



Appeal Decision

Site visit made on 5 June 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2024

Appeal Ref: APP/Z1510/W/23/3329683

2 Warley Farm Cottages Nuntys Lane, Pattiswick, Braintree CM77 8BL

- 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 Steve Elmes against the decision of Braintree District Council.
 - The application reference is 23/00772/FUL.
 - The development proposed is a new two bed dwelling, including landscaping and boundary treatments and a garden store for bins and bikes, with shared access drive.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs has been made by Mr Steve Elmes against Braintree District Council. This is the subject of a separate decision.

Procedural Matter

3. On 30 July 2024, the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on the same date. The Framework proposals include measures to increase the delivery of housing, but they remain in draft form and therefore attract limited weight at this stage. I am satisfied that the proposed changes do not fundamentally alter the policies most relevant to the present appeal and do not prejudice any party. Therefore, whilst I have had regard to these publications as material considerations, it has not been necessary to seek further comments from the parties.

Main Issues

4. The main issues are i) whether the proposal would represent a suitable location for residential development, having regard to relevant local and national policy relating to development in the countryside; ii) the effect of the proposal on the character and appearance of the area; and iii) whether the proposal would provide a suitable standard of accommodation, having regard to the quality of external amenity space.

Reasons

Location for development

5. The appeal site is located within the open countryside, to the rear of a pair of semi-detached dwellings on a narrow rural lane. Policy LPP1 of the Braintree

District Local Plan Section 2 (July 2022) (the LP2) relates to the spatial strategy for the district, stating that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

6. Policy 1 of the Coggeshall Parish Neighbourhood Plan (July 2021) (the CPNP) states that proposals for residential development should be located within the Development Boundary, on an allocated site or on a rural site released for affordable housing as an exception to normal policies.
7. The proposed dwelling is not proposed as an affordable unit, nor development that would support a countryside use, and it would not be located within the development boundary of Coggeshall. As such, the proposal would conflict with the aforementioned policies and the spatial strategy of the development plan.
8. The development would be located some two miles from the nearest settlements at Stisted or Greenstead Green, and some four miles to the edge of Braintree or Coggeshall. Whilst not far in absolute terms, the dwelling would be accessible by way of winding, narrow, unlit rural roads. The length and condition of these routes would make walking or cycling unlikely as a regular means of transport. With no public transport options, occupants would be reliant on the private car for almost all travel to and from the development. The Framework recognises that opportunities for sustainable modes of transport will vary between rural and urban areas, and it is to be expected that those living in rural areas would own a vehicle. However, it is also a key objective of the Framework to reduce reliance on the private car. In my view, the location of the proposal does not fulfil this objective, but rather would exacerbate private car use due to its location well beyond any built-up area and the difficulty in navigating the small rural lanes to reach the site.
9. The appellant states that the proposal would involve re-use of previously developed land (PDL) as the dwelling would be constructed on the site of a former farmhouse. The appellant's heritage statement sets out evidence of the history of development on the site, which included a farmhouse that had fallen into ruin by the 1960s, was largely lost by 1973 and of which only derelict remnants remained by 1992 when the appellant bought the site.
10. The Framework defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. However, the definition *excludes* land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
11. In this case, the only remaining indicators of the former farm buildings are a concrete wall and various footings of walls around the perimeter, many of which are subsumed by vegetation or are now beneath the surface. A partial stone wall also exists next to the entrance gate. In my view, the former building has been lost virtually in its entirety and the remaining foundations and wall sections have been largely subsumed by the re-naturalisation which has occurred, though I accept that a number of later, smaller outbuildings have been placed on the land for storage uses and, as a result, the site is not in a wholly natural state at present.

12. The Framework states that substantial weight should be given to the value of using suitable brownfield land *within settlements* for homes and other identified needs (my emphasis). Thus, even if I were to regard the site as PDL, the site is not located within a defined settlement. Pattiswick is referred to by the appellant, but this is no more than a small and widely dispersed scattering of rural buildings with no nucleus of development, and is not defined as a settlement under the development plan. The stipulation for using brownfield land 'within settlements' reflects the overarching approach of the Framework to direct development to the most sustainable locations. Therefore, even if considered as PDL, any benefit arising from its redevelopment would be minor due to its small size, and would not outweigh the identified policy conflict with the location of the site in terms of the spatial strategy and accessibility.
13. I also note that the Council's Policy LPP37 relating to the replacement of a dwelling in the countryside requires the existing dwelling to be habitable, and so does not lend support to the proposal. Similarly, planning permission for the conversion of the adjacent listed byre to a dwelling was supported under a separate policy, LPP40, which is not applicable to the current proposal. I recognise that development of the byre as a dwelling would have similar impacts in terms of accessibility and use of the private car as the appeal proposal. However, this environmental impact is balanced against the productive re-use of a permanent and substantial building, which avoids the construction of a new dwelling in the countryside. As such, I do not regard this scheme as justification for the appeal proposal.
14. For these reasons, I find that the proposal would conflict with the spatial strategy of the district set out under Policy LPP1 of the LP2 and Policy 1 of the CPNP, and would not be accessible by sustainable modes of transport. In this respect, though not explicitly cited by the Council, the proposal would conflict with Policy SP7 of the Braintree District Local Plan Section 1 (February 2021) (the LP1) which supports proposals that create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car. There would also be conflict with the related aims of the Framework to direct development to the most sustainable locations, promote walking, cycling and public transport and reduce reliance on the private car. Therefore, on this main issue, I conclude that the proposal would not represent a suitable location for housing.

Character and Appearance

15. The appeal site is accessed by a long track leading to the rear of the existing cottages on Nunty's Lane, where the most notable feature is the Grade II listed byre standing centrally in the space, which I saw was kept well mown and secluded from the wider, open agricultural fields beyond by a line of trees around much of its perimeter.
16. The listed byre dates from the 17th century, with evident historic interest as an example of past farming activity in the area, and architectural interest through its surviving fabric, particularly internally, which contribute to its significance. The byre formerly stood as part of a wider farmstead with a farmhouse and other buildings since lost, and now stands as an isolated building in a tranquil, rural setting, with planning permission to be converted to a dwellinghouse.
17. The proposed dwelling would be located opposite the byre on the site of the former farmhouse, adopting a similar 'barn' aesthetic with black stained timber

weatherboarding to the external facades. By itself, the design would not be inappropriate in a rural setting, and I do not share the Council's concern that the roof forms or the inclusion of a side 'extension' detract from its overall quality. The Juliet balcony would be a domestic feature, but so would the porch and dormer windows, and it is not realistic to expect no such features on the building, particularly where the project is a new build rather than a conversion.

18. The Council's Built Heritage Consultant notes that there was once a larger farmstead on the site creating precedent for a structure in this location, and that the design uses materials which reference the barn and respond well to the site in terms of scale, without falsifying a farmhouse design. Whilst noting the Council's concern that the use of matching materials along with the hipped and catslide roofs would result in a confused 'copy' of the listed building, I am satisfied that the proposed scale, shape and design features of the dwelling are sufficiently distinct from the byre to avoid any confusion in this respect or undermine the legibility of the listed building, but the proposal would, in a positive manner, reflect the historic pattern of farmstead development on site.
19. More generally, the dwelling would be subject to very limited views from beyond the site, owing to the distance to the nearest dwellings and the tree cover which would screen from a number of directions, including from the existing dwellings on Nuntty's Lane. Any views would be long distance of an agricultural-style building set amid an established stand of trees, with negligible effect on the wider, agrarian landscape of the area.
20. For these reasons, I conclude that the proposal would preserve the character and appearance of the area, and the setting of the listed byre. No conflict therefore arises with Policies LPP35 and LPP52 of the LP2 or Policy 14 of the CNP, which together require development to achieve a high standard of layout and design that contributes positively to the character and appearance of the surrounding area. These policies accord with the Framework's recognition of good design as a key aspect of sustainable development. Though not cited by the Council, the proposal would also accord with Policy LPP57 of the LP2, which reflects the approach of the Framework to the conservation of designated heritage assets.

Standard of Accommodation

21. The proposed garden space for the dwelling would be located to the rear and side of the plot, where it would respectively border the public footpath crossing the site and the proposed vehicular entrance to the byre. The Council raises concern over occupants' levels of privacy with a public footpath running past, adding that no boundary treatments were indicated to this side and the acceptability of enclosing the public right of way has not been discussed.
22. However, the appellant includes a plan at appeal stage showing planting of a native hedgerow some 1.5 metres back from the line of the public footpath. I have had regard to this plan as it does not propose a material change to the scheme, but seeks to directly address the concerns raised. I have no evidence as to whether a hedge in this location would pose an issue under other legislation, but equally there is no suggestion of altering the route of the footpath. Moreover, even if a hedge had to be set back further, there would remain sufficient space to the side of the site for a hedgerow or other boundary treatment to enclose the external garden space, and the plans also show more secluded garden space to the front corner of the site beyond the parking area.

23. Overall, I am satisfied that the development would provide a suitable amount of external space for occupants, and that it could be made secure and private through boundary treatments that could be agreed in detail by planning condition. No conflict therefore arises with Policies LPP35 or LPP52, which require suitable on-site amenity space to be provided and a high standard of accommodation for all prospective occupants.

Other Material Considerations

24. At the time of the Council's decision, it accepted that it was unable to demonstrate a five year supply of deliverable housing sites, stating supply to be 4.86 years. During the appeal, the Council advised that it can now demonstrate a 5.8 year supply. The appellant has challenged this update on the basis that it is presented as an untitled and unsigned document, which acknowledges a recent finding by an Inspector at appeal of a 4.9 years' supply and that officers are working to obtain further evidence to demonstrate deliverability of sites excluded from the supply in that appeal.
25. However, the Council has not put any such evidence to me to demonstrate those sites excluded by my colleague are now deliverable. Nor has it provided a breakdown of figures to evidence a five year supply. As such, I find the Council's evidence does not persuasively change its position, as expressed at the time of its decision on the application, that it cannot demonstrate a five year supply of deliverable housing sites. In this scenario, Paragraph 11(d) of the Framework is engaged.
26. I have noted concerns raised by a neighbouring resident in respect of noise and disturbance from building works, subsequent comings and goings by residents in vehicles and new sources of illumination in an area presently dark at night, including from car headlights, which would affect their cattery business and stables to the rear of their property. There would be an increase in activity from a new residential dwelling, but I saw there to be a well-established line of trees between the appeal site and neighbouring properties, which would help to screen light from the dwellings. Details of external lighting could also be secured by condition to minimise its effect. Some disruption from building works would be inevitable, but it would be temporary and capable of being managed. Therefore, it is not grounds to dismiss the appeal. Thereafter, the levels of activity from a single dwelling would be limited in scale, with comings and goings being intermittent and brief. I am satisfied that the development would not materially alter the quiet character of the area or create conditions that would undermine the living conditions of neighbouring occupants.
27. The Council did not oppose the application in other respects, including parking, highway safety, archaeology, ecology and habitats. The evidence before me does not lead me to any different conclusions in these matters. These are neutral considerations in the overall planning balance.

Planning Balance and Conclusion

28. I have not found harm in respect of character and appearance or the standard of accommodation to be provided. However, the proposal would conflict with the spatial strategy of the development plan and policies relating to the accessibility of development to local services and reducing reliance on the private car, contrary to the expectations of the Framework. Therefore, there would be conflict with the development plan, taken as a whole.

29. Against this, the delivery of a single dwelling would be a benefit that would help address the Council's housing supply shortfall, add to the supply of smaller homes and would support the Framework's aim of boosting the supply of housing nationally. The Framework also recognises the important contribution that small sites can make in meeting the housing requirement of an area. However, the small scale of the proposal means these benefits would attract only limited weight in favour of the proposal.
30. There would also be modest economic benefits from the construction of the dwelling, though these would be temporary, and from future residents' support of local facilities and services which would go some way towards the Framework aim of maintaining the vitality of rural communities.
31. Even accepting the appellant's argument that the site would constitute re-use of PDL, the extent to which the former farmhouse has been lost and re-naturalisation has taken place, alongside the modest scale of development, means any benefit in this respect attracts modest weight.
32. Overall, I find that the identified harm arising from the conflict with the spatial strategy and poor accessibility are decisive considerations that, even in the context of the Council's housing supply position, represent adverse effects of that would significantly and demonstrably outweigh the identified benefits of the proposal when assessed against the policies in the Framework, taken as a whole. As a result the presumption in favour of sustainable development, as set out at Paragraph 11, does not apply.
33. The proposal would be contrary to the development plan and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal should be dismissed.

K Savage

INSPECTOR