



Appeal Decision

Site visit made on 25 June 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Appeal Ref: APP/Z1510/W/23/3334175

The Granary, Land Fronting Mill Road, Foxearth, Essex CO10 7JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Brand, Foxearth Developments Ltd against the decision of Braintree District Council.
 - The application Ref is 23/01881/OUT.
 - The development proposed is outline planning application with all matters reserved for the construction of 4 No. dwellings & garages.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed scheme is for all matters reserved, including access. Under Article 5(3) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO), where access is a reserved matter, the outline application must state the area or areas where access points to the development proposed will be situated.
3. The appellant has submitted indicative plans to show how up to 4 dwellings in the site would potentially be arranged, including circulation space, garages and gardens. These drawings are for illustrative purposes only and I have determined the appeal on this basis.
4. The appellant has clarified that the Grade II listed barn to the southwest of Chapel House was blown down in the 1987 storms. I could find no evidence of it on my site visit. It has not therefore informed my assessment of the appeal.

Main Issues

5. The main issues in this appeal are:
 - whether the site is a suitable site for housing having regard to the adopted spatial strategy, with particular regard to the extent to which the proposal would contribute to the objectives of limiting the need to travel and offering a genuine choice of transport modes;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the setting of designated heritage assets; and,
 - the effect of the proposal on highway safety.

Reasons

Suitable location

6. The appeal site is a field bordering Mill Road at the western edge of the village of Foxearth. It is beyond the defined development boundary, but is directly adjacent to the village envelope to the east and north.
7. The spatial strategy for North Essex is set out by Policy SP3 of the North Essex Authorities' Shared Strategic Section 1 Plan, January 2021 (Strategic Plan). It states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area. The Policy goes on to state that in Section 2 of its Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs. Foxearth is a third-tier settlement, which the Braintree Local Plan 2022 (Local Plan) defines as the smallest villages in the district.
8. Whilst the appeal site lies adjacent to other dwellings that are within the settlement boundary, and is located a short walk from the village hall and church, the village itself does not have shops or services associated with day to day living.
9. Although nearby villages and towns including Long Melford and Sudbury would be accessible by bike, this would likely be an option for a fairly limited number of people given the undulating nature of the landscape and narrow rural roads. The lack of street lighting and pavements would act as a barrier for any more than occasional walking between settlements. Whilst there is no daily bus service in the village, this area of north Essex is served by a bus service which can be booked in advance. Given the very limited alternatives to the private car, along with the negligible facilities within Foxearth itself and the aims of the Council's spatial strategy for housing growth, the location would not be a suitable site for new housing.
10. My attention has been drawn to three appeal decisions with regard to the location of residential development relative to the reliance on private vehicles and location of services for everyday living. Two of these appeals¹ relate to Pebmarsh, a village with more local services than Foxearth. I also note that the decisions were made under a previous development plan. The appeal decision for Gosfield Road² was also decided under the previous development plan and where the Council could not demonstrate a five-year supply of deliverable housing sites. They are therefore not directly comparable to this appeal; I have necessarily assessed the appeal on its own merits.
11. Having regard to the above, I conclude that the proposed housing would not be in a suitable location with specific regard to Policies SP3 and SP7 of the Spatial Strategy and Policy LP42 of the Braintree Local Plan 2022, which, taken together, seek to locate new housing within existing settlements and create places which prioritise pedestrians, cyclists and public transport over the private car.

¹ Ref APP/Z1510/W/18/3219233 and APP/Z1510/W/20/03250258

² APP/Z1510/W/3243946

Character and appearance

12. As a grass field, the appeal site forms part of the open countryside at the western limits of the village. The land locally is undulating and is slightly raised to the southwest of the village. It represents a transitional point where the village meets open countryside.
13. Although all reserved matters for the scheme would fall to be assessed in greater detail at a later stage, in trying to achieve an appropriate scheme for four detached dwellings, there would be a limited number of ways in which the appeal site could be developed. Moreover, because of the shape, size, and nature of the site the buildings are highly likely to end up being sited uncharacteristically close together in a row or around a cul-de-sac and with limited space in-between them.
14. In such a context the proposal would result in an intensification of built form in an area where open space contributes positively to the locally distinctive settlement pattern. Suburbanisation of the appeal site would fundamentally change the character and appearance of the rural setting of the settlement, harmfully diminishing the positive contribution the greenfield site currently makes to the rural landscape setting of the village; in this respect a landscaping scheme would provide little mitigation.
15. The proposal would conflict with Policies LPP1 and LPP67 of the Local Plan which, amongst other things, aim to ensure development outside settlement boundaries protects the intrinsic character and beauty of the countryside and is suitable for the local context.

Setting of designated heritage assets

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features or special architectural or historic interest which it possesses.
17. Mole End Place is a Grade II listed building, offset from the appeal site on the north side of Mill Road. It comprises a timber framed, rendered two-storey dwelling dating from the 17th Century. The steeply pitched roof is clad in red roof tiles. A large brick chimney stack is located off-centre. The roof and chimney are visible in long views from the east and southwest along Mill Road. The heritage impact assessment indicates that, as a hall house, it would have been a relatively high-status building on the very western edge of the village. I consider the significance of the listed building is derived from its historic association and visual connection with the edge of village rural setting, along with its high status and distinctive roof which is present in long views from public vantage points from both within and outside the village.
18. The Foxearth Conservation Area (CA) encompasses most of the village except for pockets of 20th Century and more recently built housing at the very edges of the village along Claypits, The Street and Mill Road. Views into the village particularly from the east and west approaches are relatively open, showing the CA in its rural setting. The south of School Lane is lined by several historic timber framed, rendered cottages, some with thatched roofs, interspersed with

Victorian and more recent properties. To the north of School Lane is the former school building and Grade II* listed Parish Church of St Peter and St Paul, set on elevated ground beyond the former school building. Terraces of former workers' cottages are located on The Street, beyond which are clusters of red-brick Victorian residential development along with flint and brick boundary walls, a legacy of development associated with the village's former brewery.

19. Although the appeal site lies outside the CA, its open, undeveloped nature contributes to the wider agrarian setting of the CA. I consider the significance of the CA to be derived from the pattern and style of development showing the evolution of the village, the juxtaposition of the built development with the rural setting and views into and out of the CA, along with the village's relationship with the church set slightly separately on elevated ground to the northeast. The Framework requires consideration of any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting.
20. The appeal site is located within the setting of Mole End Place and within the setting of the CA. The elevated land to the southwest of the village allows views along Mill Lane up to the tower of the parish church. In these views, the distinctive tiled roof and tall chimney of Mole End Place is visible beyond the appeal site with the church tower set amongst trees in the background. I acknowledge that views from the southwest into the CA and to Mole End Place are already somewhat compromised due to the existing modern housing development outside the CA on Mill Road. However, the appeal proposal would further urbanise these views and would harmfully erode the visual connection between the designated heritage assets and their rural setting.
21. For the reasons given above I consider that the appeal proposal would result in less than substantial harm to the setting of the Grade II listed building at Mole End Place and the setting of the CA. Paragraph 208 of the Framework requires decision makers to weigh any less than substantial harm to such an asset against the public benefits of the proposal.
22. There would be a small benefit to the local housing stock through the provision of up to four additional dwellings. There would also be some modest socio-economic benefits through construction employment and new residents using local services. There would potentially be biodiversity benefits which could be secured through condition.
23. Framework Paragraph 205 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I am not persuaded there would be public benefits of sufficient magnitude to outweigh the great weight I attribute to the conservation of the designated heritage assets and to the less than substantial harm identified to their significance.
24. The proposal would fail to satisfy the requirements of Section 66(1) of the PLBCAA and would conflict with the heritage aims of the Framework and Policies LPP53 and LPP57 of the Local Plan. These policies, amongst other things, encourage the preservation and enhancement of the character and appearance of designated CAs and their settings, and to preserve and enhance the settings of heritage assets by appropriate control over the development, design and use of adjoining land.

Highway safety

25. The drawings show access to the site at its northeast corner, although I note that the appellants clarify that the drawings do not fix the access location and are intended to be a means of demonstrating that appropriate access could be achieved. Whilst I note the intention, this conflicts with the requirement of Article 5(3) of the DMPO for an outline application to state the area where access points to the development will be situated. As such, my assessment is based on the access shown on the drawings in the absence of an alternative fixed point.
26. The access shown would be shared with the adjacent property known as The Granary. The highway authority objected on the basis that in order to provide appropriate visibility splays of 2.4m x 43m, the appellant would likely have to undertake alterations to land beyond their control. The appellant disputes this, stating that the only third-party land required is the highway itself. Based on my observations on site, I consider that the relevant visibility splays would be achievable. Had the appeal been allowed, the details of this could have been secured by appropriate condition. In this respect therefore, the access presented would maintain highway safety in line with Local Plan Policy LPP52.

Other Matters

27. I note the media articles referred to regarding the slowdown of housebuilding and effects upon the housing market. This is not a matter which would indicate that my decision should be taken otherwise than in accordance with the development plan.
28. My attention has been drawn to an appeal decision³ where the Inspector, acknowledging that the Council had a 5.67 year supply of deliverable housing sites, placed considerable weight on the contribution of the appeal scheme to the housing stock as the housing land supply position was marginal. Whilst this may be the case, the balancing exercise and weight afforded to benefits will vary according to the particular circumstances of the case and I have found site specific harm in terms of the main issues. It does not alter my view to dismiss the appeal.

Planning Balance and Conclusion

29. As set out above, the scheme would provide benefits through the provision of up to four additional dwellings. There would also be some modest socio-economic benefits through construction employment and new residents using local services. There would also be potential benefits to biodiversity, to which I also afford modest weight given the greenfield nature of the site.
30. The updated housing land supply position of the Council indicates that a supply of 5.8 years of deliverable sites can be identified, as set out in the Council's position statement of January 2024. I note the appellant's point that this is not a cap on development, or a significant oversupply and it does not diminish the scheme's benefits. Nevertheless, and notwithstanding my findings on public benefits above, the provisions of the Framework paragraph 11(d) are therefore not engaged and the proposal does not benefit from the presumption in favour of sustainable development.

³ APP/D3505/W/19/3240526

31. The appeal scheme is in conflict with the development plan read as a whole. Material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR