



Appeal Decision

Site visit made on 26 July 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 17th August 2023

Appeal Ref: APP/Z1510/W/23/3316412

Burnt Gardens, Back Lane, Sisted CM77 8AY

- 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 B Gilbert against the decision of Braintree District Council.
 - The application Ref 22/03141/OUT, dated 16 November 2022, was refused by notice dated 18 January 2023.
 - The development proposed is the erection of a single dwelling on a self-build basis.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal application was in outline form with all matters reserved except for access.

Main Issues

3. It is considered that the main issues are (a) whether the proposed development would be in an accessible location, and the effects of the proposed development on (b) the setting of designated heritage assets; (c) the safety of other highway users and (d) important ecological interests.

Reasons

Character and Appearance

4. The proposed development includes the erection of a self-build dwelling on a small paddock upon which some structures have been sited. No details about the use of these structure have been provided other than they are used for storage purposes. It is unclear whether the storage use is related to agricultural activities. However, even there are structures, the whole of the site ought not to be assumed to comprise previously developed land based upon the definition provided in the Glossary to the National Planning Policy Framework (the Framework).
5. As identified by the appellants, there is support for self-build housing in the Framework and there are specific requirements for local authorities to maintain a register of people seeking self-build plots and to give enough suitable developments permissions to meet the identified demand. The appellants' claims about the demand and delivery of self-build housing in Braintree District add weight to the principle of this type of development being needed.

Paragraph 4.104 in the preamble to Policy LPP35 of the Braintree District Local Plan (LP) is supportive of self-build homes within development boundaries or where other policy requirements are met.

6. However, the site is outside a development boundary and the proposed development would result in an isolated dwelling within the countryside which would be contrary to paragraph 80 of the Framework. The criteria which would support housing in the countryside referred to in paragraph 80 do not apply to the appeal scheme. Further, rather than adjoining a settlement, the proposed dwelling would be sited well away from the edge of the village of Sisted. The appeal scheme would not be well related to an existing settlement irrespective as to whether or not the site is previously developed land.
7. As identified by the appellants and seen during the site visit, Sisted has limited facilities which would not meet the day-to-day needs of the future occupiers. Although the comments about one of the appellants walking to Sisted has been noted alongside the claims that future occupiers may or may not walk to the village, in the absence of a footway, these occupiers would need to walk along an unlit road where the traffic was noted to travel at speed. Walking to Sisted would not be a comfortable experience for the future occupiers.
8. The Framework recognises that there are variations between urban and rural areas concerning the opportunities to maximise sustainable travel solutions. Although there are options for on-line purchases and deliveries and the use of the dial-a-ride bus scheme, there would still be some residual vehicular trips by private car because of the site's isolated location and such trips would include accessing the wider range of facilities available in Braintree. Although the low level of trips would not be a reason for this appeal to fail, it adds to the unacceptable harm associated with the site's isolated location away from a settlement.
9. On this issue it is concluded that the appeal scheme would result in an isolated dwelling in the open countryside than rather being at an accessible location and, as such, this would conflict with LP Policy LPP1 concerning proposals outside development boundaries being confined to uses appropriate to the countryside whilst also protecting the intrinsic character and beauty of the countryside. LP Policies SP4 and LPP52 are not considered to directly apply to this issue, particularly because design considerations can be addressed at the reserved matters stage.

Heritage Matters

10. The appeal site is located away from Pickstone Cottages and Old Tan (Tan Office) which are Listed Buildings. There is a statutory duty to have special regard to the desirability of preserving such buildings or their settings or any features of special architectural or historic interest which they possess. In this case, by reason of the degree of separation from the Listed Buildings, the change in topography and the retention of open fields adjacent to these properties, the proposed development would not cause harm to the setting and significance of these designated heritage assets.
11. For the reasons given, it is concluded that the proposed development would not cause harm to the setting of designated heritage assets and, as such, there would not be a conflict with LP Policy 57 which refers to preserving and enhancing the immediate settings of heritage assets by appropriate control

over the development. LP Policy LPP52 is concerned with the detailed design of a proposal rather than specifically an assessment of the impact on the setting of a designated heritage asset.

Highway Safety

12. Access is not a reserved matter and the appeal application was refused on the lack of information concerning the proposed access. Further details have been submitted by the appellants as part of this appeal which include visibility splays of 50 metres to the north and 110 metres to the south.
13. The visibility splay proposed to the north would not be sufficient by reason of the alignment of the road and the speed of traffic which was observed during the site visit. There is the potential for a vehicle emerging from the proposed access not to be seen at an early enough opportunity by the driver of a southbound vehicle. Accordingly, there is a highway safety concern because of the inadequacy of the proposed visibility splay to the north.
14. On this issue, it is concluded that the proposed development would adversely affect the safety of other highway users and, as such, it would conflict with LP Policy LPP52 which, amongst other matters, refers to proposals not having a detrimental impact on the safety of highways.

Ecological Interest

15. From what could be seen during the site visit, the important ecological interest is primarily associated with the site's boundary hedges and trees. Although the information provided by the appellants is limited, by reason of the outline nature of the appeal scheme whereby the siting of the proposed dwelling relative to the boundary vegetation could be assessed at reserved matters stage, there is sufficient information to demonstrate that, in principle, there would not be unacceptable harm to matters of ecological importance associated with the site. A more detailed ecological survey could be submitted at the reserved matters stage and this could be secured by a condition.
16. Some lopping of vegetation fronting the highway would be required to achieve the visibility splays but such works are not uncommon and their timing to avoid bird nesting season or other sensitive periods could be controlled by condition.
17. On this matter it is concluded that the proposed development would not adversely affect important ecological interests and, as such, there would not be a conflict with LP Policy LPP64 which seeks to ensure that there would be no harm to protected species and no net loss of priority species.

Other Matters

18. Reference is made by the appellants to other appeal decisions¹ but their full planning circumstances have not been provided. For these reasons, only limited weight is given to these other schemes in the determination of this appeal which has been assessed on its own circumstances.
19. The Council cannot demonstrate a 5-year supply of deliverable housing land and, as such, paragraph 11(d) of the Framework indicates that the development plan policies which are most important to the determining this appeal should be deemed to be out-of-date and the presumption in favour of

¹ APP/P1560/W/18/3194253; APP/W0530/W/19/3230103 & APP/Z1510/W/21/3267825

sustainable development is engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

20. The erection of a self-build dwelling is given significant weight. The absence of harm to the setting of the Listed Buildings and ecological interests are given limited weight. However, these matters are significantly and demonstrably outweighed by the adverse impacts caused by the erection of an isolated dwelling in the open countryside and to the danger caused to the safety of other highway users. Accordingly, the Framework's presumption in favour of sustainable development does not apply in this case and it is concluded that this appeal should be dismissed.

D J Barnes

INSPECTOR