



Appeal Decision

Site visit made on 13 June 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Appeal Ref: APP/Z1510/W/22/3310554

Lady's Haven, Station Road, Earls Colne CO6 2ER

- 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 Mrs Rai against the decision of Braintree District Council.
 - The application Ref 22/00910/FUL, dated 5 April 2022, was refused by notice dated 25 July 2022.
 - The development proposed is the erection of a 3 bedroom bungalow in place of existing stables.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council determined the planning application, it has adopted the Braintree District Local Plan 2013-2033 Section 1 February 2021 and the Braintree Local Plan Section 2 July 2022 (referred to collectively henceforth as the BLP). The Policies in the BLP supersede policies in the Braintree District Local Plan Review 2005 and the Braintree District Local Development Framework Core Strategy 2011 (BCS), which were included in the Council's reasons for refusal of the planning application. I have therefore determined the appeal based on the current applicable policies in the BLP.
3. The appellant has submitted a revised drawing No 21-132-AS-2 Floor Plans Elevations, which is different from the version considered by the Council in its decision. The revised version shows shutters on the exterior of the proposed dwelling and a reduction in the number of windows. The Council has raised no concern with this revised drawing being considered as part of the appeal. Therefore, no parties would be prejudiced by me taking account of it in my decision.

Main Issues

4. The main issues are:
 - i. The effect of the proposal on the character and appearance of the surrounding countryside.
 - ii. Whether the site in a countryside location is suitable for new residential development.

Reasons

Character and appearance

5. The appeal site comprises stables, paddocks and an access lane. The stables are of a modest size and appearance, typical of a rural area. The stable buildings are on the elevated eastern side of the site, with the paddocks and surrounding countryside falling away towards the Colne River valley below. The landscape setting is undulating, open and rural with vegetation interspersed amongst fields and meadows. Two public rights of way (PROWs) run along the sides of the paddocks, providing views of the site and surrounding countryside from several perspectives.
6. The proposal would replace the main stable building, which is rectangular, with a 'U' shaped bungalow. Although the total footprint would be comparable in area to the stable, the two substantial outriggers would deviate significantly from the current built form. The roof would differ in ridge and eaves heights, despite a form and pitch reminiscent of the existing structure. The gable ends of the outriggers and rooflights would give a distinctly residential character, as would the full length glazed double doors, even with the addition of shutters.
7. These features would be on the main façade facing the countryside, so would be highly visible in their elevated position from many viewpoints in the landscape, including the PROWs. They would have a domesticating and urbanising visual impact that would substantially change the appearance of the site in the landscape, diminishing its rural character and countryside setting.
8. I note the appellant's proposed conditions to require removal of outbuildings prior to occupation of the new dwelling, and to define the domestic curtilage of the new dwelling. Although these measures would somewhat reduce the visual impact of the proposal, given the elevated position of the new dwelling they would not overcome the harm resulting from the bungalow's residential appearance. For the same reason, the use of materials appropriate to the rural area, which could be secured by condition were the appeal to be allowed, would also not be sufficient to mitigate the harm identified.
9. Although the form and design of the dwelling would be similar to that of the house under construction on the neighbouring paddock, that site is set back in a less prominent position in the landscape. In addition, the appearance of two dwellings together would have a greater domesticating visual impact than the one already permitted.
10. For the above reasons, I conclude the proposal would have a harmful effect on the character and appearance of the surrounding countryside. This is contrary to Policies LPP47, LPP52 and LPP67 of the BLP, which together seek a high standard of design that respects local context, responds to the character and appearance of the surrounding area and integrates successfully into the local landscape. It is also contrary to the National Planning Policy Framework (the Framework) where it seeks high quality design and development that enhances the natural environment by recognising the intrinsic character and beauty of the countryside.

Countryside location

11. Policy SP3 of the BLP addresses the spatial strategy for North Essex as a whole and identifies existing settlements as the principal focus for additional growth.

It seeks to ensure development locations are accessible by a choice of means of transport. Policy LPP1 of the BLP defines the settlement hierarchy for the Braintree area, supported by a clear statement that areas outside a development boundary are considered countryside. In those locations uses should be appropriate to the countryside and protect its intrinsic character and beauty.

12. The appeal site is located just outside the development boundary of Earls Colne, a Key Service Village within Braintree's settlement hierarchy. The location is therefore in the countryside. It is an isolated countryside location because there are few nearby dwellings other than those within the nearby settlement. A densely treed area provides a clear physical and visual separation between the countryside and a nearby housing estate within Earls Colne.
13. The appeal site is accessed from a relatively short lane off Station Road and the footpath along Station Road into Earls Colne is lit. Although not close, there would be potential to access services and facilities in Earls Colne by bicycle or on foot, so future occupants would not necessarily be fully reliant on the use of a private car. Consequently, the proposal would allow for a choice of transport modes in accordance with Policy SP3 of the BLP and Section 9 of the Framework.
14. However, I have concluded under the first main issue that the proposal would have a harmful effect on the character and appearance of the surrounding countryside, thereby failing to protect its intrinsic character and beauty contrary to Policy LPP1 of the BLP and the Framework. In addition, paragraph 80 of the Framework states planning decisions should avoid the development of isolated homes in the countryside unless one or more of five circumstances apply. The appellant has not suggested the proposal would meet any of these circumstances.
15. I have considered the previous appeal decision for nearby Pudsies Paddock¹. That Inspector also found that occupiers would have access to services and facilities at Earls Colne by bicycle or foot down the lane and Station Road. She therefore found no significant conflict with the former BCS policy that sought the location of development in sustainable locations to reduce the need to travel. Nevertheless, she found harm to the character and appearance of the countryside and dismissed the appeal. The Council gave moderate weight to the Inspector's finding on the sustainability of the location when it subsequently granted permission for a new dwelling on the site². That dwelling was under construction at the time of my visit.
16. Whilst the overall thrust of spatial strategy and emphasis on transport choice are the same, in other respects development plan policy on the countryside has changed since the Pudsies Paddock decisions. As set out above, Policy LPP1 of the BLP includes different requirements that would not be met by this appeal proposal. Therefore, I give only limited weight to the planning consent for Pudsies Paddock. The appeal in relation to Land North of Station Road³ also predates the current development plan and in any case relates to a much larger scale of development and different location, so I give it limited weight. The new housing estate referred to by the appellant is on a site identified for

¹ Appeal reference APP/Z1510/W/19/3237372

² Planning application reference 20/01664/FUL

³ Appeal reference APP/Z1510/W/21/3267825

development within the settlement of Earls Colne, so is not a comparable countryside location.

17. The construction of one dwelling and future occupiers' use of local services and facilities would make a modest contribution to the vitality of the countryside economy in support of the Framework's objectives. I ascribe limited weight to this benefit given the small scale of the proposal.
18. Taking all this together, I conclude the site in a countryside location would not be suitable for a new dwelling because the proposal conflicts with Policy LPP1 and with paragraph 80 of the Framework. This conflict would not be outweighed by the other material considerations identified above.
19. Policy SP1 of the BLP, referred to by the Council, makes general reference to the presumption in favour of sustainable development in the Framework so is not directly relevant to this main issue. I address the implications of that part of the Framework under planning balance below.

Other Matters

20. The site is within the setting of Ford House on Elms Hall Road, which is a Grade II listed building dating from the eighteenth century. Its significance lies in its original use as a miller's house associated with a nearby watermill, since demolished; its rectilinear plan; and its historic timber frame and materials. The appeal site is some distance away on the other side of the River Colne and intermediate trees and structures restrict intervisibility between it and the listed building. On balance, I consider there would be no harm from the proposal to the setting or significance of the listed building.
21. The Council is satisfied the proposal would provide acceptable living conditions for future occupiers and not harm the living conditions of neighbouring occupiers. It also raises no concern with highway safety, parking, ecology or flood risk. I see no reason to disagree with these conclusions. However, compliance with the development plan in these respects is a neutral factor.
22. The site is within the Zone of Influence of the Blackwater Estuary Special Protection Area (SPA)/Ramsar site, which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017. The parties agree mitigation measures would be required in accordance with relevant Natural England guidance. I note the appellant has made a payment to the Council under s111 of the 1972 Local Government Act. However, the appellant's willingness to provide the necessary mitigation is also a neutral factor.
23. The appellant's connection with the site, local environment and community and the lack of objections from local residents are not considerations that outweigh the harm that would be caused by the development. In addition, little weight can be attached to the appellant's personal circumstances.
24. The proposal would make a modest contribution of one dwelling to the supply of housing, which would help to meet local housing need. This accords with the Framework where it seeks to increase the supply of housing. However, given the proposal is only for one dwelling, this benefit is of limited weight.

Planning Balance

25. For the reasons set out above, the proposal conflicts with Policies LPP1, LPP47, LPP52 and LPP67 of the BLP. The proposal may comply with other policies of the development plan. Nevertheless, I conclude this conflict means the proposal conflicts with the development plan as a whole.
26. The Council accepts its current five-year housing land supply stands at 4.86 years, which represents a modest shortfall. This means, according to the Framework, the policies most important for determining the appeal are out of date. In these circumstances, paragraph 11(d)(ii) of the Framework states 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.
27. The harms resulting from the conflict with the development plan as a whole also result in conflicts with the Framework for the reasons given above. In this case, those harms would affect the character and appearance of the surrounding countryside and the principle of a new dwelling in a countryside location. I attribute these harms substantial weight such that they would significantly and demonstrably outweigh the limited benefits of the proposal, when assessed against the policies in the Framework taken as a whole.

Conclusion

28. I have found that the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

C Carpenter

INSPECTOR