



Appeal Decision

Site visit made on 21 May 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2024

Appeal Ref: APP/Z1510/W/23/3327163

Land between Westbourne Cottage and 1 Webbs Cottages, The Green, White Notley, Witham CM8 1RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Charles Blatch against the decision of Braintree District Council.
 - The application Ref is 22/03453/PIP.
 - The development proposed is the erection of 1 dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second (technical details consent) stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. The main issues identified below are framed in that context. Notably, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is relevant in considering whether to grant permission in principle.
4. The National Planning Policy Framework (Framework) was revised in December 2023. The main parties have been able to raise any implications of this during the appeal process and, moreover, I consider that the changes are not relevant to the key issues in dispute. Therefore, I have not sought further views regarding this matter.
5. At the time the Council made its decision it stated that it could demonstrate a 4.86 years supply of deliverable housing sites, but now contends that supply stands at 5.8 years. Accordingly, the appellant has been given an opportunity to comment in this regard.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

Main Issues

6. The main issues are:

- the effect of the proposal on the setting of Westbourne Cottage², which is a grade II listed building; and
- whether the site is a suitable location for housing, in respect of the Council's spatial strategy, the character and appearance of the area, and access to services, facilities and the availability of sustainable means of transport.

Reasons

Setting of listed building

7. The site includes a small parcel of meadow bound by double gates, post and rail fencing and vegetation. It fronts onto and is accessed from Witham Road. A public footpath runs alongside and beyond the rear of the site to open fields, while grazing land is opposite. Predominantly 20th century housing is evident in a relatively consistent row to the north of the site along one side of the road, with a golf course on the other. Otherwise, but principally to the south-east, housing is more varied, spacious and sporadic. The nearest properties are a mid-20th century semi-detached pair named Webbs Cottages that are present next to the public footpath, and the grade II listed Westbourne Cottage which is adjacent to the other side of the site.
8. Westbourne Cottage is a 17/18th century, timber framed and rough rendered cottage with a red plain tiled gambrel roof, catslide roof dormers, and small paned casement windows. These features are evident in views of its principal elevation and its side elevation facing the site from the road or the public footpath. Although it has undergone alterations, particularly to its rear, its special interest and significance are derived largely from its architectural and historic interest as a traditionally constructed, vernacular cottage with surviving fabric and features. In addition, while it was listed after much of the nearby housing was constructed, based on its age, it would have once been a more solitary cottage surrounded by countryside. Despite the housing to the north and the containment provided by the site's vegetated rear boundary, the meadow, and the fields and grazing land as experienced on approach to it from the public footpath, have open, spacious and rural characteristics. As such, these contextualise the listed building's countryside origins, are thus part of its setting, and contribute positively to its special interest and significance.
9. In that context, the construction of a residential property within the meadow would undoubtedly adversely affect its aforementioned characteristics and therefore its contribution to the listed building's setting, special interest and significance. Furthermore, irrespective the proposed dwelling's position in the site, it would at least compete with and partially restrict views of the listed building's interest features, including its roof, windows and surfacing materials, from the road or public footpath.
10. Consequently, the proposal would harm and therefore fail to preserve the setting and special interest of the listed building. It would therefore be contrary to policy LPP57 of the Braintree District Local Plan (LP), which sets out that the Council will seek to preserve and enhance the immediate settings of heritage

² List Entry Number: 1168239

assets, and section 66(1) of the Act. Similarly, there would be harm to the listed building's significance, which would be less than substantial for the purposes of the Framework. In such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing an asset's optimum viable use. I consider this matter later in the decision.

Location

11. Section 3 of the LP provides the Council's spatial strategy and identifies settlement development boundaries for the district. Neither the site nor the area known as The Green are included within a development boundary, and are therefore in the countryside in the terms of the LP. Policy LPP1 of the LP sets out that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes to protect the intrinsic character and beauty of the countryside. Nonetheless, LP Policy LPP39 provides for infilling between dwellings in hamlets or small groups of dwellings in the countryside, subject to certain criteria. Amongst other things, the policy makes clear that development should not be detrimental to the character of its surroundings and proposals for the consolidation or expansion of sporadic or ribbon development will be resisted.
12. I have already identified that the scheme would harm the site's aforementioned characteristics in the context of Westbourne Cottage. The meadow is not discrete but prominent in public views. Consequently, the proposal would also adversely affect the site's contribution to the prevailingly rural character and appearance of the area, including the pastoral qualities of the land opposite and the spacious and sporadic nature of development to the south-east. Moreover, it would result in the consolidation of the proposed dwelling, Webbs Cottages and Westbourne Cottage into a longer, continuous row with the housing to the north. The character of the site's surroundings and the rural attributes of the Special Landscape Area within which it is located would therefore be harmed. The appellant highlights that a substantial proportion of the district is designated as such and this has not restricted the approval of much larger schemes, but each application must be considered on individual merit, and this does not lead me to alter my findings.
13. Accordingly, even if I were to conclude that the proposal constitutes infilling in a hamlet or a small group of dwellings, or moreover a settlement as perceived on the ground, my findings in respect of the character and appearance of the area would remain, and the proposal would not be supported by the LP. Indeed, it is inconsistent with the spatial strategy of directing development to defined settlements or otherwise appropriate infill sites.
14. Notwithstanding this, the site is a short distance from Black Knotley via a continuous footway along Witham Road and, as it has clear sightlines and a 40 miles per hour speed limit, there is some prospect that the occupiers of the proposed dwelling would walk or cycle to the village. Although the LP identifies Black Knotley as a 'third tier' village, which are described as mostly lacking in facilities and public transport links, I saw that it includes some amenities for daily life. While there would likely be a reliance on private motor vehicles for many journeys, particularly at night and in inclement weather, the environmental harm that would arise from the proposal's location would be limited.

15. I note paragraph 83 of the Framework takes a balanced approach to housing in rural areas and occupiers of the scheme would likely contribute to the maintenance or enhancement of Black Knotley and other rural communities through engagement with local services and facilities. Furthermore, the site is not isolated for the purposes of the Framework. However, the conflict with the spatial strategy and the harm to the character and appearance of the area would nonetheless endure.
16. The site is therefore not a suitable location for housing having regard to the spatial strategy and the character and appearance of the area. The proposal conflicts with LP policies LPP1 and LPP39 as set out above, and policies LPP52 and LPP67 insofar as these seek to protect local character and landscapes.

Other Matters

17. Both main parties refer to a previous appeal decision³ from 2010 relating to an application for a proposed dwelling at the site. Whilst I have reviewed that decision, I am unaware of all of the circumstances that applied for that case, which pre-dates the Framework and the current development plan. As such, I have necessarily reached my own conclusions on the current appeal based on the evidence available to me.
18. The site is reportedly within the zone of influence of the Blackwater Special Protection Area and Ramsar and the Essex Estuaries Special Area of Conservation. Permission in principle cannot be granted for habitats development⁴. Consequently, if I were minded to grant permission, I would need to be satisfied that the proposal would not adversely affect the integrity of these habitats sites. However, even if there would be no adverse effects, this would constitute a neutral consideration rather than a benefit weighing in favour of the proposal.
19. The appellant contends that the Council's updated housing supply position should be discounted on the basis that evidence to support this was not provided in accordance with the appeal timetable. However, even if I were to take forward the former position of 4.86 years supply for the purpose of making a decision, the provision of just a single new dwelling in the site's somewhat accessible location would bring about limited public benefits to housing supply and delivery in that context. Similarly, the public benefits generated from employment associated with the construction of the dwelling and the occupiers' engagement with local services, facilities and public transport would be limited due to the small scale of the scheme.

Planning Balance and Conclusion

20. The proposal would bring about some public benefits as identified above. However, paragraph 205 of the Framework makes clear that even less than substantial harm to the significance of a designated heritage asset must carry great weight. Overall, the sum of the public benefits is insufficient to outweigh the harm that would be caused to the significance of the listed building. The scheme thereby conflicts with the heritage policies within section 16 of the Framework. Consequently, even if the presumption in favour of sustainable development were to be applicable due to the Council's housing supply

³ APP/Z1510/A/10/21223756

⁴ PPG Paragraph: 005 Reference ID: 58-005-20190315

position, the Framework's heritage policies provide clear reasons for refusing the development proposed.

21. Furthermore, while the proposal's conflict with the spatial strategy would attract limited weight based on the former housing supply figure, the harms to the character and appearance of the area and the listed building attract great weight. Accordingly, irrespective of the housing supply figure adopted, my conclusion is that the proposal conflicts with the development plan as a whole, the Act and the Framework, and that material considerations do not outweigh the proposal's conflict with the development plan.
22. For the reasons given above, the appeal should be dismissed.

Mark Philpott

INSPECTOR