



Appeal Decision

Site visit made on 24 September 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2024

Appeal Ref: APP/Z1510/W/24/3336930

Land off Ashes Road, Cressing, Braintree CM77 8DP

- 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 Leaper Land Promotion and John Pease against the decision of Braintree District Council.
 - The application Ref is 23/00220/FUL.
 - The development proposed is the development of five custom-build dwellings (plots) with landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the site and the surrounding area;
 - whether the proposed development would be in a suitable location for housing with regard to the local development strategy and accessibility to services and facilities;
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring dwelling with regard to privacy; and
 - the effect of the proposed development on biodiversity.

Reasons

Character and Appearance

3. The appeal site, some of which was previously used as a car park, is now occupied by an area of hardstanding surrounded by trees, hedging and some overgrown grassland with an access point in the corner of the site. It is located adjacent to the existing development within Cressing between the existing dwellings on The Street and Lanham Green Road and the open countryside. Whilst some of the site is previously developed land, its open and verdant nature contributes positively to its rural edge location and the wider countryside.
4. The proposed development would introduce five new two-storey dwellings to the appeal site including the associated access, parking, gardens and landscaping. Due to the scale of the proposed dwellings and their location

adjacent to Ashes Road, they would be highly visible additions within the streetscene.

5. Dwellings in the surrounding area are generally traditional in design and largely front the road in a linear fashion with gardens to the rear. There are some small cul-de-sac or courtyard style development in the area, however these appear to be largely set behind existing linear housing. The proposed dwellings are set out in a cul-de-sac/courtyard format with only the dwelling on plot 1 facing the main road. The other dwellings would face the proposed private access road with their gardens parallel to the main road. Therefore, with limited street frontage, the proposal would be contrary to the pattern of development in the surrounding area which, due to their visibility in the streetscene, would appear incongruous and at odds with the distinct character of the area.
6. The proposal would also extend beyond the realms of the existing hardstanding on the appeal site, into the open and undeveloped countryside. Whilst this is intended to match the building line on the opposite side of the road, it would extend past this with a far greater level of built form. The level of development proposed and excessive use of hardstanding required to create the courtyard, would give the site a hard, urban appearance, contrary to its current open and rural nature. Whilst the appellant intends the site to be a 'bookend' to development in this area, the urban pattern of development would result in the loss of this soft countryside edge to the detriment of the character and appearance of the area and the wider countryside.
7. Whilst the proposed dwellings do have large roofscapes with considerable gable frontages, these are generally in keeping with some of the existing properties on the opposite side of the road. The elevations are fairly simplistic in design but reflect the traditional nature of built form in the area. Therefore, the design of the proposed dwellings, would not appear out of keeping with the surrounding area.
8. The proposal would also result in the loss of existing trees and hedging on the appeal site to make way for the dwellings and the new access from the adjacent road. However, during my site visit I noted that whilst these existing features contributed to the verdant nature of the site, they were not of a high visual amenity individually. The appellant intends to replace any trees lost and improve the retained hedgerow which could be secured by condition and would adequately mitigate the harm to the character and appearance of the area from the removal of any vegetation.
9. Nevertheless, for the reasons above, the proposed development would result in harm to the character and appearance of the site and the surrounding area and would conflict with the Policies SP7, LPP47, LPP52 and LPP67 of the Braintree District Local Plan 2013-2033 (the LP) 2022. These policies collectively seek to secure a high standard of design and layout, ensuring that all new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs and is sympathetic to the character of the landscape. It would also conflict with Policy 7 Part c (iii) and (iv) and Policy 8 of the Cressing Parish Neighbourhood Plan (the NP) 2020 which seek to ensure that development proposals for new housing outside settlement boundaries are sympathetic to the character of the open countryside and have minimal visual impact and that development

proposals in general include a high quality design which would contribute positively to the character and appearance of the surrounding area. Policies LPP1 and LPP35 of the LP are not relevant to this main issue.

Location

10. The appeal site is located within the countryside, outside of the development boundaries of Cressing. Cressing is classified as a Tier 3 village in the LP which states are the smallest villages in the district that lack most of the facilities required to meet day to day needs.
11. Policy LPP1 of the LP states that development outside development boundaries will be confined to uses appropriate to the countryside with the supporting text indicating that development here is normally restricted to that which supports countryside uses, with Policy SP3 of the LP also stating that existing settlements will be the principle focus for additional growth. Therefore, due to its location and nature, the proposed development would not accord with these policies.
12. Policy 7 of the NP states that development proposals for new housing outside settlement boundaries should be an exception and comprise small-scale self-build or custom-build schemes subject to a number of stipulations. However, as detailed previously, due to the impact on the character and appearance of the area, the proposal would not accord with this policy.
13. LPP52 of the LP states that planning permission will be granted where the use of sustainable modes of transport are promoted in the design and layout of new development. There are some facilities within the adjacent village of Cressing and Tye Green, including a primary school, restaurant and church, which are within walking distance of the proposed development and accessible via a separate footpath alongside the road. However, these are limited and the future occupiers of the dwellings would still be required to travel elsewhere for most of their day to day needs. The nearby settlements of Witham and Braintree have a full range of services and facilities which could be used by the future occupants of the proposed dwellings.
14. There is a bus stop approximately 20 metres from the appeal site on Lanham Green Road providing a regular service on weekdays and Saturdays to both Witham and Braintree. There is also a train station in Cressing which although is located some distance from the appeal site, could be accessed by bus or a short car journey and would provide another alternative transport option for the occupiers of the proposed dwellings. As such, the future occupiers of the proposed dwellings would have sustainable transport options and would not be largely reliant on the use of a private vehicle to access the necessary services and facilities.
15. Nevertheless, whilst the proposed development would provide accessibility to services and facilities without reliance on the use of a private car, it would not be in a suitable location for housing with regard to the local development strategy and would conflict with Policies SP3 and LPP1 of the LP and Policy 7 of the NP as outlined above.

Living Conditions

16. To the east of the site is a single storey dwelling known as Wen Dor, separated from the appeal site by a public footpath. The rear elevations of the proposed

dwellings on plots 2,3 and 4 would face the side elevation of this neighbouring dwelling.

17. As they are two-storeys in height, the first floor windows on the rear elevations of the proposed dwellings on plots 2,3 and 4 would provide views towards this neighbouring property. Due to the height of these windows, these views are unlikely to be sufficiently screened by any proposed fencing or planting on the boundary. Due to its location, the proposed dwelling on plot 2 would only provide views of the front driveway at Wen Dor which is already visible from the public realm. However, the proposed dwellings on plots 3 and 4 would provide direct views into the rear garden of Wen Dor which would result in a loss of privacy to the occupiers of this neighbouring dwelling when using this outdoor amenity space.
18. Whilst there is no specific policy outlining minimum separation distances between properties, the appellant highlights a section of the Essex Design Guide 2005 that references a minimum spacing distance of 15 metres where there is more than a 30 degree angle between the dwellings. The proposed dwellings would be in excess of this distance from Wen Dor. Nevertheless, due to the orientation of the properties, I do not consider that the separation distances between the boundary of Wen Dor and the rear elevations of the proposed dwellings on plots 3 and 4 would be sufficient to mitigate the loss of privacy identified.
19. Consequently, the proposed development would result in harm to the living conditions of the occupiers of the neighbouring dwelling with regard to privacy and would conflict with Policies SP7 and LPP52 of the LP. These policies seek to ensure that development protects the amenity of existing residents with no unacceptable impact on the amenity of any nearby properties including on privacy.

Biodiversity

20. During the application, the Council's Ecology Officer raised concerns in relation to bat activity surveys, reptile surveys and botanical surveys which are required to be undertaken prior to the grant of planning permission to inform appropriate mitigation. As such, as part of the appeal, the appellant has produced an updated Ecological Impact Assessment to address these factors. Whilst the appeal process should not be used to evolve a scheme, the assessment does not alter the development proposed and the Council and any interested parties have been given the chance to comment on the new evidence during the appeal process and would not be prejudiced by my acceptance of the updated assessment. Therefore, I have considered this main issue on this basis.
21. The Ecological Impact Assessment submitted indicates that the habitats on the appeal site are considered to potentially support a range of protected/priority species including nesting birds, foraging bats, hazel dormice and mammals including hedgehogs. However, a range of mitigation measures have been outlined to ensure that these are protected during both the construction and operational phases of the proposed development. These mitigation measures could be secured by way of a suitably worded condition should planning permission be granted.

22. Therefore, subject to conditions relating to the necessary mitigation, the proposed development would not harm biodiversity on the appeal site and would not conflict with Policy LPP64 of the LP. This policy states that where there is a confirmed presence or reasonable likelihood of protected species or priority habitats being present on or immediately adjacent to a development site, the developer will be required to undertake an ecological survey and will be required to demonstrate that an adequate mitigation plan is in place to ensure no harm to protected species and no net loss of priority species. It would also accord with the biodiversity objectives of the National Planning Policy Framework.

Planning Balance

23. The proposed development would provide plots for custom housebuilding, secured by a unilateral undertaking submitted by the appellant. Paragraph 70(b) of the Framework supports small sites to come forward for self-build and custom-build housing. The Housing and Planning Act 2016 provides that authorities must give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period. The appellant has contended that there is a substantial level of unmet need in Braintree and that the Council have failed to meet their statutory duty, with a shortfall of between 113 and 149 plots in January 2023.
24. As the appearance and layout of the dwellings is largely set, the Council have questioned whether the proposed development would fall under the definition of self-build and custom house building. Nonetheless, even if I were to conclude that the proposal provides plots for custom housebuilding which is a material consideration in favour of granting permission, due to its limited scale, the proposed development would not make a significant contribution to addressing the current shortfall in provision and therefore would be afforded limited weight.
25. Although the Council can currently demonstrate a five year supply of deliverable housing, the proposed development would still provide five new dwellings to meet current and future housing needs in this area. The proposal would also make use of previously developed land on the appeal site and, with the introduction of domestic gardens and additional landscaping, would provide a biodiversity net gain. However, whilst these are clear benefits arising from the proposed scheme, due to the scale of the development, they are also given limited weight.
26. The appellant has stated that there are a number of new residential developments taking place in the area. My attention has been brought to a planning approval¹ for 78 dwellings approximately 0.5 miles from the appeal site, two planning approvals² for a total of 343 dwellings approximately 0.9 miles from the appeal site and an appeal decision³ for 250 homes on a site approximately 0.7 miles from the appeal site. The particular circumstances of each of these developments is unknown. However, some were granted planning permission prior to the adoption of the most recent local plan and some were granted planning permission when the Council could not

¹ 18/00920/FUL

² 16/00397/OUT and 17/0167/REM

³ APP/Z1510/W/20/3253661

demonstrate a five year supply of deliverable housing. Therefore, they do not set a precedent for the appeal proposal before me.

Other Matters

27. The Council's Ecology Officer has stated that the proposed development is within the 22km Zone of Influence for the Blackwater Special Protection Area (SPA) and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). Given that the proposal is for additional housing, there is a reasonable likelihood that these European Sites would be accessed for recreational purposes by future occupants of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. As such, the Council indicate that a proportionate financial contribution, in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Scheme (RAMS) requirements, should be secured.
28. The Conservation of Habitats and Species Regulations 2017 (as amended) 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. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

29. Whilst, with suitable mitigation, the proposed development would not harm biodiversity and would not result in the future occupiers being reliant on the use of a private vehicle, it would harm the character and appearance of the area and the living conditions of the occupiers of the neighbouring dwelling and would not be in a location suitable for new housing with regard to the local development strategy. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR