



Appeal Decision

Site visit made on 26 March 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 April 2024

Appeal Ref: APP/Z1510/W/23/3330442

Oak Piggeries, Waltham Road, Terling, Colchester, Essex CM3 2RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Church against the decision of Braintree District Council.
 - The application Ref is 21/03111/FUL.
 - The development proposed is the erection of 1 x 3-bedroom two-storey detached dwellinghouse with associated detached cartlodge for parking, and alterations to existing access to form shared access with existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of the development above from the appeal form rather than the application form as it provides a more accurate description of the development proposed.

Main Issue

3. The main issue is whether the proposed development would be in a suitable location for new housing with regard to the local development strategy and accessibility to services and facilities.

Reasons

4. The appeal site is currently part of the curtilage of the existing dwelling at Oak Piggeries and is occupied by several outbuildings with access from Waltham Road. It is located in a rural location in close proximity to the village of Terling. This is classified as a Tier 3 village in the Braintree District Local Plan 2013-2033 (the LP) 2022 which states are the smallest villages in the district that lack most of the facilities required to meet day to day needs. However, as the appeal site is located outside the development boundary of this village it is considered to be located within the countryside.
5. Policy LPP1 of the LP states that development outside development boundaries will be confined to uses appropriate to the countryside with the supporting text indicating that development here is normally restricted to that which supports countryside uses, with Policy SP3 of the LP also stating that existing settlements will be the principle focus for additional growth. Therefore, due to its location and nature, the proposed development would not accord with these policies.

6. Policy SP7 of the LP seeks to ensure that all new development should create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car. LPP52 of the LP also states that planning permission will be granted where the use of sustainable modes of transport are promoted in the design and layout of new development.
7. This is not an isolated site, as it is located in close proximity to several other dwellings. Therefore, paragraph 84 of the Framework is not applicable. However, paragraph 83 of the Framework highlights that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. This should include consideration of providing support for local services even in a village nearby.
8. There are some facilities within the adjacent village of Terling, including a public house, school and café which are within walking distance of the proposed dwelling. However, these facilities are minimal and due to limited pavement, footpaths and streetlighting, these would be difficult to access safely, particularly during the hours of darkness. As such, the future occupiers of the dwelling would still be required to travel elsewhere for most of their day to day needs. The nearby settlements of Witham and Chelmsford have a full range of services and facilities which could be used by the future occupants of the proposed dwelling.
9. There are a number of bus stops within Terling, however in their statement the appellant indicates that this is limited to a service on a Wednesday only. The Council have confirmed that the bus service in this area is limited, with no weekend or evening service. Therefore, this could not be reliably used by the future occupiers of the dwelling to access all the services and facilities they require. The surrounding settlements identified above are some distance from the appeal site and are not accessible by foot. The surrounding roads are also narrow country lanes with no evidence of any dedicated cycle lanes, thereby making cycling an unattractive option for day to day family needs. As such, the future occupiers of the proposed dwelling would largely be reliant on the use of a private vehicle to access the necessary services and facilities, contrary to the objectives of Policies SP7 and LPP52 outlined above.
10. Whilst paragraph 109 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, this does not negate the requirement to offer a genuine choice of transport modes and ensure that safe and suitable access to the site can be achieved for all users. Furthermore, due to the scale of the development, the benefit to services within villages nearby would be limited. Therefore, the proposed development would be given limited weight in relation to paragraph 83 of the Framework.
11. In conclusion, the necessary services and facilities which would be required by the future occupiers of the proposed dwelling would not be readily accessible and a single dwelling would not provide significant support for local services nearby. There are extremely limited sustainable transport options and therefore the future occupiers would largely be reliant on the use of a car to serve their day to day needs on a regular basis. Consequently, the proposed dwelling would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing.

12. Therefore, for the reasons above, the proposed development would not be in a suitable location for new housing and would conflict with Policies SP3, SP7, LPP1 and LPP52 of the LP as detailed above. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

Other Matters

13. In their statement, the appellant has indicated that the proposed development would allow them to provide care for their parents, who reside in the adjacent dwelling, as they increase in age and should their health decline. No information has been provided to suggest that they currently have any specific medical needs that requires care or that this accommodation could not be provided within the host dwelling. Therefore, whilst I am sympathetic to these personal circumstances and I am aware of my duty as a decision maker under the Public Sector Equality Duty, I cannot afford this any significant weight.
14. The appellant also states that the proposed development would reduce their commuting time which is considered to enhance the sustainability of the proposal. However, the occupants of the proposed dwelling cannot be guaranteed and therefore this would not weigh in favour of the proposed development.
15. A number of developments have been brought to my attention for dwellings which the appellant indicate are similar to the development proposed. This includes an appeal allowed¹ for a dwelling in a rural location in close proximity to Halstead and an appeal allowed² for dwellings in Newman's Green in Suffolk. Only the second of these appeal decisions have been provided, however the appellant has outlined that the first appeal considered a nearby bus route as a reasonable alternative to private car use. Whilst the second appeal weighs in favour of the proposal it also considers that there is the option of using a nearby bus service. Therefore, these are not directly comparable to the appeal before me which does not have a reliable bus service nearby.
16. The appellant also highlights two developments which were granted planning permission by the Council. One for a single dwelling³ which the appellant claims is in a less sustainable location than the proposed development and one for two dwellings⁴ which also included the demolition of existing buildings. However, no further details have been provided regarding these developments or the planning balance made by the Council when coming to their decision. Therefore, they would not set a precedent for the appeal proposal before me.

Planning Balance

17. The Council have stated that they currently have a 5.8 year supply of deliverable housing. However, this is contested by the appellant who claims there is only a 4.19 year supply of deliverable housing and that due to the provisions of footnote 8, paragraph 11(d)(ii) of the Framework should be applied.

¹ APP/Z1510/W/21/3284667

² APP/D3505/W/18/3196882

³ 23/01758/FUL

⁴ 23/1276/FUL

18. In the context of the development, I have found that the proposal would be contrary to policies SP3, SP7, LPP1 and LPP52 of the LP, resulting in significant environmental harm from the likelihood of a dependency on the use of a car for access to services and facilities, due to its location. The Framework supports development in locations which are sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Therefore, as I have found the policies to be generally consistent with the relevant aims of the Framework, I attach substantial weight to the conflict with them.
19. The development would add to the overall housing land supply and make a small contribution to the Government's objective of significantly boosting the supply of homes, with the addition of a new residential unit. Economic advantages would arise from its occupation through additional council tax and support for local businesses, along with the environmental benefits of sustainable design features such as an air source heat pump and rainwater collection tank. The appellant also considers it would visually improve the appearance of the site through the demolition of buildings with a low aesthetic value. However, given the scale of the scheme, any such benefits would be small.
20. Therefore, even if I were to conclude there is a shortfall in the five year housing land supply as suggested by the appellant, given the harm that I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of a single dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.

Conclusion

21. The appeal site is within the zone of influence for the Blackwater Estuary SPA/Ramsar site where the Council states new residential development is likely to have a direct effect on areas of the Essex coastline through increased visitor pressure on these sites. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.
22. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR