's argument that should I allow the appeal, trips to the site to care for the horses kept on the land would no longer be required, resulting in a reduction in car use. However, I have not been provided with evidence of the trip generation for occupiers of the proposed dwelling, who are still very likely to require a car to access even basic services and amenities for day to day living as well as those facilities required for the care of the horses at the site.
21. The appellant refers to the development approved at the GTBY site which concluded that Shalford is a sustainable location. However, this decision was made in 2009 and before the adoption of the current Core Strategy and the publication of the Framework. Moreover, the site lies within the settlement boundary of Shalford and was considered the suitable redevelopment of a brownfield, or previously developed site. Consequently, I am not persuaded that the permission granted at the GTBY site represents an irresistible precedent to find in favour of the development before me.
22. The appellant also refers to sites at White Court² and Church End³, as examples of development that has been accepted beyond settlement boundaries. However, both of these sites were part of proposed extensions to the respective settlement and found acceptable on that basis. The site before me has not been the subject of such a revision and remains outside the settlement of Shalford and therefore, within the countryside.
23. Although I acknowledge Policy RLP85 of the Local Plan, the provision of new residential accommodation for equestrian facilities is required to be supported by a business plan to demonstrate a convincing case that such accommodation is required. Whilst there are activities on the site associated with the keeping of horses, no such business plan has been put forward to justify accommodation on the basis that it would support horse welfare. Moreover, the vast majority of activities listed by the appellant occur daily and notwithstanding the assertion that break-ins have occurred at the site, there is nothing persuasive before me to robustly demonstrate that permanent accommodation is required for horse welfare or security, or that the occupation of the dwelling would be limited to those engaged with the equine activities at the site.
24. There is a disagreement whether the existing mobile home on the site is lawfully used for residential accommodation. However, this is not a matter that is before me and other mechanisms exist to resolve such matters. Moreover, notwithstanding the 10 characteristics of good design as set out within the National Design Guide 2019, the detrimental effect of the proposed dwelling on the character and appearance of the area would be appreciably greater than the mobile home and barns that it is proposed to remove to facilitate the development.

² 15/01117/OUT

³ 18/00113/FUL

25. Although paragraphs 84 and 119 of the Framework offer support for developments that enable rural leisure developments and those that promote effective use of land, it should also safeguard, improve and respect the character of the countryside.

Planning Balance and Conclusion

26. The proposed development would provide some benefits through the creation of a dwelling which would contribute to meeting housing needs, as well as economic benefits as a result of construction. However, as the proposal is for a single dwelling, these benefits are modest and therefore afforded limited weight.
27. There is a disagreement between the parties whether the Council can demonstrate a five year supply of deliverable housing sites. However, even if the Council is unable to demonstrate such a supply, thereby engaging the tilted balance at paragraph 11 of the Framework and rendering the policies that are the most important for determining the appeal out-of-date, the harm I have identified is serious and that significantly and demonstrably outweighs the benefits of the scheme. It would be at odds with the requirements of the Framework, conflicting with the environmental objective set out in paragraph 8. Therefore, the proposal does not constitute sustainable development and the application of the tilted balance in paragraph 11 of the Framework does not indicate that planning permission should be granted.
28. Thus, for the reasons given above, I conclude that the appeal is dismissed.

Graham Wyatt

INSPECTOR