
Appeal Decision

Site visit made on 1 April 2022

by Steven Hartley BA (Hons) Dist.TP(Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 6th April 2022

Appeal Ref: APP/Z1510/W/21/3284667

Land south-west of Westwell, Halstead Road, White Ash Green, Essex CO9 1PD

- 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 Mr A Wicks against the decision of Braintree District Council.
 - The application Ref 21/02218/FUL, dated 10 July 2021, was refused by notice dated 22 September 2021.
 - The development proposed is the erection of 1 no. two-storey dwelling and attached outbuilding utilising an existing vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 no. two-storey dwelling and attached outbuilding utilising an existing vehicular access on land south-west of Westwell, Halstead Road, White Ash Green, Essex CO9 1PD, in accordance with the terms of the application ref 21/02218/FUL, dated 10 July 2021, subject to the conditions set out in the attached schedule.

Procedural Matter

2. In February 2021, the Council adopted the Braintree District Shared Strategic Section 1 Plan (LP) which superseded policies CS1, CS4, CS9 and CS11 of the Braintree District Council Core Strategy 2011 (CS). The local planning authority (LPA) has referred in its decision notice to the draft Braintree Local Plan, Section 2 (DLP) which has yet to complete its examination in public and is not therefore an adopted policy document. I therefore afford it limited weight.

Main Issues

3. The main issues are (i) whether the proposed development is in a suitable location having regard to planning policies concerned with housing; (ii) the effect of the proposal upon the character and appearance of the area and (iii) highway safety.

Reasons

Suitable location

4. The appeal site adjoins the property known as 'Westwell' and is within a ribbon of residential development along Halstead Road and which are set back from it. It lies outside of a designated village envelope or a town centre boundary and is in a countryside location.
5. The adopted CS aims to strictly control development outside of such village or urban areas though policy RLP16 of the Braintree Local Plan Review 2005 (LPR) does, however, permit development in small groups of properties consisting of at least ten dwellings. The policy applies to small gaps which can accommodate one dwelling, which would not extend ribbon development, and which would not set a precedent.
6. On my site visit, I was able to see that the ribbon of development extends to more than 10 dwellings and that the appeal site would represent a small gap which would accommodate 1 dwelling and probably no more, and in this, I agree with the conclusion of the LPA. As the site lies within the existing ribbon of development it would not extend it linearly.
7. While the policy aims to avoid the setting of a precedent, I have considered the appeal proposal on its own planning merits, taking into account the specific requirements of the local plan policy.
8. The appeal site is not isolated, being next to other dwellings. Furthermore, there is a bus service along Halstead Road and with a bus stop some 100 metres away. Access to it is along the road without pavements and is not therefore an ideal route but is nonetheless accessible with care. It would appear to serve other occupiers in similar circumstances. I consider that the private car would be the mode of transport for most journeys, but the availability of the bus route does provide a reasonable alternative. I am also conscious that paragraph 105 of the National Planning Policy Framework 2021 (the Framework) notes that different considerations of accessibility to services and facilities should apply in rural as distinct to urban areas.
9. Therefore, I conclude that the proposed development lies within the existing ribbon of more than 10 dwellings, would not extend it linearly, is not isolated and would offer opportunities for modes of transport other than the car to services. The proposed development would not conflict with policy LPR RLP2 where countryside policies apply, or with CS policy CS5 relating to the LPA's spatial strategy. Whilst there is some conflict with CS policy CS7 which aims to promote accessible sites, this must be seen in the context of its rural location and as recognised in the Framework.

Character and appearance

10. The appeal site is situated amongst a line of residential properties which front Halstead Road. The proposed development is a two-storey, brick-built dwelling. The LPA raises no objection to its design, and I see no reason to disagree. However, the LPA considers that the current use of the site should be retained and that its development for a dwelling would adversely affect the character and appearance of the countryside.

11. I have not been made aware of any special landscape protection applicable to the site. Its development for one dwelling would be in keeping with the existing dwellings around it and by its location, overall design and scale, it would not appear incongruous or adversely affect the character and appearance of the area.
12. Therefore, I conclude that the proposed development would accord with LPR policy RLP80 which, amongst other things, requires new development to integrate with the landscape, and with CS policy CS8 which aims to ensure that such development has regard to the distinctive landscape within which it is to be set. It would also comply with chapter 12 of the Framework which aims to achieve well designed places.

Highway safety

13. Access to the proposed dwelling would be via an existing access leading directly from Halstead Road. The Highway Authority considers it necessary for the access to be able to show uninterrupted visibility splays of 2.4 metres by 120 metres and considers that insufficient traffic survey information has been submitted.
14. However, the vehicular access already exists, and the proposed development would improve highway safety by permitting vehicles to enter and leave in forward gear. In addition, there is sufficient distance to allow drivers leaving the access to 'nose out' before entering Halstead Road and to improve visibility. The road at this point is straight and I have not been made aware of any accidents under current visibility conditions.
15. In the circumstances where the vehicular access already exists and where the proposed development would allow drivers to enter and leave in forward gear, I find that highway safety would be improved, even though the use of the access point might increase above current levels.
16. Therefore, I conclude that the proposed development would accord with LPR policy RLP90 (viii) which aims to secure safe and secure environments. There would be no conflict with paragraph 111 of the Framework which states that development should only be refused on highway grounds if there would be an unacceptable impact upon highway safety. In its decision notice, the LPA refers to Highway Authority policies, but it is not clear that these form part of the development plan for the area. In any event, this is not a determinative matter.

Other Matters

17. The LPA considers that the Council can demonstrate more than a 5-year supply of deliverable housing sites, with a figure of a 5.34-year supply. However, the 5-year supply target is not a ceiling figure and I do not consider that its achievement is a strong enough reason on its own to prevent further development on other sites. I have concluded that the proposed development would constitute appropriate development and I find that the availability of a 5-year supply of housing land does not outweigh my conclusions upon the main issues. Indeed, and for the reasons outlined, the evidence is that the proposal accords with relevant development plan policies for the area.

Conditions

18. I have considered the conditions suggested by the Council and I have afforded the appellant an opportunity to comment upon them, including those that are pre-commencement conditions.
19. I have attached a condition relating to a time limit for the commencement of development, a condition specifying relevant plans in the interests of certainty. In the interests of the character and appearance of the area, I have imposed an external materials condition.
20. I have also included conditions relating to hours of work for site clearance, demolition, the burning of materials or construction work, in order to safeguard the living conditions of adjoining occupiers from any unreasonable noise and smoke. I have imposed a condition to control dust and mud in the interests of highway safety and the living conditions of residents.
21. I have included a condition relating the surfacing of the first 6 metres of the proposed access from its junction with Halstead Road to prevent material from being brought onto the carriageway and in the interests of highway safety.
22. Paragraph 54 of the Framework states that '*permitted development rights should only be removed where there is clear justification for doing so*'. I have not found any clear justification to impose a condition relating to this matter.
23. It is not necessary to impose a condition relating to highway visibility splays as there is already an existing access which will be used and where improvements will allow vehicles to enter and leave in forward gear.
24. The Council has suggested a condition requiring the submission of a residential travel plan. This is not a reasonable or necessary condition taking into account paragraph 113 of the Framework in so far that this is not development that would generate '*significant amounts of movement*'.

Conclusion

25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Steven Hartley

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans: -
Submitted Location Plan
Block Plan Ref: 21/41/02
Proposed Plans Plan Ref: 21/41/03
3. Construction of any buildings shall not be commenced until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
4. 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 - No work
Bank Holidays-No work
5. A dust and mud control management scheme shall be submitted to and approved in writing by the local planning authority prior to the commencement of any development and shall be adhered to throughout the construction process.
6. No piling shall be undertaken on the site in connection with the construction of any development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the local planning authority and shall be adhered to throughout the construction process.
7. No burning of refuse, waste materials or vegetation shall be undertaken on the application site in connection with the site clearance or construction of the development.
8. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.