



Appeal Decision

Site Visit made on 16 November 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal Ref: APP/Z1510/W/21/3275208

Land adjacent to Millbrooks Farm, Mill Lane, Colne Engaine CO6 2HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by 'Hedin' against Braintree District Council.
 - The application Ref 21/00436/OUT, is dated 4 February 2021.
 - The development proposed is described as 'outline application for the construction of a single storey dwelling'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The application under appeal was submitted in outline form with all matters reserved. I have considered the appeal on this basis.
3. The Council did not determine the planning application within the required time limits. It has subsequently prepared an appeal statement outlining that the recommendation would have been to refuse planning permission. I have had regard to this statement and the putative reason for refusal given in framing the main issues.

Main Issues

4. The main issues are (i) whether or not the proposed development would provide a suitable location for housing having regard to its position within the countryside and its accessibility to services and facilities; and (ii) the effect of the proposal on the landscape and character of the area.

Reasons

Location

5. The appeal proposes a dwelling on part of a large field served by an access from the junction of Colne Park Road and Mill Lane. In planning policy terms, the site is within the countryside, and it has not been argued that the dwelling would be considered an appropriate use within the countryside. Nor is the proposal for affordable housing. As a consequence, the proposal would conflict with Policy RLP2 of the Braintree District Local Plan Review 2005 ('LPR') and Policy CS5 of the Braintree District Council Core Strategy 2011 ('CS'). Together, these policies seek generally to limit new development outside of town development boundaries and village envelopes to uses appropriate within the countryside in order to protect and enhance the landscape character and

biodiversity, geodiversity and amenity of the countryside. It would also be contrary to Policy LPP1 of the draft Section 2 Local Plan ('Section 2 LP') which similarly seeks to limit development outside of development boundaries to uses appropriate to the countryside. The weight that I afford to this conflict is limited though because I cannot be certain that the draft plan will be adopted in its current form.

6. The appeal site is located broadly between White Colne, Colne Engaine and Earls Colne. These settlements include some services and facilities, albeit the range of services that are available in White Colne and Colne Engaine are fairly limited, as well as bus stops served by routes providing connections to larger centres including Colchester. However, the route to reach these services from the appeal site would in large part be along narrow and unlit roads without separate footways which would be likely to deter walking or cycling, particularly for the elderly, those with a disability or with children; and at times of darkness. Public footpaths may offer alternative routes, but it seems to me that these would be less direct, and the lack of lighting and formal surfacing would be similarly likely to make these options unattractive at night or in poor weather.
7. In my judgement, these factors combined with the overall distance to reach the nearest settlements would mean that most occupiers of the site would not consider walking or cycling to be realistic options and would be unlikely to undertake such journeys regularly in order to meet day to day needs. Opportunities to access services and facilities by means other than private vehicle would therefore be very limited.
8. I recognise that the National Planning Policy Framework ('the Framework') comments that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Be that as it may, future occupiers of the dwelling would in this case be likely to rely largely on private vehicles, increasing likely emissions, including of carbon. To this extent, there would be conflict with Policy CS7 of the CS which seeks to reduce the impact of development on climate change and which requires, amongst other things, that development is provided in accessible locations to reduce the need to travel. It would also be contrary to the Framework insofar as it seeks to reduce greenhouse gas emissions; highlights accessible services to meet needs as a key aspect of sustainable development; and advocates identifying and pursuing opportunities to promote walking, cycling and public transport, actively managing patterns of growth to support this objective.
9. The proposal would be contrary to Policies RLP2 of the LPR and CS5 and CS7 of the CS, as well as Policy LPP1 of the draft Section 2 LP and the overall objectives of the Framework noted above. I therefore conclude on this main issue that the proposed development would not provide a suitable location for housing with regard to its location within the countryside and access to services.

Landscape and Character

10. There are a few dispersed buildings or small, loose groups of buildings in the vicinity of the appeal site, but roads are for the most part lined by open fields or paddocks marked by belts of trees or hedgerows. Together with the scattered arrangement of diverse buildings and the surrounding landscape which is similarly wide and open and largely uninfluenced by built form, this

gives the area around the appeal site a highly open and distinctly rural character.

11. The proposal is in outline, but I am satisfied that it would be possible to design a dwelling of sympathetic form and architectural appearance to development nearby. The appellant also suggests that the dwelling would be single-storey in height, and would be obscured from the public highway by significant tree and hedge planting. However, while these factors may help to reduce the visual impact of the proposal, additional planting would take some time to mature, and based on the very limited information before me, I can have little certainty that vegetation would be likely to fully conceal the development, particularly in winter.
12. I note the appellant's comments that the dwelling would complete a line of residential development along this stretch of highway, but I saw that it would stand significantly apart from the closest neighbouring buildings in a prominent location set some way back from Colne Park Road and Mill Lane. As a result, it would be divorced visually from nearby development, and would be likely to be conspicuous in views including from the adjacent highways. While I accept that there are other individual buildings in the wider area, the position of the dwelling would result in residential development encroaching awkwardly into the surrounding field. This would be urbanising, and despite the single-storey height of the dwelling, there would be an appreciable loss of openness. It is unlikely that planting would adequately mitigate the resulting harm. In my view, the development would therefore appear as a discordant incursion into the wider site. It would be poorly integrated with the landscape, and would detract significantly from its inherent undeveloped and rural character with consequent harm to the intrinsic character and beauty of the countryside.
13. I therefore conclude on this main issue that the proposal would cause unacceptable harm to the landscape and character of the area in which it is located. Accordingly, there would be conflict with Policies CS5 and CS8 of the CS; RLP80 and RLP90 of the LPR; and SP7 of the Shared Strategic Section 1 Local Plan 2021 ('Section 1 LP') which include, amongst other things, requirements that development reflects and enhances local distinctiveness, landscape character and the amenity of the countryside. For the same reasons, the proposal would be contrary to Policies LPP50, LPP55 and LPP71 of the draft Section 2 LP which include requirements that development reflects and responds to local context and distinctiveness, as well as the Framework which requires recognition for the intrinsic character and beauty of the countryside.

Other Matters

14. I have considered an appeal decision referred to by the appellant concerning a proposal for 2 dwellings at Gosfield where the benefits of development were found to outweigh a reliance on travel by private vehicle. However, the scale and location of that development differ from the proposal before me. Moreover, the Inspector in that appeal found that the effect of the proposal on the character and appearance of the area could be mitigated by the imposition of conditions which I do not consider would be the case here. Accordingly, the circumstances of that development are not directly comparable to the appeal scheme which I have in any case considered on its own merits.
15. The appeal site is located within the Zone of Influence of the Blackwater Estuary Special Protection Area and Ramsar site and the Essex Estuaries

Special Area of Conservation. I note that the appellant has made a payment towards measures intended to mitigate the effect of additional visitors to these sites which could adversely affect their integrity. However, given the harm identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further and in light of the provisions of the Conservation of Habitats and Species Regulations 2017 as it could not alter my decision.

Planning Balance

16. The appellant disputes the Council's suggestion that it has a 5 year housing land supply ('5YHLS'), and refers to a supply of 4.28 years on the basis of information that has been advanced in relation to a different appeal concerning a proposal at Earls Colne. This information is not before me as part of this appeal. However, neither has the Council provided detailed information or calculation to substantiate its suggested 5.34 year supply position, and as a result I can place little weight on the assertion that the Council can currently demonstrate a 5YHLS in considering this appeal.
17. In the absence of a 5YHLS, the Framework indicates that the policies which are most important for determining the application would be deemed out-of-date, and the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework is engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. In this case, I have found that the proposal would be contrary to Policies RLP2 and CS5 insofar as they direct development to within settlement limits. However, the overall strategy for growth within the LPR and CS reflect housing requirements that are no longer current. In combination with the uncertain housing supply position which means I cannot be sure that the strategy is effectively meeting housing needs, this limits the weight that I afford to the conflict with Policies RLP2 and CS5 in this regard.
19. Nevertheless, I have also found that there would be limited opportunities for travel by sustainable modes resulting in reliance on travel by private vehicle and consequent increases in likely emissions. There would also be significant harm to the landscape and distinctive character of the area detracting from the intrinsic character and beauty of the countryside. In these respects, the development would conflict with provisions of Policies CS5, CS7 and CS8 of the CS; RLP80 and RLP90 of the LPR and SP7 of the Section 1 LP which I find to be consistent with similar objectives within the Framework. Accordingly, I do not find there to be a compelling reason to reduce the weight that I afford to the conflict with these aspects of the development plan, and I find that the collective environmental harms are matters of significant weight against the grant of planning permission.
20. Set against these adverse impacts, the proposal would deliver an additional dwelling towards the supply of housing. In light of clear objectives within the Framework to significantly boost the supply of housing and recognition that small sites such as this can make an important contribution to meeting housing requirements of an area and are often built-out relatively quickly, this is an important benefit and I afford it great weight. However, even if I were to accept the appellant's position that the supply of housing is no more than

4.28 years and is unlikely to be addressed in the short term, the extent of the benefit would be limited by the very modest contribution that the proposal would make to the supply of housing overall. There would be some economic and social benefits associated with the construction phase of the development as well as longer-term through contribution to the local economy by future occupiers, but these would also be restricted by its small scale and I afford them limited weight.

21. The appellant asserts that the development would be constructed in an environmentally sensitive manner, referring to the dwelling as carbon neutral and provision for bicycle storage and electric vehicle charging points. I also acknowledge suggested tree planting which could support a gain in biodiversity. However, no further details have been provided on these matters and so the proposal's environmental credentials have not been demonstrated at this stage. The weight that I afford to these further benefits of the proposal is therefore limited.
22. In this context, I find that the adverse impacts of the development would significantly and demonstrably outweigh the limited benefits of a single dwelling when assessed against the policies in the Framework taken as a whole. Even if I were to conclude that the Council did not have a 5YHLS, the proposal would not therefore benefit from the presumption in favour of sustainable development.
23. Drawing matters together, I find that the proposal would conflict with both the development plan and the Framework when each is considered as a whole, and material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR