
Appeal Decision

Site Visit made on 24 August 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2021

Appeal Ref: APP/Z1510/W/21/3268339

Land adjacent Mill House, School Road, Rayne CM77 6SS

- 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 J Smith against the decision of Braintree District Council.
 - The application Ref 20/00296/OUT, dated 14 February 2020, was refused by notice dated 16 October 2020.
 - The development proposed is described as '9 New Family Homes Comprising 6 Open Market Dwellings and 3 Affordable Dwellings'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved except for access and scale. I have therefore had regard to the Site Location Plan (1078 – 01C) and proposed floor and elevation plans (1078 – 02; 1078 – 03; 1078 – 04; and 1078 – 05A), insofar as they relate to the scale of the proposed development. I have also had regard to the proposed site layout plan (1078 – 06F), insofar as it shows the location of the proposed access.
3. On 22 February 2021 the Council adopted the Local Plan – Section 1 (LP1)¹. As a result, Core Strategy (2011)² Policy CS9, as referred to within the Council's reason for refusal, has been replaced by LP1 Policy SP7. Furthermore, the Council now alleges conflict with LP1 Policy SP3, which was not previously referred to within the reasons for refusal, albeit the inclusion of this policy relates to the existing reasons for refusal. Given the material change in the content of the adopted development plan since the planning application was determined, I have accepted these additional representations and the appellant has been provided with the opportunity to make representations in relation to this matter.
4. In addition, the Council has referred to saved Local Plan Review (2005) Policy RLP2 in their appeal representations. This policy was not previously cited in the reasons for refusal, which the Council suggest was not an intentional omission. The appellant has also been provided with the opportunity to comment on this policy and its relevance and I have taken these representations into account. Again, although this matter does not relate to a new reason for refusal, given the circumstances I have taken these representations into consideration.

¹ Braintree District Council Local Plan 2013-2033 - Section 1 (February 2021)

² Braintree District Council Local Development Framework Core Strategy (2011)

5. All other development plan policies referred to within the reasons for refusal, including those contained within the Local Plan Review (2005) and Core Strategy (2011), remain in place.
6. The Council has also indicated that Section 2 of the draft Local Plan (LP2)³ is currently at examination stage. However, given the early stage of the draft LP2, there is no certainty that the policies contained within it will be adopted. As such, its policies cannot be afforded any significant weight in the determination of this appeal.
7. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Accordingly, both parties were invited to provide representations in relation to this matter. I have therefore considered this appeal with regard to the revised Framework.
8. At the time that the planning application was determined, the Council could not demonstrate a five-year supply of deliverable housing land. However, subsequent to the refusal of planning permission, in May 2021, the Council published an update on Housing Land Supply (HLS). The update confirms a current HLS position of 5.24 years for the period 2021-2026. The appellant has made various representations in relation to the Council's HLS position. I have considered this under 'other matters'.

Main Issues

9. The main issues are as follow:
 - Whether the site is a suitable location for the proposed development with specific regard to access to services and facilities.
 - The effect of the proposed development upon the character and appearance of the appeal site and surrounding area.

Reasons

Suitability of location

10. The appeal site comprises an agricultural field located adjacent to School Road and Mill Lane. The immediately surrounding area comprises partly of sporadic residential development but also includes a livery centre and various employment uses. Whilst there would be adjacent employment opportunities for future occupiers of the proposed development, there are no local services and facilities within this existing cluster of development and there is no evidence before me to suggest that any bus services pass or stop within the vicinity of the appeal site.
11. The nearest services and facilities are in the village of Rayne. These include local shops, a post office, takeaway restaurants, a public house and a primary school/nursery. The majority of these services and facilities are located approximately 0.6 miles from the appeal site. The village is also served by bus services, linking the settlement with larger settlements in the surrounding area. Rayne therefore offers a good range of services and facilities within a relatively short walking distance.

³ Local Plan – Publication Draft For Consultation (June 2017)

12. However, there is no footway for approximately 75 metres of the route between the appeal site and the settlement of Rayne. This is a significant stretch of carriageway for pedestrians to navigate safely, particularly given the lack of lighting. In addition, where there is an existing footway this is predominantly unlit, narrow and uneven in places. Therefore, even taking into account the 40mph speed limit and the appellant's assertion that the highway is lightly trafficked, this route would not be suitable, safe or secure as a means for future occupiers to access the village on foot.
13. The fact that services and facilities are within a reasonable cycling distance would not overcome the shortcomings of the scheme with regard to pedestrian accessibility, given that the former may not be a suitable means of transport for all future occupants.
14. As part of the planning application the appellant submitted plans to the Council proposing a footway along part of School Road, in order to facilitate pedestrian access to the village of Rayne. However, Essex County Council (The Highway Authority) has objected to the proposed development, partly on the basis that the appellant has not been able to demonstrate that a footway with a minimum width of 2 metres could be provided.
15. I consider that the width of the proposed footway would not be sufficient to safely accommodate pedestrians and as such, this aspect of the proposal would not be acceptable. Furthermore, on the basis of the evidence before me, it is clear that there is disagreement between the appellant and the highway authority as to the required specification of the footway. As such, the imposition of a Grampian condition would not be acceptable, as it would potentially eliminate the prospect of proper implementation of any planning permission granted.
16. The appellant has referred to various appeal decisions both within and outside of the district, with reference to matters pertaining to site accessibility. However, the precise circumstances of the cases highlighted are not before me and each case should be considered on the basis of the site-specific circumstances present. For example, at least some of the appeal decisions referred to were made within the context of a housing land supply shortfall. The current HLS position is materially different, as discussed in relation to 'other matters'. As such, none of the examples provided alter my conclusions in relation to the suitability of the appeal site for the proposed development.
17. In particular, the appellant has referred to an appeal decision⁴, made in 2020, allowing residential development on Land off School Road. However, unlike the appeal site, this site is located in closer proximity to the village of Rayne and, unlike the proposed development, does not necessitate walking via such an extensive tract of carriageway to facilitate pedestrian access to the village. As a result, the findings of the Inspector in relation to that appeal do not apply directly to this current appeal.
18. In the absence of a safe and convenient pedestrian route to the nearby village of Rayne, there would be an over-reliance of future occupiers of the proposed development upon the private motor vehicle to access basic services and facilities to meet their daily needs. As such, the proposed development would conflict with Core Strategy (2011) Policy CS7, Saved Local Plan Review (2005)

⁴ PINS Reference: APP/Z1510/W/20/3247020

Policy RLP90 and LP1 (2021) Policy SP3, which require in part that development is located in accessible locations to reduce the need to travel to access services and facilities. These policies are all consistent with Framework Paragraph 105, which aims to focus development in locations where the need to travel is reduced.

19. Given the location of the site within the countryside, there would also be a conflict with Local Plan Review (2005) Policy RLP 2 and Core Strategy Policy CS5. However, these policies take a more restrictive approach to development in the countryside than advocated in the Framework and, as such, they can only be afforded limited weight. Despite this, I have already identified a conflict with the most important policies for considering this appeal, including LP1 (2021) Policy SP3, which was very recently adopted. All of these policies are consistent with the framework and as such, they are not out-of-date within the terms of Framework Paragraph 11d.
20. Saved Local Plan Review (2005) policy RLP9 is not relevant to this main issue, given that it relates to the design and layout of new housing development.
21. The proposed development would also conflict with draft LP2 (2017) Policy LPP55, which requires in part that new development is well connected to walking networks and other facilities. Draft Policy LPP50 is not relevant to this main issue. In any case, these policies can only be attributed limited weight, given their early status in the plan-making process.
22. There would also be a conflict with Framework Paragraph 105, which states that significant development, such as is proposed in this instance, should be focused on locations which are, or can be made, sustainable, through limiting the need to travel. This paragraph also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, I do not consider that this provides a justification for new development in locations which have poor access to services and facilities.

Character and Appearance

23. The surrounding area is characterised by a mixture of development including sporadic residential development of varying architectural styles. The majority of residential development on this part of School Road is linear, typically comprising moderately sized two-storey semi-detached or terraced properties with small front gardens and driveways. There are examples of much larger dwellings in the surrounding area, set within more spacious plots. However, these are sporadic and are less common. There are various other buildings in the surrounding area which are more substantial in scale. However, most of these are not residential buildings and their scale is largely dictated by their function as employment or equestrian facilities.
24. Plots 7 to 9 would comprise two-storey terraced dwellings. These dwellings would reflect the scale of the surrounding semi-detached and terraced properties on School Road. Furthermore, they would be set within moderately sized plots of a similar nature to those of surrounding development on this part of School Road.
25. The remaining 6 dwellings on plots 1 to 6 would be much larger, with heights of between 8.5 and 8.8 metres and wide frontages. In isolation, the dwelling proposed on plot 6, although a larger detached dwelling, would be in keeping

- with the sporadic examples of larger detached dwellings within the surrounding area.
26. However, plots 1 to 5 would comprise 5 large dwellings which, when viewed together, would dominate the site and would not reflect the typically narrower building frontages and more diminutive appearance of residential development in the immediately surrounding area. The dominant scale of the proposed detached garages would further exacerbate the harmful visual impact of the development. Given the combined impact of these five dwellings, they would neither reflect the smaller residential properties in the surrounding area, nor the much larger and sporadically located detached properties which are located nearby.
27. The site is well screened by the existing mature trees which border it. Additional planting measures would further enhance this screening effect. However, the visual harm caused by the proposed development would be clearly visible from within the appeal site and over the proposed vehicular and pedestrian accesses.
28. The proposed scale of the development would therefore have a significant harmful impact on the character and appearance of the appeal site and surrounding area. As such, the development would conflict with LP1 (2021) Policy SP7 and Local Plan Review (2005) Saved Policies RLP9 and RLP90, which in part seek to ensure that new development responds positively to local character, relates to its surroundings and is of a scale which reflects and enhances local distinctiveness, respectively.
29. Core Strategy (2011) Policy CS5 is not relevant to this main issue as it relates in part to landscape character, which is not an issue in dispute between the main parties.
30. The proposed development would also conflict with draft LP2 (2017) Policies LPP50 and LPP55, which require in part that new development responds to local context and is of a scale which reflects or enhances local distinctiveness, respectively. However, these policies can only be attributed limited weight, given their early status in the plan-making process.
31. There would also be a conflict with Framework Paragraph 130, which requires that new development is sympathetic to local character.

Other Matters

32. The Council has provided a Housing Land Supply update (2021), which indicates a current supply of deliverable housing land of 5.24 years. As a result of the recent publication of the Housing Delivery Test (HDT) (Published January 2021), the Council is now required to provide a 5% buffer to the supply of specific deliverable sites, in accordance with Framework Paragraph 74. This reduced buffer has been taken into account in the Council's HLS update.
33. The appellant has suggested that the application of a 5% buffer is 'questionable' given what he alleges is a historic shortfall in the delivery of housing over the last five years. However, the HDT is calculated based on delivery over the previous three years, as opposed to five years. Furthermore, the HDT figure is published centrally, by the Department for Levelling Up, Housing and Communities and the appellant has not provided any substantive evidence to warrant any deviation from this figure.

34. As such, there is no evidence before me to indicate any deficiency in the Council's method of calculating the current HLS position. Therefore, I have proceeded on the basis that the Council can currently demonstrate a HLS of 5.24 years and as a result, the presumption in favour of sustainable development at Framework Paragraph 11D is not engaged.
35. Nonetheless, the provision of housing would result in social and economic benefits, given the resultant increase in the housing stock. This would be consistent with the Government's objective of significantly boosting the supply of housing as set out at Framework Paragraph 60. However, given the small scale of the proposed development these benefits can only be afforded moderate weight.
36. The provision of larger homes does not attract any additional weight, given that there is no evidence before me to indicate that there is a need for larger dwellings as opposed to smaller dwellings. In addition, the fact that the site is only occasionally used for agriculture does not mean that it is underutilised and as such this consideration carries neutral weight.
37. There would also be some environmental benefits associated with the provision of electric vehicle charging points and measures to secure a net gain in biodiversity. However, again, given the limited scale of the development these benefits would be limited and can only be afforded moderate weight. Sustainable drainage, energy and water efficiency measures do not attract any additional weight as there is no evidence to suggest that they would result in net improvements.
38. Both parties have agreed that 3 affordable dwellings could be secured through the imposition of a planning condition. However, the National Planning Practice Guidance states that such a condition requires that the heads of terms or principal terms are agreed prior to planning permission being granted. This is to ensure that the test of necessity is met and in the interests of transparency. In this case, there is no evidence before me to indicate that the heads of terms have been agreed. However, even if I accept that a condition could be imposed to secure the provision of 3 affordable units, the weight to be afforded to these benefits, when combined with the other social, economic and environmental benefits of the proposed development, would only be moderate and would not outweigh the significant level of harm that would result from the proposed development.

Conclusion

39. The proposed development conflicts with the development plan taken as a whole and there are no material considerations which indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

Luke Simpson

INSPECTOR