



## Appeal Decisions

Site visit made on 25 June 2024

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 2 September 2024**

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### **Appeal A Ref: APP/Z1510/W/24/3343135**

#### **Cricks Farm, Hill House Road, Pebmarsh CO9 2NP**

- 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 J R Crayston & Sons against the decision of Braintree District Council.
  - The application Ref is 23/02756/FUL.
  - The development proposed is the demolition of two silos with prior approval for the conversion into two dwellings subject of application 23/00068/COUPA and the erection of a self-build replacement bungalow.
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### **Appeal B Ref: APP/Z1510/W/23/3329329**

#### **Cricks Farm, Hill House Road, Pebmarsh CO9 2NP**

- 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 J R Crayston & Sons against the decision of Braintree District Council.
  - The application Ref is 23/01395/FUL.
  - The development proposed is replacement dwelling (in lieu of Prior Approval for two dwellings, subject of application 23/00068/COUPA).
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## **Decisions**

1. Appeal A is allowed and planning permission is granted for the demolition of two silos with prior approval for the conversion into two dwellings subject of application 23/00068/COUPA and the erection of a self-build replacement bungalow at Cricks Farm, Hill House Road, Pebmarsh CO9 2NP in accordance with the terms of the application, Ref 23/02756/FUL, subject to the conditions in the attached schedule.
2. Appeal B is dismissed.

## **Preliminary Matters**

3. As set out above there are two appeals on the appeal site. They differ in the detailed design, bulk and height of the proposed houses. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The appeal site falls within the Zone of Influence of European designated sites scoped into the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (the Essex Coast RAMS). Although not forming part of the Council's reasons for refusal, it is incumbent on me as competent authority to consider

whether the proposal would be likely to have a significant effect on the integrity of the sites. It is necessary to consider this matter as a main issue.

5. There is an extant prior approval<sup>1</sup> for two dwellings under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of the two silos on the appeal site into two one-bedroom dwellings. The appellant presents this as a fallback scheme.
6. The appellant has also submitted a structural report confirming the capability of the silos to be converted. The layout of the conversion scheme would provide a good standard of accommodation with a living/kitchen/dining area and WC at ground floor and with a bedroom and bathroom at first floor. I consider the appellant has demonstrated a greater than theoretical possibility that the development would be undertaken. It therefore represents a realistic fallback position and is a material consideration.

### **Main Issues**

7. The main issues for both Appeals A and B are:
  - the effect of the proposals on the character and appearance of the countryside;
  - 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; and,
  - the integrity of the European designated sites.

### **Reasons**

#### *Character and appearance*

8. The appeal site comprises two adjacent grain silos on Cricks Farm. The cylindrical silos are metal-clad. They form part of a collection of agricultural buildings which stand alongside a single storey house occupied by the appellant. These buildings form a cluster set around a central green space and hardstanding with the arable fields beyond. The local area is an undulating, agrarian landscape, interspersed with villages and small patches of woodland.
9. Views of the silos when approaching from the north are largely obscured by the bulk of the existing barns and tree coverage adjacent to the existing house. Approaching from the south, the silos are clearly visible in long views, although they are set against the larger barns immediately to the north. Due to the topography, views looking northwards closer to the appeal site are more restricted until the flatter land separating the appeal site from the road is reached.

#### Appeal A: single storey dwelling

10. The two silos would be demolished and replaced by a single storey dwelling with two bedrooms. The dwelling proposed would have a comparable length to the existing silos, but would be around 2.8m deeper. The ridge height would be around 0.7m below the height of the silos. Parking would be provided to the

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<sup>1</sup> Ref 23/00068/COUPA dated 2 March 2023.

north side of the dwelling, along with a rear garden. Access would be provided from the main farm access from the highway. It would reflect the style of the existing single storey house in this collection of farm buildings, and would not be a dominant presence in the site.

11. The proposed house would be of a more overtly domestic appearance than the fallback scheme. It would however comprise a reduced height relative to the fallback position and would sit comfortably in long views from the south set against the bulk of the existing cluster of agricultural buildings. Given the relatively restricted views, height and location in relation to the other larger buildings on site, the proposed single storey dwelling would not be harmful to the character and appearance of the surrounding landscape.
12. A small garden is proposed which would reference the domestic garden area of the existing dwelling at the farm. The proposed drawings indicate an open boundary to the garden where it abuts the adjacent field. It would be necessary to maintain an open boundary here in the interest of preserving the open aspect to the surrounding countryside, which could be achieved through an appropriate planning condition.
13. I acknowledge the silos are read as two separate structures and their form is broken up, which provides some visual permeability particularly at roof level. Whilst this may be the case, in long views from the south, this broken-up form is only legible in close views due to the orientation of the highway relative to the position of the silos. Although the roof form of the proposed dwelling would not have the same permeability, the lower ridge height would provide mitigation in this respect.
14. Although the dwelling would be set slightly further away from the access road than the existing silos, it would not appear as isolated from other buildings. This would be particularly so in views from the south where the dwelling would be viewed against the bulk of the other agricultural buildings on the farmstead.
15. I conclude therefore that the proposal would be in accordance with the overall aims of the Local Plan Section 2, Adopted 2022 (the Section 2 LP) Policy LPP52 insofar as it seeks to achieve development that is in harmony with the character and appearance of the area.

#### Appeal B: two storey dwelling

16. The two silos would be demolished and replaced by a two-storey barn style dwelling with two bedrooms. Again, two car parking spaces would be provided to the north side of the dwelling, a garden to the rear and access would be provided from the main farm access.
17. The ridge height of the house would be around 0.5m higher than the existing silos; it would appear as an imposing and bulky addition to the collection of buildings around the appeal site. Full height glazing to the double height reception area facing the highway would be an intrusive and incongruous feature which would be highly visible and discordant with the character and appearance of the landscape. Whilst I note the house is designed to reflect the features of an Essex barn, the front glazing reaching to the gable ridge would not reflect typical barn fenestration and would not sit comfortably within the agricultural context of the site. The overall height, scale, design and bulk of the house would have the effect of making it an overly dominant feature.

18. For the above reasons, the two-storey barn style dwelling would harm the character and appearance of the local landscape and would conflict with the aims of Policy LPP52 of the Section 2 LP.

*Location*

19. The spatial strategy for North Essex is set out by Policy SP3 of the Braintree District Local Plan 2013-2033 Section 1, Adopted 2021 (the Section 1 LP). 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. Policy SP1 of the Section 1 LP states that the authorities will apply the presumption in favour of sustainable development, where development that complies with the plan will be approved without delay, unless material considerations indicate otherwise. Policy LPP1 of the Section 2 LP directs development to within development boundaries, although it does not specifically state that development outside settlement boundaries will be refused.
20. The site is located outside any development boundary and is approximately 1km from the nearest village of Pebmarsh. The Section 2 LP categorises Pebmarsh as a third-tier settlement, the smallest villages in the district. Within the village, there are facilities including a primary school, shop, village hall, church, pub and a limited, book in advance bus service. Even if residents were to use the bus service, they would still need to get into Pebmarsh itself to get to the bus stops. I accept that cycling would be possible as a form of sustainable transport, but given the nature of the narrow rural lanes, this would likely only be an option for a limited selection of people. Although it would be a relatively short journey to access the village facilities the rural lanes are unlit and without any footway. Therefore, although a travel pack could be secured by condition to try to encourage journeys made other than by car, any future residents at the appeal site would likely be heavily reliant on private vehicles.
21. I conclude therefore that the proposed housing would conflict with Policies SP1, SP3 and SP7 of the Section 1 LP and Policies LPP1 and LPP42 of the Section 2 LP, which, taken together, apply a presumption in favour of sustainable development, seek to locate new housing within existing settlements and create places which prioritise pedestrians, cyclists and public transport over the private car.

*Designated sites*

22. The appeal site falls within the Zone of Influence of the Blackwater Estuary Special Protection Area (SPA)/Ramsar site and the Essex Estuaries SPA, which are scoped into the Essex Coast RAMS. The sites are designated due to the internationally important numbers of breeding and non-breeding birds and their coastal habitats.
23. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) 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. This responsibility falls to me as the competent authority in the context of this appeal.

24. It would be a reasonable assumption that occupiers of the proposed dwellings would be likely to visit local European protected coastal areas for recreation, as evidenced by the visitor research carried out in support of the Essex Coast RAMS Supplementary Planning Document 2020. Any increase in visitor numbers to these sites would result in recreational pressure requiring mitigation. I therefore consider that the effects of the proposed dwellings, both on their own and in combination with other development projects, is such that they are likely to have significant effects on the integrity of the sites.
25. The Essex Coast RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the appeal schemes on the SPA and Ramsar sites.
26. The Council has confirmed that the appellant has made a contribution of £156.76 to fund the Essex Coast RAMS for the single additional dwelling proposed under each appeal. Although there is no obligation on the Council to spend the money as envisaged and within a particular timescale, it is the organisation responsible for administering the mitigation strategy. There is therefore no reason to believe that the funds would not be spent appropriately. I am consequently satisfied that the mitigation measures have been secured and would be used for their intended purpose.
27. The contribution would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations 2010. As such, the contribution toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
28. I am therefore satisfied that with the funding for the proposed mitigation measures in place, neither appeal scheme would have an adverse effect on the integrity of the SPA and Ramsar sites identified, either alone or in combination with other plans or projects. The proposals would therefore comply with the Habitats Regulations.

### **Other Matters**

29. The proposed house in each appeal would comply with the relevant space standards set out in the Nationally Described Space Standards. In terms of the effect of the proposals upon the living conditions of any residents nearby, given the location of the proposed house and its distance from other dwellings, there would be no material effect upon the degree of overlooking, loss of outlook or loss of daylight or sunlight to any other dwelling.
30. I note that the Highway Authority has not raised any objection to the principle of a new dwelling in this location and that the proposed parking spaces are appropriate. I have no reason to disagree with the Council's assessment that

the proposal would not have any material impact upon the safety or operation of the public highway.

### **Planning Balance**

31. Planning law and the National Planning Policy Framework (the Framework) require proposals to be determined against the development plan unless material considerations indicate otherwise. I have identified that the proposals would conflict with the development plan's spatial strategy for housing growth and sustainable transport objectives. However, I attach significant weight to the appellants' fallback position and I consider that there is a reasonable prospect of it being built out. Irrespective of the outcome of the appeals before me, the prior approval would have the effect of allowing two new dwellings in this rural location. Given the appeal schemes would each replace the silos with one house, there would consequently be a reduction in number of dwellings compared to the fallback position in what the development plan indicates would be an unsustainable location. I therefore afford the conflict with the spatial strategy of the development plan limited weight.
32. The proposals would each offer the benefit of an additional dwelling which would boost the housing stock. This benefit is small, particularly given the fallback scheme would offer the benefit of two additional dwellings. The appeal schemes are each said to be self-build housing, for which there is particular support within the Framework. I have however attached limited weight to this benefit as no mechanism for guaranteeing self-build has been put forward. There would also be socio-economic benefits through new residents using local services.
33. The revised housing land supply position of the Council indicates that a supply of 5.8 years of deliverable sites can be identified. I note this is not a cap on development, or a significant oversupply, nor does it diminish the benefits of each appeal scheme. Nevertheless, it means that the provisions of Framework paragraph 11d are not enacted and the appeal schemes do not benefit from the presumption in favour of sustainable development.
34. The Council cites Section 2 LP Policy LPP71 in their reason for refusal for each appeal, which sets out that applicants will be expected to demonstrate that measures to lower carbon emissions, increase renewable energy provision and adapt to climate change have been incorporated into their schemes. Limited evidence has been provided in support of this by either main party. In any event, I note that in terms of energy efficiency, the appellant indicates that a new build dwelling would be subject to the Building Regulations as amended in 2022. I consider this a neutral matter to which I attach limited weight.
35. The fallback position significantly mitigates the harm that I have identified arising from the conflict with the aims of the development plan insofar as they relate to the location of housing growth and prioritising sustainable means of travel. As I have found Appeal A would be in accordance with the development plan in all other respects, the material considerations outweigh this conflict.
36. In respect of Appeal B, given that I have found harm to the character and appearance of the landscape as well as the harm arising from the conflict with the spatial strategy, the material considerations do not outweigh this conflict with the development plan.

## Conditions

37. In relation to Appeal A, the Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have omitted the Council's suggested condition 3 regarding the pre-commencement submission of finished floor levels above ordnance datum as there is little substantive evidence that this would be necessary or reasonably required to make the proposed development acceptable.
38. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty. Condition 3 restricts hours of construction works and is necessary to protect the living conditions of nearby residents. Condition (4) concerning materials is necessary to ensure a satisfactory appearance.
39. The effect of the Council's proposed wording of Condition 5 would be to remove the permitted development rights in relation to the erection of means of enclosure by gates/fences/walls. I have amended the wording of the condition to specifically remove the permitted development rights pursuant to Class A, Part 2 of the GPDO in the interests of precision. The condition is necessary to maintain the openness of the landscape.
40. Condition 6 (the Council's suggested condition 7) has the effect of removing permitted development rights insofar as they relate to extensions. This is reasonably required and necessary on the basis that the proposed dwelling broadly reflects the floorspace of the fallback position, and any additional bulk and height from extensions would need to be subject to control to preserve the character and appearance of the area.
41. I am mindful of the advice contained within the Planning Practice Guidance<sup>2</sup> regarding the use of conditions removing permitted development rights, which states that their scope needs to be precisely defined by reference to the relevant provisions of the GPDO otherwise they may not meet the tests of reasonableness or necessity. However, as the dwelling under Appeal A would only be acceptable based on the submitted drawings without any additional extensions or means of enclosure carried out under permitted development, I conclude that removing permitted development rights as set out in conditions 5 and 6 is both reasonable and necessary.
42. The Highway Authority's suggested condition regarding the provision of a residential travel information pack prior to occupation of the dwelling is not necessary to make the proposal acceptable in planning terms given my conclusions in relation to the reliance on motor vehicles in this location.

## Conclusions

43. Appeal A would not accord with the development plan as a whole, but material considerations outweigh this conflict. Appeal A should therefore be allowed.
44. For the above reasons, I conclude Appeal B should be dismissed.

*L Francis*

INSPECTOR

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<sup>2</sup> Paragraph: 017 Reference ID: 21a-017-20190723 revision date 23.07.19

**Schedule:**

**Conditions for Appeal A, APP/Z1510/W/24/3343135**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; CCF-04 rev B.
3. Demolition or construction works shall take place only between 08.00 to 18.00 on Monday to Friday, 08.00 to 13.00 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
4. Prior to the commencement of above ground works, full details of the external facing materials shall be submitted to and approved in writing by the local planning authority. The development shall be carried out according to the approved details and thereafter maintained for the lifetime of the development.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development permitted by Class A, Part 2 of Schedule 2 to the Order shall be undertaken.
6. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no development permitted by Classes A, AA, B and D of Part 1 of Schedule 2 to the Order shall be undertaken.

**END OF SCHEDULE**