



Appeal Decision

Site visit made on 2 August 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2022

Appeal Ref: APP/Z1510/W/21/3285017

Land Adjacent Back House Croft, Bulmer Street, Bulmer CO10 7EW

- 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 Philip Rowe against the decision of Braintree District Council.
 - The application Ref 21/00809/FUL, dated 11 March 2021, was refused by notice dated 8 June 2021.
 - The development proposed is construction of no.2 detached 4-bedroom dwellings with off road parking and divided detached garage space with home office facilities. To make use of existing highways access points.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 25th July 2022, the Council adopted the Braintree District Plan (BDP2) 2013 – 2033 – Section 2. As a result, policies in the Braintree District Local Plan Review 2005 and Braintree District Local Development Framework Core Strategy 2011 referred to by the parties have been superseded. Accordingly, I have not afforded these policies weight in reaching my decision and will not refer to them further.
3. The appellant has provided additional plans (PF_145_02 Rev A, PF_145_02 Rev A, PF_145_03 Rev A, PF_145_06 Rev A and PF_145_07 Rev A) following the Council's decision. The Council have had opportunity to comment upon these revised drawings, and they would not significantly change the nature of the proposals. Accordingly, and having regard to the Wheatcroft principles, I have considered the appeal on the basis of these plans.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area, including whether it would preserve the setting of Bulmer Conservation Area;
 - Whether the proposed development would provide suitable living conditions for future occupiers;
 - Whether the site is a suitable location for residential development with regard to the local development strategy and accessibility to services and facilities by means other than the private car, and;

- The effect of the proposed development upon highway safety.

Reasons

Character and appearance

5. The appeal site lies at the western edge of the village of Bulmer, and adjacent to, but outside of the boundary of Bulmer Conservation Area ('the CA'). It currently forms part of the garden of an existing residential dwelling and forms a break in built form between this property and modern development further to the west, previously allowed on appeal¹. The appeal site is currently experienced mainly peripherally as it is passed either heading into, or away from the village.
6. The significance of the CA is primarily derived from its form which comprises an originally dispersed settlement incorporating several late medieval farms, grouped around the village church, and eventually linked together by later incremental development. The site itself lies on Bulmer Street, which, as a result of the historic pattern of development, has a mixed character with a variety of architectural styles, materials and techniques evident.
7. The proposed development would introduce two dwellings within the site, along with a detached garage building. In doing so, it would significantly reduce the size of garden available to Back House Croft and remove an existing gap between the boundary of the CA and the modern development to the west. Whilst a variety of plot and dwelling sizes are evident in the village, the introduction of two dwellings of the size proposed within this space would lead to a tight grain to development, as well as a restricted plot size relative to the size of each proposed dwelling. As a result, the development would be cramped in appearance when considered in the context of plot sizes and ratios that are evident in the immediately surrounding area.
8. The amount of development proposed would also necessitate the location of the detached garage structure to the front of the site, adjacent to the road. Although within the village core there are examples of outbuildings located in front of dwellings and close to the road, this arrangement would not be reflective of the other properties in the immediate area, which are generally set-back beyond landscape features or open gardens. This allows the road to retain a verdant and rural feel at this point of transition between open countryside and the village.
9. The proposed detached structure would be large, and clearly visible over the existing roadside hedge. Due to its proximity to the road, it would be prominent, and although the approach to the CA from the west is not identified as a key view, the presence of such a prominent structure at the gateway to the CA would draw the eye, erode the verdant character, and be visually harmful to the detriment of the significance of the CA as a result. Further harm would result from the urbanising effect of two additional detached dwellings within this space.
10. Paragraph 199 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm to, or loss of significance of a designated heritage asset from development within its setting

¹ APP/Z1510/W/18/3199016

should require clear and convincing justification. Given that the appeal site is located towards the edge of the settlement and views of the proposed development would be largely transitory, I find the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.

11. With regard to the specific design of the dwellings proposed, the Inspector in the previous appeal concluded that in that case, the proposed development would not appear incongruous in the mixed rural setting of the Conservation Area, citing the materials used and the mixed character of properties within the village.
12. The proposed development subject to the current appeal is generally reflective of the modern development located to the west with regard to architectural form and proposed materials. I have no reason to disagree with the assessment of the previous Inspector with regards to how this architectural approach, in general terms, affects the setting of the CA. Although the proposed development would provide a contrast with the architectural style of Back House Croft at close proximity, this would not be out of character with the remainder of the village where there are several examples of the juxtaposition of buildings of differing ages and design.
13. Although the Essex Design Guide advises that dormers in new housing should be a minor incident in the roof plane, in this case, where a clearly contemporary architectural approach is proposed, the metal box dormers would not appear as overly dominant within the roof slope and would be reflective of design cues elsewhere within the dwelling such as the two-storey flat roofed projections incorporated within the design of Plot 2, and also at the development immediately to the west. Accordingly, these features would not, in this context, result in harm to the character and appearance of the area.
14. The Council raised concern with regards to the effect of light spill from the proposed development upon both the Stour River Valley Landscape Character Area and the setting of Dedham Vale Area of Outstanding Natural Beauty (AONB).
15. The amended plans provided by the appellant seek to address this concern by reducing the size of the glazed area in the northern elevation of Plot 2, and increasing the level of proposed landscaping, and I have considered the appeal on the basis of these revised drawings.
16. The existing hedgerow at the northern edge of the appeal site would provide a degree of screening to the proposed development, would be improved and would therefore, provide some degree of mitigation to any light spill that may occur. It would, however, be unlikely to be wholly effective, given its height and deciduous nature. Nevertheless, the proposal would form infill development, would not represent an incursion into open countryside, and at night would be viewed in the context of surrounding buildings and the wider village. Whilst much of the existing nearby development is of a more traditional design with generally smaller window openings, it is inevitable that there is a degree of light spill at the present time from the settlement.
17. The proposed development would add to this light spill, however there is no evidence before me that would indicate that it would be especially prominent

within the landscape, and overall, I consider it unlikely to lead to harm to the landscape character area or the setting of the AONB.

18. Overall, however, I conclude that the proposed development would result in harm to the character and appearance of the area and would fail to preserve the setting of Bulmer Conservation Area. Accordingly, the development would be contrary to BDP Policies SP7, LPP35 and LPP52 which, amongst other matters, state that new development must be of a high standard of layout and design, reflecting the area's local distinctiveness, of a proportion, composition and scale that complements the local character and be of a density and massing that relate to the character of the site and immediate surroundings.
19. It would also be contrary to BDP Policies LPP47 and LPP53 which amongst other matters require new development to respect and respond to local context, especially in historic areas, and encourage the preservation and enhancement of the character and appearance of Conservation Areas.

Living Conditions

20. The Council are concerned that the proposed two-storey flat roofed projections to the northern elevation of both dwellings would result in insufficient light being available to bedrooms within these properties. There is dispute as to whether the two-storey elements would intrude into the '45-degree zone' cited by the Council, with the appellant asserting that the projections would be lower in height than the bedroom windows. However, the plans before me indicate that the ridge of the pitched roof of the projection on Plot 1 would exceed the height of the relevant bedroom window, and the flat roofed projection on Plot 2 appears to be at the same height as the bedroom window.
21. Whilst I consider it likely that both projections would have some effect on the levels of light available to windows serving Bed 2 at each plot, my attention has not been drawn to any specific policy requirement with regards to the '45-degree zone'. The relative heights of the projections and windows, the distance between them, and the orientation of the proposed dwellings leads to me to conclude that any harm to living conditions that would result would be minor.
22. The existing first-floor roof terrace at Back House Croft would face back towards the side elevation of Plot 2 and would result in some potential for overlooking of parts of the side and rear garden of the dwelling. However, the level of separation between the properties, and the levels of alternative garden space that would be available to future occupiers of Plot 2 leads me to conclude that this arrangement would not lead to significant harm to the living conditions of future occupiers of this property.
23. Therefore, I conclude that the proposed development would provide acceptable living conditions for future occupiers. Consequently, the development would accord with BDP Policies SP7, LPP35 and LPP52 which together, and amongst other matters, require new development to provide appropriate living conditions for existing and future occupiers.

Suitability of the location for residential development.

24. Since the appeal was submitted, the Council has adopted a new local plan. In doing so, the previous settlement boundary, outside of which the site was located, has been reviewed and extended. Accordingly, the appeal site is now

located within the settlement boundary of Bulmer and is not situated in a remote location.

25. BDP2 Policy SP3 states that existing settlements will be the principal focus for additional growth, that development will be accommodated within settlements according to their scale, sustainability and existing role. BDP2 Policy LPP1 states that proposals within development boundaries will be permitted where they satisfy amenity, design, environmental and highway criteria, and where they would not result in material adverse detriment to the character and historic interest of the settlement.
26. BDP2 Policy SP3 requires no further consideration of sites within settlement boundaries with regards to access to services beyond the relevant local policy relating to such development. However, BDP2 Policy LPP1 makes no reference to access to services.
27. Bulmer is a village with limited services, but does include a school, church, village hall and post office. Nevertheless, most day-to-day needs of residents are likely met in other, better served settlements. The village lies around four kilometres (km) from the town of Sudbury, and around 11km from the town of Halstead. At least six buses per day provide links to these settlements on all days other than Sunday, on a demand response basis.
28. Whilst it is likely that some journeys made by future occupiers to meet daily needs would be carried out by private car, the site is served by public transport, and consequently I consider that it would be practical to access larger settlements by means of transport other than the private car, and I have had regard to Paragraph 79 of the Framework which advises that with regards to smaller settlements, that development in one village may support services nearby.
29. I am also mindful of the findings of the Inspector in the appeal at the adjoining site to the west, where it was concluded that the development in that case was appropriately located with regards to accessing local services and means of travel. The appeal site before me now is located marginally closer to the village centre than that site, and accordingly, would be no worse than the adjoining development in terms of accessing local services and facilities.
30. Therefore, I conclude that the site is a suitable location for new development with regards to access to services and facilities by means other than the private car. However, as I have found harm with regard to the effect of the proposed development upon the character and appearance of the area and setting of BCA, it would therefore fail to accord with BDP2 Policy LPP1.

Highway Safety

31. The proposed development would be accessed via two accesses. The eastern access would serve Plot 2 and would comprise a spur to a previously formed access that currently serves Back House Croft. Plot 1 would be served by a new access formed as a spur from the access that currently serves properties to the west.
32. The appeal is located at a point at which the speed limit of the road changes to 30 miles per hour (mph). Consequently, the access that would serve Plot 2 would lie within the lower speed limit, and that serving Plot 1 would join a road at national speed limit. However, given the proximity of the speed limit change,

it is likely that traffic passing the proposed entrance for Plot 1 would be either accelerating out of the village or slowing as the new speed limit is approached, and the speed of passing vehicles at both accesses is likely to be relatively low.

33. Both existing accesses have previously received approval, as the eastern access currently serving Back House Croft was approved by the Council in 2010², and that to the west formed part of the scheme allowed on appeal³. Accordingly, I am mindful that the potential safety of the visibility splays associated with these accesses has previously been considered and found to be acceptable, and I have not been presented with any evidence to indicate that they have since operated in anything other than a safe manner.
34. The proposed development would increase the level of traffic using these accesses; however, this would amount to traffic generated by a single dwelling in each instance, which would not be significant. I am also satisfied that adequate visibility would be available with regards to observing traffic from other properties that share these accesses in order to avoid conflict.
35. I accordingly consider that the proposed development would not have an adverse effect upon highway safety. It would therefore be in accordance with BDP2 Policy LPP35 which requires the massing and density of residential development to be related to the adequacy of the access and local road system, and BDP2 Policy LPP52 which seeks to ensure that new developments are adequately managed with regards to traffic generation.

Other Matters

36. The issue of housing land supply was initially a matter of dispute between the parties, however since the submission of the appeal and the adoption of the Braintree District Plan, the Council has updated its supply position, which it considers to be 4.86 years. The appellant has confirmed that they agree with this figure.
37. I am mindful that the appellant has a record of delivering new housing within the local area, and that as a result, the development would potentially be deliverable within a short timeframe. However, there is no mechanism before me that would ensure that the development would be delivered by the appellant, nor would such a mechanism would be reasonable. Accordingly, I afford this factor only neutral weight in my considerations.
38. The appellant considers that the proposed development would provide new housing of a size for which there is an identified particular need. However, I have been provided with no substantive evidence that demonstrates that such a need exists, and accordingly, I can afford only very little weight to this matter.

Planning Balance and Conclusion

39. The harm the proposed development would cause to the significance of the conservation area would be less than substantial. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm

² 10/01345/FUL

³ APP/Z1510/W/18/3199016

should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

40. The proposed development would lead to the development of two dwellings. This would represent a positive, albeit modest, contribution towards boosting housing supply. As the shortfall is not significant, it is a benefit to which I afford moderate weight. The proposed development would, in turn, provide employment during construction, although this would be time limited. There would also be other social and economic benefits to Bulmer and the wider area in terms of supporting local facilities and services. However, these would also be limited by the scale of the proposed development. I ascribe these benefits only modest weight in reaching my decision.
41. The proposal would have a negative effect on the significance of a designated heritage asset and the Framework states that great weight should be given to the conservation of the asset. The public benefit identified would not outweigh this harm.
42. Although I have found that the proposed development would be acceptable with regards to its effect upon the living conditions of future occupiers, its effect upon highway safety, and would also be suitably located in terms of access to services and facilities, I have found that it would have an unacceptable effect on the character and appearance of the area, including the setting of the CA. It would be contrary to BDP2 Policies SP7, LPP35, LPP47, LPP52 and LPP53.
43. The Council has stated that it can only demonstrate 4.86 years of housing land supply and accordingly, I am taken to Paragraph 11 d) of the Framework, and as I have found that the harm to a designated heritage asset would not be outweighed by the public benefits of the proposal, Paragraph 11 d) i) is relevant.
44. As the application of policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposed development, the proposal is not sustainable development for the purposes of the Framework, and therefore, the presumption in favour of sustainable development does not apply.
45. The proposed development would conflict with the development plan as whole, and there are no material considerations that would justify a decision other in accordance with it. Accordingly, the appeal is dismissed.

C Harding

INSPECTOR