

Appeal Decision

Site visit made on 20 December 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2023

Appeal Ref: APP/Z1510/W/22/3298077

Land between Hillcrest and Stone Cottage, Clay Hills, Pebmarsh CO9 2NG

- 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 Ms A Wisby & Mr A Griffiths against the decision of Braintree District Council.
 - The application Ref 21/03616/OUT, dated 10 December 2021, was refused by notice dated 21 March 2022.
 - The development proposed is the erection of a pair of 3 bedroom semi-detached dwellings with new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with all matters except for access reserved for subsequent consideration. Accordingly, I have treated as illustrative the proposed site plan, which shows the layout of the dwellings and some landscaping.
3. The draft Section 2 Local Plan referred to in the decision notice, subsequently was adopted in July 2022. The new plan supersedes the Local Plan Review (2005) and the Core Strategy (2011). Accordingly, I have had regard only to relevant policies from the adopted development plan, which now comprises the Braintree District Local Plan 2013-2033, Section 1 (2021) and Section 2 (2022). I note also that the numbering of the relevant policies has altered from the draft version.

Main Issue

4. The main issue is the suitability of the location for the proposed dwellings, having regard to development plan policy concerned with development in the countryside; and, related to this, the effect on the character and appearance of the appeal site and surrounding area.

Reasons

5. The appeal site is an area of undeveloped grassland that forms part of a wider area of open land to the west of the main settlement area of Pebmarsh.
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Beyond this further to the west is a separate part of the defined settlement. A public footpath runs alongside the eastern boundary of the site with paddocks and open countryside to the north. The site has a frontage on Pebmarsh Road, with a hedgerow and existing access point to this frontage.

6. The Local Plan Section 2 sets out the spatial strategy for the district, in which Pebmarsh is defined as a Third Tier village. Policy LPP1 concerns development boundaries and says that development outside defined boundaries will be confined to uses appropriate to the countryside. As the proposal involves market housing in a location adjacent to but outside the defined development boundary for Pebmarsh, it is contrary to Policy LPP1. I note, however, that the Council does not raise the location's accessibility to services and facilities and so the main concern with regard to the proposal's physical effects is on character and appearance.
7. The properties within the settlement boundary to the east of the appeal site along Pebmarsh Road represent a linear form of development running north-west out of the more compact village core. Given the separate group of dwellings further to the west, the open land in between provides a visual break in development and prevents the continuation of the linear development into the countryside. Despite the hedge to the road frontage, it is possible to see the extent of the open countryside to the north; this is further experienced from the public footpath next to the appeal site, which also provides a marker to the settlement edge.
8. The proposed dwellings would, as the appellant contends, represent a limited amount of development within the overall extent of open land between the two areas of built development. They would, nonetheless, be a prominent incursion beyond the settlement edge into the open countryside that is important in defining the relationship between the settlement's built form and surrounding land. The proposal would also reduce the open gap between the two defined areas of the settlement, thereby harmfully extending the linear development into the countryside.
9. This would be apparent from the site frontage, where the existing rural access would take on a more urban form and expose views of the dwellings. The dwellings would also be prominent in views from the adjacent footpath, particularly approaching the village from the north, where they would appear as an incongruous addition, extending into the countryside beyond the settlement edge, which is delineated by the footpath itself. Within this open setting, it would not be possible effectively to screen the dwellings through lowering the land level or further planting as the extent of this would of itself be incongruous and uncharacteristic.
10. Matters related to the appearance and layout of the dwellings are reserved for subsequent consideration, although the description of development refers to semi-detached dwellings. While I note the main parties' differing viewpoints in this regard, given that most details are reserved I have focused on the broader considerations with regard to the effects of the proposal, as found above.

11. The appellants draw my attention to a successful appeal for a new dwelling at land on Oak Road, to the north-west of the current appeal site¹. That proposal shares some similarities with the current one, as it involves a site adjacent to but outside the settlement boundary. In the earlier appeal, however, the proposal is for one dwelling rather than two; and the site is in a less prominent location than the current appeal site, which has a frontage on the main road serving the principal part of the village. Moreover, there is development on the opposite side of Oak Road, which is not the case here, and the established development boundaries have been reaffirmed since that appeal decision with the recent adoption of the new Local Plan. Therefore, I have considered the current proposal on its merits and the earlier appeal does not provide a direct precedent for it.
12. Accordingly, for all the above reasons, I conclude that this would not be a suitable location for the proposed dwellings due to the conflict with Policy LPP1 of the Braintree District Local Plan 2013-2033, Section 2 and the unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is also contrary to Policy LPP52 of the Local Plan, which requires a high standard of design in all new development; and to Policy LPP67, concerning landscape character and features, which states that development which would not successfully integrate into the local landscape will not be permitted. It also contrary to section 12 of the National Planning Policy Framework (the Framework) concerning good design.

Other Matters

13. I have had regard to the representations made by interested parties, which largely concern matters addressed under the main issue or which are more appropriately considered under reserved matters. With regard to the effect of the proposal on ecology, I note that the Council's Ecology Officer considers that relevant mitigation and management can be secured satisfactorily. I have no basis to conclude differently, or with regard to the Highway Authority's assessment that adequate visibility from the site access can be achieved.
14. The appellant draws attention to the Council's recently updated housing land supply position², which states that it cannot identify a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework³. The current level of supply is 4.86 years. Consequently, the policies which are most important for determining the application are out-of-date⁴ and 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 as a whole⁵.
15. The shortfall from the requisite five year supply is not significant, but nonetheless important, particularly given the Framework's objective to significantly boost housing supply. As such, the two dwellings would make a contribution, albeit limited, to addressing the shortfall. Moreover, there would

¹ APP/Z1510/W/20/3250258 dated 29 October 2020.

² Published 23 September 2022.

³ Paragraph 74.

⁴ Footnote 8 to paragraph 11d)

⁵ Paragraph 11d)ii.

be some short-term economic benefit from the dwellings' construction and their occupants could help to support local services within the surrounding area.

16. Conversely, the proposal would conflict with development plan policies concerning development in the countryside and its effects, to which I give significant weight in this case given their recent testing against the Framework and subsequent adoption. Moreover, as the proposal would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area, it is contrary to the Framework's requirement that development is sympathetic to local character⁶. Therefore, on balance, such adverse impacts would significantly and demonstrably outweigh the benefits of this scheme, as assessed against the Framework as a whole. Hence the presumption in favour of sustainable development does not apply.

Conclusion

17. The proposal is contrary to development plan policies and to the Framework as it would cause unacceptable harm. Despite the shortfall in housing provision, the presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR

⁶ Paragraph 130c).