



Appeal Decision

Site visit made on 12 March 2025

by Jonathan Price BA(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/Z1510/W/24/3351331

Land at Ashen Road, Ashen, Sudbury, Essex CO10 8LG

- 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 Hartog Hutton Limited against the decision of Braintree District Council.
 - The application Ref is 23/02713/OUT.
 - The development proposed is erection of one self-build dwelling with garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline, with all detailed matters reserved for later consideration apart from access. I have dealt with the appeal accordingly, treating the details in layout plan 4581-01C as illustrative, other than in respect of the proposed site entrance.

Main Issues

3. Whether the proposed dwelling would be acceptable with regard to:
 - development plan policy for the location of new housing,
 - the likely effects on protected and priority species, and
 - highway safety.

Reasons

Development plan policy

4. The proposal relates to the front part of a segment of land comprising mainly rough grassland. There is an unmade access to one side, which also serves the land to the rear and which backs onto the River Stour floodplain. The appeal site partly fronts onto Ashen Road, in a section where tall hedging would be removed to provide a more centrally placed entrance. The other part lies at the rear of garden land at one side of Hope Cottage; a dwelling that occupies a shallow residential plot situated alongside the road.
5. The appeal site and the land to its rear forms an undeveloped gap within a section of some 25 dwellings fronting Ashen Road, almost all along the side adjacent the River Stour. This housing is a long way from the main village of Ashen, with the closest service centre being Clare, a mile or so distant by road.

6. Policy SP 3 of the Braintree District Local Plan 2013-2033 (LP) provides the shared spatial strategy for North Essex. This makes existing settlements the principal focus for additional growth, relative to scale, role and sustainability factors. The appeal site is outside the defined development boundaries, where Policy LPP 1 confines uses to those appropriate to the countryside and which protect its intrinsic character and beauty.
7. The Council's first reason for refusal is over this proposal being in the countryside where there would be a high dependency on private car travel to access facilities and amenities. This refers to a conflict with the aim in the National Planning Policy Framework (the Framework) to locate development where the need for travel can be minimised, and the use of sustainable transport modes maximised. The Council relies on LP policies SP 7 and LPP 42 in this regard.
8. Policy SP 7 promotes the place shaping principles which all new development should adhere to. This is mainly concerned with promoting high standards of design, rather than providing development management criteria applicable to a proposed dwelling in the countryside. However, this scheme would offer only poor accessibility to essential services and facilities, other than by means of regular private car journeys. Therefore, it would not help to create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car, thus gaining no support from Policy SP 7.
9. Similarly, Policy LPP 42 is mainly about promoting sustainable transport in new developments, rather than providing development management criteria applicable to this proposal. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. LP policies SP 3 and LPP 1 also recognise this by directing most housing growth to sustainable locations and restraining this in the countryside. Whilst the proposal gains no support from Policy LPP 42, policies SP 3 and LPP 1 appear more pertinent to the Council's case.
10. The appellant seeks support from LP Policy LPP 39 allowing infill development in hamlets. This policy may deem development appropriate in the countryside, where gaps in some small groups of dwellings might accommodate a single dwelling, without adversely affecting the character and appearance of the area.
11. Regarding infill development in hamlets, Policy LPP 39 restricts this to where there is a defined nucleus of at least ten existing dwellings and where it would not be detrimental to the character of the surroundings. The group of dwellings in this location clearly exceeds ten and the Council's reason for refusal is predicated upon a lack of sustainable travel options rather than character and appearance considerations. However, LPP 39 resists the consolidation of ribbon development, which this section of frontage housing would arguably be an example of. This is rather than comprising a small hamlet which the supporting text in 4.123 refers to as normally being found around a crossroads or road junction, suggesting a nucleated rather than linear settlement pattern.
12. Assuming the proposal was within a hamlet as envisaged in this policy, and not a harmful consolidation of ribbon development, Policy LPP 39 might allow for the filling of a gap for a single dwelling. The policy clearly states that the exception would not apply to gaps which could accommodate more than this. The supporting

text clarifies that the size of such gaps is not set but should be comparable to that of adjoining plots.

13. Based on the general scale and arrangement of housing along this road, the application red line has width to accommodate at least three dwellings, as were the subject of an earlier planning refusal¹. Even excluding the part immediately to the rear of Hope Cottage, it would still be wide enough to accommodate at least two dwellings.
14. For these reasons, I consider the proposal to be the consolidation of ribbon development rather than the filling of a gap for a single dwelling and would thus not gain support from Policy LPP 39. Therefore, the proposal would not be acceptable on the basis of development plan policies SP 3 and LPP 1 over the location of new housing. The scheme would not offer reasonable access to regularly required services and facilities, other than by a reliance on frequent journeys by private car, undermining the objectives of these policies and, as a consequence, giving rise to significant harm.

Protected and priority species

15. The application was accompanied by a Preliminary Ecological Appraisal² (PEA). This identifies the site to comprise 6,300 square metres of neutral grassland surrounded by mature hedging and scrub within the Stour valley. The PEA was undertaken by a qualified ecologist, based on a survey undertaken on 20 December 2022. Whilst the timing was acknowledged as sub optimal with regard to judging floristic quality, it was considered to allow assessment of habitat suitability for local and European protected species.
16. The PEA noted an extensive blackthorn thicket in the northwest corner of the site as being of high value as bird habitat, recommending it be retained, including for summer nesting visitors such as nightingale and turtle dove. I noted from my visit that this thicket had been cut down to ground level, with associated piles of chippings. It could be a condition of any approval that this thicket be allowed to regenerate or be provided elsewhere on the site.
17. The Council's ecological advice³ was that the PEA provided insufficient information for determining the proposal. This is because it had concluded that the site and surrounding grasslands would provide habitat for grass snakes and slow worms, for which further surveys would be necessary.
18. The appellant has suggested a pre-commencement condition addressing species mitigation and any necessary translocation. However, Government Circular 06/2005⁴ advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.

¹ Ref 23/00194/OUT

² Framlingham Environmental 16 January 2023

³ Place Services letter of 5 December 2023.

⁴ Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System 16 August 2005.

19. The proposal lacks sufficient ecological information upon which to assess its likely impacts upon protected and priority species. Therefore, I find conflict with LP Policy LPP 66, with regard to protecting biodiversity and mitigating or compensating for any adverse impacts, as well as with the related parts of the Framework.

Highway safety

20. Essex County Council has requested evidence to show that adequate visibility can be assured at the site entrance through either land owned by the appellant or as part of the highway. There is no survey information provided over this or the level of vehicular use and average speeds along Ashen Road. Its straight alignment allows good visibility in either direction at the proposed access point. Although subject to the 60mph national limit, the narrow width of the highway in this location would likely restrain speeds to well below this.
21. However, in the absence of the necessary highway evidence, I am unable to find the proposal not to have a detrimental impact on the safety of highway users, as to comply with LP Policy LPP 52.

Balance and conclusion

22. Paragraph 73 b) of the Framework supports small sites to come forward for self-build and custom-build housing. The Self-Build and Custom Housebuilding Act 2015 requires local planning authorities to establish and publicise a register of those who are seeking to acquire serviced plots of land in the authority's area for their own self-build and custom housebuilding.
23. The appellant contends that the Council has not fulfilled its statutory duty to permit enough serviced plots to meet the demand for self-build and custom-build dwellings in its area. A Freedom of Information request made by the appellant backs this up, showing that at that time the Council had 246 people on the self-build register and only permitted 5 self-build plots over the last 4 years. This is not contested.
24. There is no means provided to ensure this proposal would be delivered on a self or custom-built basis, rather than as market housing. However, assuming there had been, the contribution made to meeting the demand for self-build plots is a material consideration in this decision. Furthermore, a recent appeal⁵ confirms that the lack of a relevant LP policy over self-build and custom-build housing can engage the 'tilted balance' in Framework paragraph 11(d)(ii). Conducting this balance requires me to have particular regard to key Framework policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
25. The proposal would provide modest economic benefits through helping to sustain and improve the vitality and viability of local shops, services and facilities in nearby Clare. Secondly, the development would benefit the local economy by generating local jobs in the building trades during construction.
26. The site is within cycling distance from the reasonable range of shops, services, facilities and public transport opportunities in Clare. However, this mainly involves travelling along unlit roads without footways. This would make occupants of a dwelling here highly reliant on private car use, with corresponding implications over carbon emissions and climate change mitigation. Along with the uncertainty over

⁵ Appeal Ref: APP/W3520/W/23/3316136 Land West of Suffolk House, Ixworth Road, Norton, Suffolk, IP31 3LP

mitigation for biodiversity impacts, I find no positive environmental benefits from what is proposed.

27. The large deficit in meeting the demand for self-build plots adds a premium to this single dwelling. However, the single self-build plot provides social benefits in this regard which attract just moderate weight in the overall balance.
28. Allowing the appeal would undermine the plan-led aim to focus development within locations where the need to travel can be reduced, through good access to facilities and services, and where the intrinsic character of the countryside might better be recognised. This fulfils a fundamental role in the achievement of sustainable development, in accordance with the central aim of the Framework. Therefore, the conflict with policies SP 3 and LPP 1, and the LP as a whole, is a matter of harm to which I attach significant weight. This is even assuming the holding objections over highway safety and reptile surveys could be addressed.
29. The adverse impacts would significantly and demonstrably outweigh the benefits the scheme would provide, when assessed against the Framework policies taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development, as set out in the Framework, and I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR