



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: 28 August 2024

Appeal Ref: APP/Z1510/W/23/3331429

Hunts Hall Farm, Colne Road, Pebmarsh, Halstead CO9 2QE

- 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 Tall Elms Ltd against the decision of Braintree District Council.
- The application reference is 23/01198/FUL.
- The development proposed was originally described as 'replacement dwelling (in lieu of Prior Approval for three dwellings, subject of application 22/01038/COUPA).'

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The reference in the original description of development to the proposals being in lieu of a prior approval¹ for three dwellings is not an act of development in and of itself. No dwellings subject to the prior approval had been constructed at the time of my visit. Hence there would be no physical 'replacement' of an existing dwelling. However, I have taken the extant prior approval into account as a material consideration.
3. The site address is given as Colne Road, but the plans refer to Pebmarsh Road. It is unclear if the names are used interchangeably, but I consider both refer to the road from which the site is accessed.

Main Issues

4. The main issues are:
 - i) whether the proposal would represent a suitable location for development, having regard to relevant development plan policies and the accessibility of the site to services and facilities;
 - ii) the effect on the character and appearance of the area;
 - iii) the effect on the setting of a listed building, and;
 - iv) whether the proposal would provide suitable sustainability and resource efficiency measures.

Reasons

Location

5. The appeal site is located within a complex of farm buildings surrounding the Grade II listed Hunt's Farmhouse. The appeal site is not located within a

¹ Council Ref 22/01038/COUPA, Prior Approval required and given 1 February 2023

defined settlement and is therefore within the countryside for planning purposes. The proposal seeks to erect a dwellinghouse on part of an agricultural field immediately adjacent to the northernmost agricultural barn on the site.

6. Policy SP3 of the Braintree District Local Plan Section 1 (February 2021) (the LP1) sets out the spatial strategy for the area, stating that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
7. Policy LPP1 of the Braintree District Local Plan Section 2 (July 2022) (the LP2) sets out 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. The supporting text to Policy LPP1 sets out that new development outside of development boundaries would not normally be able to meet the core planning principles of the National Planning Policy Framework (the Framework) and that the test of sustainable development would be unable to be met.
8. The site is around 1.5km from Pebmarsh, which is designated as a Tier 3 village under the settlement hierarchy of the local plan, such settlements described as lacking most facilities to meet day-to-day needs. The village has facilities including a public house, small shop, church, primary school, village hall and playground, which would provide for some, but not all needs of residents, particularly grocery shopping, workplaces and secondary education, for which they are likely to have to regularly travel further afield.
9. Moreover, access to Pebmarsh would be by way of a narrow, unlit rural road with no verges. The length and condition of this route would make walking or cycling unlikely as regular means of transport. It is indicated that a bookable bus service exists. This may offer some utility to residents where advance bookings are made, but it would not provide a realistic alternative to the flexibility of travel by car, whilst the distance to reach more regular buses serving Pebmarsh would discourage regular use. Consequently, I find that 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 proposal's location does not fulfil this objective, but rather would exacerbate car use due to its location well beyond a built-up area.
10. The proposal is advanced as necessary for the farm manager and their family who work on the holding. Policy LPP38 addresses rural workers' dwellings in the countryside and sets several criteria to be met. The appellant's evidence does not present information to suitably address these criteria, particularly with respect to the functional need for the manager to live on the site, or that such a need, if established, could not be met by another dwelling on the site or in the vicinity, not least the dwellings for which prior approval has already been given. Moreover, arguments that the dwelling would reduce the travel time for the farm manager are not the same as there being a need for a full-time

worker presence. As such, the proposal does not satisfy the requirements of Policy LPP38.

11. This aside, the appellant places significant weight on the fact that the proposal would be development in place of a scheme to convert the adjacent barn into three dwellings pursuant to the granting of prior approval in February 2023. None of these dwellings have been constructed. Therefore, Policy LPP37, which relates to replacement dwellings in the countryside, does not lend support to the proposal as it stipulates the dwelling to be replaced must be a habitable, permanent dwelling of conventional construction.
12. For these reasons, I find that the proposal would conflict with the spatial strategy of the district set out under Policies SP1, SP3 and LPP1. The proposal would not be accessible by sustainable modes of transport and would also conflict with Policy SP7 of the LP1 and Policy LPP42 of the LP2 which support 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, I conclude that the proposal would not represent a suitable location for housing.

Design, Character and Appearance

13. The proposal would be a substantial, two storey dwelling with a broad footprint spanning five window bays on the front elevation. The rear would feature a deep, two storey central gable with full height glazing. Two single storey lean-to sections would infill the space either side of the gable. The dwelling would be clad in black timber boarding with red pantiles to the roof slope, designed to evoke the look of a typical 'Essex barn.'
14. Despite the Council's concern that the barn aesthetic would not appear authentic given the building would be a dwelling and not an agricultural building, I am not persuaded that the design approach would be inappropriate next to what is a large, established spread of agricultural and other rural buildings of both traditional and modern design. There is no one character to the immediate surroundings and, in this context, a well-designed building could integrate successfully.
15. However, in terms of detailed design, the front elevation would be somewhat disproportionate in appearance due to the tall height of the eaves, resulting in the ground floor fenestration being set low and an overbearing expanse of solid wall above. At the rear, the central gable would form a substantial feature that would create a dominant scale and grandiose design, in stark contrast to the more muted composition of the flanking lean-to sections.
16. Moreover, the dwelling would be located as close as three metres from the existing agricultural barn, even after its proposed partial demolition. Given the openness of the land to the north and east of the plot, the siting of the dwelling so close to a substantial agricultural building would appear awkwardly cramped and result in a discordant mix of overtly domestic and agricultural uses immediately next to each other.
17. Despite the appellant's suggestion that the external amenity area would be 110m², less than the footprint of the dwelling itself, the plans only indicate a

significantly larger area of land enclosed by the red line and a notation on a separate plan that this would form 'rear private amenity space'. With no other details before me as to the layout of this space, it is reasonable to assume it, or most of it, would form the private garden of the dwelling, around which new boundary treatments would be expected that would create a sharp transition between the domesticated appearance of the site and the agricultural land beyond, in contrast to the open character and generally undefined boundaries which exist between the farm complex and adjacent fields.

18. I accept that the dwelling would be subject to limited views from the road due to the presence of established hedgerows; however, it would stand in an area of presently open land that would be in clear view from the public footpath that crosses through the adjacent field, from where the cramped position of the dwelling next to the agricultural sheds, the dominant fenestration of the rear elevation and the artificial boundary treatments would be clearly visible, alongside lighting, activity and domestic paraphernalia that residential use would entail. Inevitably, the site would take on a more urban character that would conflict with the existing rural farmyard character of the surroundings.
19. The appellant argues that the impact of the dwelling would be more than offset by the partial removal of the existing agricultural barn. However, it would be the western section of the barn that would be removed, which would have little effect on the overall massing of development visible from the public footpath to the east. Rather, those on the footpath would still see two large agricultural buildings and a large dwelling, more development than at present. Whilst I accept that the overall volume of development is proposed to decrease, the dwelling would extend the spread of built form northwards into an open field, and I do not agree that the overall visual impact would be the same or improved relative to the existing situation.
20. For these reasons, I conclude that the proposal would harm the character and appearance of the area, contrary to Policy LPP52 of the LP2, which requires development to achieve a high standard of layout and design that contributes positively to the character and appearance of the surrounding area. There would be corresponding conflict with the Framework's recognition of good design as a key aspect of sustainable development.

Setting of Listed Building

21. The Council further alleges that the dwelling would harm the setting of the Grade II listed farmhouse located some 150 metres to the south. The farmhouse dates from the 16th century, with the list description setting out a number of features of architectural interest that contribute to its significance. In addition, it embodies historic interest as a longstanding example of settlement and farming activity in the area. In this respect, the agricultural surroundings of the listed building form part of its setting and contribute to this understanding of its historic function.
22. However, from my observations, the setting of the farmhouse is now dominated by the array of agricultural buildings surrounding it, which have extended well beyond the historical extent of the farmstead. This now also includes buildings being put to non-agricultural uses, and approved for conversion to dwellings. The presence of these buildings, in particular the large poultry sheds next to the appeal site, mean there is no intervisibility of the appeal site from the listed building or vice versa. I was also unable to see the

listed building clearly from the public footpath to the east, again owing to substantial agricultural buildings in the foreground.

23. In this context, I am not persuaded by the Council's argument that the proposed dwelling would 'confuse' the understanding of the listed building's setting. Whilst it would lead to a loss of openness to the northern side of the wider complex, this loss of openness would be modest when considering that open fields surround the farm complex on all sides, and would continue to do so. The dwelling would not be so detached from the complex as to form an isolated intrusion into an otherwise unaltered setting. Importantly, it would not be visible from the listed building itself or its immediate curtilage, nor would there be clear views of both dwellings either from the road or the public footpath. Any glimpse of either dwelling from these vantage points would be in the context of an extensive, functional complex of buildings and the wider, agricultural setting of the listed building would not be materially diminished.
24. For these reasons, I find that the proposal would preserve the setting of the listed building, in accordance with Policies LPP47 and LPP57 which seek the protection and enhancement of the historic environment.

Sustainability and Resource Efficiency

25. The Council cites conflict with Policies LPP71 and LPP72 relating to adapting to climate change and encouraging appropriate energy conservation and efficiency measures in the design of all new development. The appellant points to these requirements being largely matters contained under the Building Regulations but which could be provided on site. However, Policy LPP72 requires new residential dwellings to include renewable and low carbon energy technology to provide at least a 19% improvement in energy performance over the requirements of the Building Regulations (2013) unless revised Building Regulations standards exceed this requirement. The only details before me relate to the provision of an electric vehicle charging point. I have no other details as to how the aforementioned requirements would be met and, in the absence of any detail, I am not satisfied that this matter could be fully addressed by planning conditions. Therefore, I find that the proposal would fail to demonstrate appropriate energy conservation and efficiency measures to address climate change, in conflict with Policies LPP71 and LPP72.

Other Material Considerations

Fall-Back Position

26. The appellant places significant weight on the existence of a prior approval to convert the western half of the adjacent poultry barn to three dwellings. It is pointed out that this scheme would involve creation of more dwellings, floorspace, bedspaces, parking spaces and external amenity areas than the appeal scheme. The existence of the prior approval, alongside a subsequently refused planning application for a dwelling to replace the barn, is evidence of a desire to redevelop the wider site. Therefore, I consider there to be a reasonable likelihood of the prior approval scheme being implemented were I to dismiss this appeal and, and having regard to the court judgments cited by the appellant, I have taken this into account as a 'fall-back' position.
27. The appeal scheme proposal would, in simple terms, result in less volume of development. However, for the reasons set out above, it would extend the area

of developed land and result in harm to the established agricultural character of the area. The existing poultry sheds, whilst utilitarian in design, are common features of the rural landscape, and they do not appear discordant within the immediate surroundings of the wider farm complex. Moreover, there would only be partial removal of one shed, meaning the majority of them would remain in place to be added to by the appeal proposal.

28. The prior approval process is predicated on the re-use of existing buildings and generally retaining their agricultural appearance to limit the degree of change to the landscape and reduce the need to construct new dwellings in the countryside. In this respect, the prior approval scheme would embody less environmental impact than the proposed scheme in the construction process and less change to the character and appearance of the area, as the sheds would be minimally altered and external spaces would be modest in size and set immediately adjacent to the building, with two of the three spaces positioned to the western and southern sides where they would be concealed from wider views. In contrast, the proposed dwelling, despite being smaller in footprint, is shown on the submitted plans to include a substantial external space to the rear. The demolished area of the barn would also be used for parking and access, and so would not offset the loss of undeveloped land taken for the proposed dwelling.
29. I acknowledge that the appeal scheme would result in fewer dwellings and fewer bedrooms overall, which would mean fewer new residents and a lower number of car journeys to and from the site. However, I am not persuaded that this would outweigh the permanent environmental harm to the character and appearance of the area and the greater construction impacts of the appeal scheme.
30. Importantly, the comparative advantages of the appeal scheme advanced by the appellant rely on the partial demolition of the existing barn to nullify the possibility of the prior approval scheme being implemented in addition to the appeal scheme. The appellant argues that this could be secured by condition. The Council, without prejudice to its case, has suggested a condition requiring the barn to be demolished no later than three months after the first occupation of the development.
31. However, a planning condition would only take effect once a planning permission has been implemented. It would be beyond the control of a condition to prevent the prior approval scheme being implemented in advance of the permission sought under this appeal. It is also possible to apply to remove or vary planning conditions, and were the dwellings constructed within the converted poultry shed and occupied, this would be a significant material consideration were such an application to be subsequently made.
32. Therefore, certainty in this respect would only be achievable by way of a planning obligation wherein the landowner covenants to forego the prior approval scheme and related permitted development rights immediately upon the granting of planning permission. No such obligation is before me. In the absence of this, there is no assurance that the demolition of the barn would take place as proposed or that the scheme would actually result in a net reduction in the overall quantum of development and number of dwellings on the land compared to the fall-back scheme.

33. Consequently, taking these considerations together, I find that the appellant's fall-back scheme would not present an equivalent or greater degree of harm compared to the appeal scheme, and so does not attract weight in favour of the proposal as a material consideration.

Protected Sites

34. The site lies within the Zones of Influence of the Blackwater Estuary Special Protection Area and Ramsar Site and the Essex Estuaries Special Area of Conservation (SAC). The sites are identified as being vulnerable to harm through recreational disturbance, which would be exacerbated by an increase in the local population resulting from new residential development. Therefore, alone and in combination with other development, the proposal constitutes a likely significant effect to the protected sites.
35. Mitigation has been developed to avoid such adverse effects in the form of the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS), which is funded through developer contributions. In this case, the appropriate contribution has been secured through a direct payment to the Council. In the event that I was minded to allow the appeal, it would be necessary to consider this matter within an appropriate assessment.

Self-build and Custom housebuilding

36. The appellant's evidence makes brief reference to the Self Build and Custom Housebuilding Act 2015 (SBCHA 2015) and the guidance of the Framework relating to meeting the housing needs of different groups. However, no detailed evidence has been put to me in respect of this matter, and it is not clear that the proposal has been made as a self-build or custom build project. In any event, no mechanism is before me, namely a planning obligation, which would secure delivery of self-build housing in line with the legislative requirements of the SBCHA 2015. Therefore, this is not a consideration weighing in favour of the proposal.

Other Issues Raised

37. The Council did not refuse permission in respect of other matters, including neighbours' living conditions, highway safety, waste, flood risk and drainage. On the evidence before me, I have no substantive reasons to reach different conclusions in respect of any of these matters. The absence of harm in these respects means they are neutral factors in the planning balance.

Planning Balance

38. 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. However, the Council has not put any detailed breakdown of figures to me 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.
39. The proposal would conflict with the development plan due to the locating of market housing within the open countryside and where residents would be

reliant on the private car for most travel, in conflict with the spatial strategy of the development plan and the approach of the Framework. The proposal would also cause harm to the character and appearance of the area and would fail to demonstrate measures to address climate change and resource use.

40. Pursuant to Paragraph 11, policies which are most important for determining the application are deemed to be out-of-date. Policy LPP1, which restricts the types of development permitted in the countryside, therefore attracts lesser weight, but I regard Policies SP1, SP3 and SP7, and those relating to character and appearance, climate change and resource use, to still be consistent with the approach of the Framework and to merit significant weight.
41. A fall-back position has been established through the prior approval application but, having identified a number of comparative advantages and disadvantages between the two schemes, I have found that, overall, the fall-back scheme would not be more harmful. Consequently, this is not a factor weighing in the proposal's favour.
42. The proposal would deliver an additional dwelling to the housing stock, with associated economic benefits from its construction and subsequent engagement by residents in the local economy. However, given the scale of the proposal, the social and economic benefits in these respects would be limited.
43. Overall, I find that the identified harm arising from the conflict with the spatial strategy, poor accessibility, adverse effects on character and appearance and adapting to climate change are decisive considerations that, even in the context of the Council's housing supply position, represent adverse effects 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.
44. As I have found the proposal to be unacceptable for reasons other than the effect on the aforementioned protected sites, it is not necessary to undertake an appropriate assessment as this would not have a bearing on the outcome of the appeal.

Conclusion

45. Taken together, I conclude that the material considerations in this case would not be sufficient to outweigh the identified conflict with the development plan, taken as a whole. Therefore, the appeal should be dismissed.

K. Savage

INSPECTOR