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# Appeal Decision

Site visit made on 3 May 2023

**by Luke Simpson BSc MSc MRTPI**

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

**Decision date: 8 June 2023**

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**Appeal Ref: APP/P1560/W/22/3296823**

## **Land adjacent The Glebe, Wix Road, Bradfield CO11 2UX**

- 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 P Jones against the decision of Tendring District Council.
  - The application Ref 21/01907/OUT, dated 5 November 2021, was refused by notice dated 17 March 2022.
  - The development proposed is Outline with all matters reserved for the erection of one self-build bespoke designed dwelling.
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## **Decision**

1. The appeal is dismissed.

## **Preliminary Matters**

2. The appeal relates to an application for outline planning permission with all matters reserved. As such, other than the Site Plan, I have only had regard to the submitted plans insofar as they are indicative.

## **Main Issues**

3. The main issues are:
  - Whether the site is suitable for the proposed development with particular regard to the Council's strategy for the location of new residential development.
  - The effect of the proposed development on the character and appearance of the surrounding area.

## **Reasons**

### **Location**

4. TDLP Section 1<sup>1</sup> Policy SP3 sets out the broad strategy for the location of new housing in the district. It states that development will be accommodated within or adjoining existing settlements according to their scale, sustainability and existing role. The appeal site is located outside of but directly adjacent to the settlement boundary of Bradfield as identified on the adopted Policies Map.
5. The associated text to TDLP Section 2<sup>2</sup> Policy SPL2 states that in general terms, development outside of defined Settlement Development Boundaries will be the

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<sup>1</sup> Tendring District Local Plan 2013-2033 and Beyond: Section 1 – Adopted January 2021

<sup>2</sup> Tendring District Local Plan 2013-2033 and Beyond: Section 2 – Adopted 25 January 2022

subject of strict control to protect and enhance the character and openness of the countryside. It also states that there are certain forms of development that can and sometimes need to take place in these areas. Despite this, the actual policy text of SPL2 states that outside settlement boundaries, development proposals will be considered in relation to the patterns and scales of growth promoted through the settlement hierarchy.

6. As such, when read as a whole, these policies do not preclude the principle of new residential development on sites 'adjoining' the settlement boundaries, subject to a consideration of the patterns and scales of growth set out within the settlement hierarchy.
7. TDLP Section 2 Policy SPL1 defines a settlement hierarchy. Bradfield is identified as a 'smaller rural settlement'. TDLP Section 2 Paragraph 3.3.1.4.4 outlines that 'smaller rural settlements' can accommodate growth of up to 10 dwellings. However, the TDLP also outlines that 'smaller rural settlements' are the least sustainable settlements, with fewer services and facilities provided. Notwithstanding this the village contains a primary school, two public houses, two places of worship, a village hall, a car garage, a post office, a shop and a tearoom. I consider this to be a reasonable range of services and facilities. There is also a bus stop with regular services to larger settlements within 180 metres of the appeal site.
8. Whilst there are a reasonable range of services and facilities and good public transport links within the settlement, there is no footpath linking the appeal site with them. Furthermore, whilst the road is subject to a 30mph speed limit, future occupants would need to travel along the carriageway for a significant distance (more than 150m) in order to access the services and facilities and/or bus stop on foot. I consider that it would be unlikely that they would do so, particularly in the winter months when the weather is more variable, and the sun sets earlier in the day. These circumstances would be even less favourable to the elderly or those with mobility impairments. As a result, there would inevitably be an over-reliance on the private motor vehicle to access services and facilities.
9. The proposed development would result in harm due to the poor accessibility to services and facilities and it would therefore conflict with TDLP Section 2 Policies SPL1 and SPL2 and TDLP Section 1 Policies SP3 and SP7. These policies collectively seek to ensure that new residential development is located in locations with good access to services and facilities, with the latter policy requiring a prioritisation of the needs of pedestrians.
10. The proposal is also described as a self-build dwelling. In addition to the aforementioned policies concerning the principle of development, TDLP Section 2 Policy LP7 sets out the circumstances where self-build proposals will be acceptable in countryside locations. However, the development would not meet these criteria as it is not within 400m of a rural service centre or within 600m of a rural service centre or smaller urban centre. Neither is the site located on previously developed land<sup>3</sup>. For these reasons the proposal would not be supported by Policy LP7.

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<sup>3</sup> The Framework glossary explains that gardens in built-up areas are not previously developed land.

11. Given the conflict with the Council's strategy for the location of residential development, the proposal would also be contrary to the Framework, which emphasises the importance of a plan-led approach to development.

#### *Character and Appearance*

12. The appeal site comprises the garden of an existing detached single storey dwelling. The layout of development in the immediately surrounding area is linear, with dwellings of various scales and appearances fronting Wix Road. The Glebe comprises a much larger garden than the properties to the north-west of the appeal site.
13. Given the large size of the garden and the extent of its frontage with Wix Road, a modestly sized single storey dwelling would quite comfortably fit within the appeal site whilst maintaining the prevailing linear character of Wix Road.
14. The site does not make any significant contribution to the open character of the surrounding countryside. Indeed, it is largely visually contained by hedgerow and tree planting. Whilst more open to the rear, a small scale dwelling would be capable of respecting the rural character of the area, even taking into account the need to remove a section of hedgerow to facilitate access.
15. Matters pertaining to the design of the development are reserved and do not form part of the proposal. Nonetheless, given my findings, there is no reason why a dwelling could not be designed to be in keeping with the character of the surrounding area.
16. For these reasons the proposed development would not be harmful to the character and appearance of the surrounding area. It would therefore accord with TDLP Section 1 Policy SP7 and TDLP Section 2 Policy SPL3, which collectively require that new development is sympathetic to local character. It would also accord with Framework Paragraph 130, which seeks to meet the same aims.

#### **Planning Obligation**

17. A unilateral undertaking was submitted with the planning application. This includes contributions in relation to public open space and to mitigate the effect of the proposal on European Sites (through a Recreational Disturbance, Avoidance and Mitigation contribution).
18. However, given that I am dismissing this appeal on other grounds it is not necessary to consider these matters further. Nor is it necessary to undertake an appropriate assessment (in relation to the requirements of the Habitat Regulations<sup>4</sup>).

#### **Other Matters**

##### *Self-build*

19. Under the Self-build and Custom Housebuilding Act 2015 (as amended) relevant authorities are required to keep a register of individuals seeking self-build plots within the authority's area. Relevant authorities are also required to grant sufficient permissions to meet the demand for self-build and custom housebuilding in their area. The appellant asserts that TDLP Section 2 Policy

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<sup>4</sup> The Conservation of Habitats and Species Regulations 2017

LP7 is inconsistent with the Framework, the latter of which it is asserted does not include such stringent locational requirements for self-build dwellings. However, whilst the Framework does not include locational requirements that does not mean that self-build development should automatically be exempt from policies designed to direct development to the most sustainable locations.

20. Indeed, I have also found that the proposal conflicts with the Framework's emphasis on a plan-led system. The Framework should be read as a whole just as the development plan should.
21. The appellant has provided some evidence to indicate that the Council has only granted a small number of permissions for self-build development. Reference has also been made to an appeal decision from a different district<sup>5</sup> where it was found that there was a shortfall in self-build housing. However, the appellant has not presented substantive evidence to indicate that the demand for self-build housing in the District is outstripping supply. Reference is made to an officer report concerning a site elsewhere. Here the Officer concluded that there was an 'unmet' need. However, no further substance or context is provided by the appellant.
22. Within this context the benefits associated with the provision of a self-build dwelling would be moderate and they would not outweigh the harm which the development would cause. Even if there were a shortfall, only one dwelling is proposed and as such, the benefits would be of limited scale and would still not outweigh the conflict with the development plan.

#### *Previous Appeal Decision*

23. In an appeal concerning residential development in a different part of the village<sup>6</sup> an Inspector found conflict with the previous Local Plan policies in relation to the principle of development. Yet the Inspector still allowed the appeal, partly on the basis of the lack of identified harm. However, it is not clear whether there were suitable pedestrian links to access the village on foot from the site. Furthermore, the planning policy context has changed since the appeal decision was made. I agree with the Inspector that there is no cap on housing development (even where a five-year housing land supply exists). However, in contrast to this previous appeal decision, I have identified the harm which would occur and this would not be outweighed by the social and economic benefits of the proposal.

#### **Conclusion**

24. The proposed development would not be harmful to the character and appearance of the surrounding area. However, it would have poor access to services and facilities, owing primarily to the lack of safe and convenient pedestrian access. As such, the proposal conflicts with the Council's strategy for the location of residential development.
25. The proposed development would conflict with the development plan taken as a whole. Furthermore, there are no material considerations raised, of sufficient weight, to warrant a decision other than in accordance with it. The appeal is therefore dismissed.

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<sup>5</sup> PINS Ref: APP/G1630/W/20/3250825

<sup>6</sup> PINS Ref: APP/P1560/W/20/3252825

*Luke Simpson*

INSPECTOR