

Appeal Decision

Site visit made on 27 February 2023

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2023

Appeal Ref: APP/Z1510/W/22/3307021

Brooms Farm, Colne Park Road, White Colne, Essex CO6 2QN

- 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 and Mrs Amerio against the decision of Braintree District Council.
 - The application Ref 22/00344/OUT, dated 9 February 2022, was refused by notice dated 31 March 2022.
 - The development proposed is the demolition of the existing dilapidated bungalow and the erection of 2 bungalows.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application is submitted in outline, with all matters of detail reserved for later determination. Although access is therefore a reserved matter, submitted plan No 21-245-AS-1 shows 2 areas where access points to the development would be situated, as is required by Article 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
3. On 25 July 2022, after the appeal application was refused but before the appeal was submitted, the District Council (the Council) adopted the Braintree District Local Plan 2013 – 2033 Section 2 (LP2). This supersedes the Braintree District Local Plan Review (2005) and the Braintree District Local Development Framework Core Strategy (2011). The development plan for this appeal is now formed of the Braintree District Local Plan 2013-2033 Section 1 (LP1) and LP2.

Main issues

4. Taking into account the Council's reason for refusing the application and the consultation responses received in connection with the application, the main issues for this appeal are:
 - i) The suitability of the location for the proposed dwellings, having regard to policies concerning development in the countryside; and
 - ii) The effect of the proposal on the safety of highway users.

Reasons

Housing land supply

5. The main issues need to be considered in light of the Council's current supply of specific deliverable housing sites. This has changed since the application was refused so that the Council's identified supply is now only 4.86 years - short of the 5 year supply required by National Planning Policy Framework (Framework) paragraph 74 and LP1 policy SP4. Consequently, in line with Framework paragraph 11(d) and Footnote 8, the policies which are most important for determining the application are considered to be out-of-date 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 taken as a whole.
6. The shortfall from the required 5 year supply is minor, but nonetheless significant. I note that the Council is currently meeting the Housing Delivery Test requirement of Framework paragraph 66, but this does not alter the status of the development plan policies in the terms of Framework Footnote 8.

Countryside location

7. The appeal site lies in the countryside, within an area of sporadic development along Colne Park Road. It is just outside of the small village of White Colne which is identified as a Third Tier village in LP2's spatial strategy that directs development to the most sustainable locations. Third Tier villages are said to be the smallest settlements with development boundaries, lacking most of the facilities required to meet day to day needs and often having poor public transport links. LP2 policy LPP1 allows for some development within these villages, but restricts development outside their boundaries to uses appropriate to the countryside. This proposal for countryside development therefore conflicts with that aspect of policy LPP1.
8. Although White Colne itself provides just a few local services, the adjacent settlement of Earls Colne contains a wide range and choice of services and is not far from the site. There is also a bus stop nearby which is served by regular buses to larger towns. Although people walking or cycling to White or Earls Colne from the site would have to negotiate a stretch of road that lacks footways or lighting, this is only a short section of quiet lane and the rest of the route is well set up for pedestrians and cyclists. Whilst future residents at the appeal site would likely rely to some extent on cars for their travel needs, they would also have other reasonable transport options.
9. The site is not in an isolated position where development would be restricted by Framework paragraph 80. Bearing in mind the moderate accessibility of local services here, Framework paragraph 79 gives some encouragement to development in rural areas like this, where development would enhance or maintain the vitality of rural communities and support local services, whether in a single village or a group of villages.
10. I find that the proposal for development in the countryside outside of White Colne conflicts with the development strategy set out in LP2 including policy LPP1. This policy is, however, considered to be out-of-date because of the shortage in the supply of housing development sites. Based on the specific circumstances of this site I consider that the proposal would reasonably

conform to the policies concerning rural housing development in the Framework. For the same reason, I find no overriding conflict with LP1 policy SP1's encouragement of sustainable development. On this basis, I conclude that the location of the proposed dwellings would be suitable, having regard to policies concerning development in the countryside.

Highway safety

11. Colne Park Road is a narrow, steep and bendy rural lane, subject outside of the village to the national 60 mph speed limit. The appeal site has a long frontage, with a high hedge and steep bank set close to the road, and no significant road verge. Visibility from both of the 2 existing/proposed access points is sharply limited by the combination of these roadside features and the road's alignment.
12. I note that White Colne Parish Council objects due to poor sight lines. The County Highway Authority comments that visibility splays should be required at the access points, with 2.4m set-backs and including views for 215m to the north. It recommends a speed survey but no such survey, nor any plan showing the required splays, has been provided.
13. The Council itself raises no highway safety objection. Its report states that as all matters of detail are reserved, highways matters cannot be considered. I cannot agree with that position. The regulations require indication of access points or areas, even where access is a reserved matter, and this must mean that they are a material consideration. Moreover, the visibility splay condition recommended by the County Highway Authority and the Council must be assessed in terms of the tests for conditions set out in Framework paragraph 56.
14. The proposal would increase the number of dwellings at the site and thus would also be expected to increase the amount of traffic using the accesses to White Colne Road. Based on my site visit, the consultation responses and the limited information provided, I have severe reservations about the potential for the provision of safe access here. This is due to the lack of adequate visibility splays for drivers using the accesses at present and apparent difficulties in providing such splays.
15. The Council's suggested condition requiring the provision of visibility splays is agreed by the appellants, but still must be considered in line with the tests in the Framework. In this case, it appears that the splays, and the northern splay in particular, would require extensive areas of land outside of the control of the appellants and may also require extensive engineering works outside of the appeal site due to levels issues. It seems highly unlikely that the required splays could actually be provided acceptably. This could render the permission unimplementable. It would be unreasonable to impose the recommended condition as it could effectively nullify the benefit of the permission.
16. The recommended condition would therefore fail the test of being *reasonable in all other respects* as set out in Framework paragraph 56. In the absence of a traffic speed survey or any other information, I have no basis for imposing a condition requiring lesser splays than those recommended by the County Highway Authority and the Council.
17. I find that imposing the suggested condition requiring the provision of suitable visibility splays would not be reasonable and would very likely make any

planning permission unimplementable. Without such a condition, safe access would not be provided and the increased traffic generated by the extra house would cause an unacceptable level of danger to highway users.

18. I conclude that the proposal would prejudice the safety of highway users, in conflict with Framework paragraph 110's aim to ensure that safe and suitable access to sites can be achieved for all users.

Other matters

19. The appellants state that one of these houses would be self-build, by their son who is on the Council's Self-Build and Custom Housebuilding Register. The Council does not dispute that it is failing to provide sufficient self-build housing sites to meet requirements. This matter could potentially be dealt with by a condition requiring the provision of one self-built unit, if permission was to be granted. I give this matter significant weight in favour of the proposal.
20. There would be social and economic benefits from the construction of the dwellings and their occupants' support for local services. The proposed net increase of one dwelling would also make a small contribution to boosting the supply of homes, in line with the Government's objective set out in Framework paragraph 60.
21. The existing bungalow is in dilapidated condition and its replacement with well-designed new buildings could enhance the local landscape. I also note that a number of people have written in support of the proposal. All of these points weigh in favour of the proposal.
22. Finally, the appellants suggest that the existing bungalow could be substantially extended under permitted development rights¹ if planning permission is refused for the current proposal. I have not, however, seen any confirmation or, where required, prior approval for such development so give this little weight as a fall-back position. In any case, a permitted development scheme would not create a second dwelling so would not have the same impacts in terms of the key issues in this appeal.

Planning balance and conclusion

23. Despite the conflict with LP2's spatial strategy and policy LPP1, I find no objection in principle to the proposal, which would bring some modest, but not insignificant, benefits. My findings in relation to highway safety, however, are sufficiently compelling for me to conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR

¹ Under the Town and County Planning (General Permitted Development) (England) Order 2015.