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# Appeal Decision

Site visit made on 14 July 2022

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 August 2022**

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**Appeal Ref: APP/Z1510/W/22/3290519**

**Land west of Ryes Lane, Bulmer Tye, CO10 7DZ**

- 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 George Wright against the decision of Braintree District Council.
  - The application Ref. 21/00412/OUT dated 2 February 2021, was refused by notice dated 15 December 2021.
  - The development proposed is the erection of 4 No. bungalows and associated development.
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## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The application was in outline with all matters reserved. Drawings showing an indicative layout and elevations were also submitted, for illustrative purposes only.
3. Since the appeal was submitted the council has provided an up-date on the progress of its development plan, which I have taken into account. The appellant was given an opportunity to comment.

## Main Issue

4. The main issue in this case is whether the location of the site is suitable for residential development.

## Reasons

5. The site is situated adjacent to Bulmer Tye, but outside the settlement boundary. Bulmer Tye has a primary school (requiring the crossing of the A131 from the site) and a public house. The council expects to adopt the emerging Section 2 Local Plan ("the Section 2 Plan") in the very near future. It is therefore at a stage where substantial weight can be placed on its policies. In particular, Policy LPP1 of the Section 2 Plan states that outside development boundaries, development will be strictly controlled to uses appropriate to the countryside. Adoption of Section 2 will mean that the plan has been found sound in the context of the National Planning Policy Framework (the Framework).

6. The council can demonstrate a housing land supply in excess of 5 years, and the latest Housing Delivery Test (HDT) results, published in January 2022, show that Braintree District achieved 125% supply against target, with the usual 5% buffer. Therefore the tilted balance of paragraph 11d of the Framework does not engage and the decision should be made in accordance with the development plan unless material considerations indicate otherwise. The appellant does not challenge the 5+ years supply, but refers to it as 'precarious', noting that this is based on the minimum requirement which is not a ceiling to housing numbers. Whilst that is true, the officer's report states that this supply position does not include sites which are proposed to be allocated within the Section 2 Plan, but do not yet have planning permission or a resolution to grant planning permission. It is therefore likely that in the relatively near future the housing supply may well increase.
7. The site is adjacent to a village with very limited facilities. The closest towns to the site are Sudbury (some 2½ miles) and Halstead (almost 6 miles), each of which has a good range of services and facilities. Bearing in mind the nature of road access to the closest of these, I consider that journeys to them on foot, or by bicycle is not a likely undertaking. The A131 is a busy road carrying HGV traffic and is without a footway. I am told that there is a bus route, Monday to Friday, to and from Sudbury and Halstead, departing at 07:02 and returning 17:14. In addition there is a 'DaRT' service running through the village, but this is apparently a minibus that operates on a pre-booked demand led basis, requiring a reasonable number of patrons to make a run viable.
8. I am led to conclude that the occupiers of the proposed dwellings would inevitably rely primarily on private motor vehicles for most of the requirements of day to day living. This would lead to increased carbon emissions, conflicting with the aims of the Framework to locate development where the need for travel can be minimised and the use of sustainable transport modes can be maximised.
9. Against this finding, there are benefits that need to be weighed. Apart from the personal financial benefit to the appellant, there would be a small economic benefit of employment during the construction period, as well as additional residents to support the vitality and viability of local facilities. In terms of a social benefit, there would be support for the nearby community, potentially assisting with the viability of, for instance, the primary school and public house, and in nearby Bulmer, a village hall, and a part-time post office. In terms of the environmental aspect, whilst boundary treatments of the houses could provide opportunities to enhance biodiversity, this must be set against the present contribution that the site makes. The countryside does not just consist of arable and pasture land, but also contains open land not in a current agricultural use. Such land is an intrinsic part of the character and beauty of the countryside, and its loss in this location would be detrimental to local character as well as eroding its value for foraging creatures. I therefore find that there is no identifiable environmental benefit from the proposal.

### **Other matters**

10. I have taken account of the appeal decision reference 2042214 on adjoining land where a change of use from agricultural land to garden land was permitted, but I find little assistance from this decision in view of the substantial difference of that proposal to that now before me. As for appeal

reference 3199016, in the extract provided, the Inspector appears to have been considering the question of approach to 'isolated homes'. The proposed housing on the appeal site would not be isolated. I also appreciate that the pre-application consultation revealed a more favourable response from the officers than the decision on the application. However, it is apparent that the consultation occurred at a time when the council could not demonstrate a 5-year supply of housing land, and therefore the balance of considerations was inevitably different. The application for 2 dwellings adjacent to 1 Bulmer Tye (19/01004/FUL) appears to be within the settlement boundary, and therefore the policy considerations relate to that fact.

## **Conclusions**

11. Development contrary to the development plan policies is harm in itself. In this case that harm arises from a location where the main means of travel to most day-to-day services and facilities would be by motor vehicle, and the development would intrude into the countryside. These issues carry substantial weight. Having considered all matters raised I conclude that the limited benefits of the scheme, dealt with in paragraph 9 above, are insufficient to outweigh the harm that would arise from the development of 4 dwellings. Therefore I shall dismiss the appeal.

*Terrence Kemmann-Lane*

INSPECTOR