



Appeal Decision

Site visit made on 15 April 2025

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2025

Appeal Ref: APP/Z1510/W/24/3357184

Meadow View, Lower Road, Middleton, Essex, CO10 7NS

- 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 Mr and Mrs D Pryor against the decision of Braintree District Council.
 - The application Ref is 24/02144/OUT.
 - The development proposed is 2No. new build bungalows.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with matters of access, scale, layout, appearance and landscaping reserved for subsequent consideration. In addition to a site location plan, some detailed plans were submitted with the application, which include a site layout, means of access, floor plans, elevations and a street scene plan. Whilst only the street scene plan is labelled as indicative, given that the application form and appeal submissions confirm that only outline planning permission is sought, I have treated all the additional plans as being indicative.

Main Issues

3. The main issues are i) whether the proposal would be in a suitable location having regard to the accessibility of services and facilities; ii) the effect of the development on the character and appearance of the surrounding countryside; iii) the effect of the development on highway safety; and iv) the effect of the development on priority habitat.

Reasons

Location of development

4. The spatial strategy set out within the Braintree District Local Plan 2013-2033 (the local plan), directs development towards the most sustainable and accessible locations, which will reduce the need to travel. It provides a settlement hierarchy, which ranks the different areas of the district in order of their sustainability merits. Development boundaries are drawn around the highest ranking sustainable settlements to provide a guide as to where new growth should be located. Policy LPP1 of the local plan states that development outside development boundaries will be confined to uses appropriate to the countryside. The supporting text to this policy explains that new development outside development boundaries would not normally be considered sustainable. The National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas,

housing should be located where it will enhance or maintain the vitality of rural communities.

5. The appeal site comprises part of the substantial garden area of a detached bungalow. It is bound by Lower Road to the east but is otherwise surrounded by open and undeveloped fields. It is not located within, adjoining or within close proximity of any development boundary, settlement or rural community. Furthermore, the nearest settlement, which is the small hamlet of Great Henny, approximately 800 metres to the south of the site, has only a public house and some recreational facilities.
6. The nearest town is Sudbury, which is on the opposite side of the River Stour and falls within the neighbouring district council area of Babergh. Sudbury does have a wide range of services and facilities, such as a railway station, employment, schools, shops and healthcare facilities. I am advised that the town can be reached easily on foot within approximately 35 minutes, with most of the route being on fields alongside Lower Road. I am advised that many cyclists also use Lower Road.
7. Lower Road is subject to the national speed limit and has no footpaths or street lighting. Although there is not a constant flow of busy traffic along this road, I observed that vehicle movements are fairly frequent. I saw no public transport facilities and have not been advised of any regular bus services that pass the site or of any nearby bus stops.
8. Whilst I have no reason to doubt that there are pleasurable walking and cycling routes in the area that are suitable for leisure purposes, particularly on summer days, in reality, future occupiers of new residential development in this location would not be able to safely and conveniently access work, school and shops, on a regular basis at all times of day and year, on foot or by bicycle, particularly not in poor weather, hours of darkness or with children and shopping.
9. In the absence of close and convenient public transport or short safe walking and cycling routes, it is inevitable that future occupiers would be extensively reliant upon cars for meeting most of their daily needs.
10. There is no justification or evidence of need for the proposed two new bungalows to be located within the countryside. The appeal site is not therefore a suitable location for new residential development, including for self-build/custom build dwellings, and accordingly the proposal would conflict with Policies SP7, LPP1 and LPP42 of the local plan, which seek to direct new development to the most sustainable locations, which are well connected and prioritise the needs of pedestrians, cyclists and public transport services above use of the private car. The proposal would also conflict with the Framework, given that the site is not located within an existing settlement or community.

Character and appearance

11. The site comprises a large area of domestic lawned garden that is well screened by existing mature boundary vegetation. There are some small structures, roughly in the centre of the site, which I am advised are the remains of a former piggery. These are now in domestic use and blend into the garden. As previously mentioned, the site is surrounded by open fields. The undeveloped nature of the site is characteristic of its rural countryside surroundings.

12. Whilst all matters are reserved, the submitted plans indicate a new shared driveway along the northern boundary of the site, with one dwelling set closely beyond the other, facing the proposed new driveway rather than fronting Lower Road, like the existing bungalow. This arrangement is possibly indicated to demonstrate how the site could be developed without having to relocate the overhead cable that crosses the front part of it. The shared driveway and the second bungalow would extend well beyond the rear building line of the existing dwelling.
13. Even if a scheme was submitted at reserved matters stage with the two proposed bungalows sited side by side and fronting the road, given the width of the site, it is likely that they would still be close together when compared to the space that would continue to surround the existing bungalow. This would result in an urban form of layout and appearance, which would not be characteristic of the countryside. In this respect I note that although the appeal site is large, it is less than half the size of the plot that would be retained for the existing bungalow. Furthermore, due to the somewhat remote location of the site, and the size of the plots, it is inevitable that in addition to the proposed bungalows, garages and/or sheds would be required for things such as the parking of motor vehicles, and the storage of bicycles, gardening equipment and garden machinery.
14. I agree that the proposal would not result in urban sprawl, given that it would be within the confines of an existing domestic garden, and given that it is not close to and thus would not result in the expansion of an existing urban area. I also accept that at present the site is well screened. However, the long-term future of the boundary vegetation cannot be guaranteed. Moreover, it appears likely that the frontage trees and hedgerow would need to be removed, in order to provide adequate visibility splays. Although new boundary landscaping could be provided behind the visibility splays, this would take some time to become effective.
15. I therefore conclude that the introduction of new residential dwellings together with associated access, hard standing and incidental buildings, would have a detrimental effect on the rural character and appearance of the area. Accordingly, the proposal conflicts with Policies LPP1, LPP52 and LPP67 of the local plan, and the Framework, which seek amongst other things to protect the intrinsic character and beauty of the countryside.

Highway safety

16. Although access is reserved for subsequent consideration, this only relates to access design. Reserving means of access does not negate the need to demonstrate that safe access to a site can be achieved before granting outline planning permission for its development.
17. The site can only be accessed from Lower Road, which is subject to the national speed limit. I noted on my visit that the boundary hedges, at either side of the existing and proposed access points, and indeed along the whole of the site frontage, are located close to the edge of the carriageway, with little or no verge. This significantly restricts visibility, which is not helped by the alignment of the road that curves slightly westwards in both directions.
18. Visibility splays are measured from a distance of 2.4metres back from the carriageway edge. This is to account for drivers being able to see approaching traffic, cyclists and pedestrians before the front of the car protrudes out into the

carriageway where it could hit something, be hit by something, or cause approaching vehicles to swerve. For roads subject to the national speed limit, the required visibility is 215 metres in each direction, unless a traffic speed survey has been undertaken that demonstrates average speeds are lower, in which case a lesser distance may sometimes be agreed.

19. I note that there is an existing access gate in the southeast corner of the site. However, this is more akin to a disused field access. It is not surfaced and is overgrown. Even if it was to be used, this would only be by the appellants and would not generate increased traffic movements from the site. It appears that visibility from this access would also be restricted to the north, by the boundary trees and hedgerow.
20. It does not appear that the required visibility splays could be achieved from a point anywhere along the site frontage, without removing the existing mature trees and hedgerow. Although a replacement hedge could be planted further back into the site, leaving a wide open and grass verge with unobstructed views across the site frontage, such a hedge would take a significant time to mature and create an effective screen. Furthermore, visibility splays need to be within land owned and controlled by the appellants or the local highway authority, to ensure that they can be retained clear at all times for the life of the development. It has not been demonstrated that the 2.4m x 215m visibility could be achieved even with the front hedge on the appellants own land removed. Boundary trees and hedges on third party land could cause obstruction. It is not reasonable to condition visibility splays without knowing if they can be achieved without reliance on third party land outside of the appellants ownership and control.
21. I therefore conclude that in the absence of any evidence to the contrary, the proposal would be detrimental to the safety of drivers exiting the site and to users of Lower Road, due to the restricted visibility. The proposal therefore fails to accord with Policy LPP52 of the local plan, which requires that new development should not have a detrimental impact on the safety of highways or any other public right of way, and its users.

Priority Habitat

22. The site is bound by trees and hedgerows of predominantly native species. There are no buildings or structures to be removed other than a small shed and some remaining walls of the former piggery buildings. The appellants state that only a small section of hedgerow would be removed to create a new vehicular access into the site and that replacement planting within the site would compensate for this. Ordinarily in such cases conditions could be imposed to ensure hedge removal is undertaken outside of nesting season and is checked by an ecologist beforehand. Conditions could also be imposed to provide compensatory habitat elsewhere within the site to mitigate for the small loss of hedgerow and there is ample space within the site to achieve that.
23. However, having regard to my findings above, it appears likely that in order to achieve adequate visibility splays to make any new access or increased use of the existing access acceptable, much, if not all, of the frontage hedgerow and possibly a small part of the side hedgerows would need to be removed.
24. The appellants state that the new hedge planting between the existing bungalow and the site would provide bio-diversity net gains. However, I noted on my visit that

Laurel hedging has been planted, which is not a native species and is not the best choice for providing wildlife habitat. The mixed species boundary hedging along the site frontage is of greater habitat value.

25. I therefore conclude that in the absence of any evidence to the contrary, the proposal would be highly likely to result in the loss of the frontage trees and hedgerow, which provide priority habitat, in order to improve visibility. The proposal therefore fails to accord with Policy LPP64 of the local plan, which requires that where priority habitats are likely to be adversely impacted by a proposal, it must be demonstrated that such impacts cannot be avoided and are mitigated on-site. As this is not a reserved matter, it cannot be dealt with at reserved matters stage. Whilst I have considered whether or not it is a matter that could be dealt with by conditions, conditions can only be imposed where they are reasonable and necessary to make the development acceptable. Without knowing if or what extent of the hedgerow would need to be removed to achieve acceptable visibility splays, it is not reasonable to impose a condition.

Other Matters

26. I note the application was submitted in outline form and that the appellants believed that biodiversity, sustainability, ecology and access would be determined at a later stage. However, the only matters that can be reserved for subsequent consideration are layout, scale, appearance, landscaping and access, albeit it must be evident at outline stage that safe access can be achieved, in which case its final design and detailing can be submitted at reserved matters stage.
27. The sustainability of the location of the site, clearly relates to the principal of development and I am satisfied that the concerns raised by the Council are all matters that can clearly be understood without the need to go onto the site. As such, I do not believe entering the site would have altered the Council's reasons for refusing the proposed development.
28. My attention has been drawn to three dwellings approved on the farmstead which lies a short distance to the south of the site. I understand that these dwellings would be formed through the conversion of existing buildings. The re-use of existing buildings has different sustainability benefits, and where these do not benefit from deemed planning consent under the General Permitted Development Order, they are generally subject to different planning policies to new buildings in the countryside, which clearly have a different effect on its character given that they do not already exist.
29. General reference is also made to large developments built across England and on either side of Halstead. Halstead is a town, and one of the district's main settlements, offering a range of services and facilities and where development should be directed to. There will be different circumstances and benefits surrounding every development. I have dealt with this case on its own merits.
30. In their appeal statement the appellants explained that they wished to run two holiday homes to encourage people to visit the Sudbury and East Anglian area. It is stated that the new dwellings would be built by local builders and materials would be sourced locally, thus keeping money in the local economy. Another advantage would be income generated for local businesses as holiday visitors spend their money in restaurants, pubs and shops in the immediate area, boosting the local economy. It was also suggested that there may be some scope to create

jobs in the service industry to help maintain the holiday homes. However, the application was clearly submitted on the basis that the plots were to be sold for custom self-build housing. I must determine the appeal on the same basis that it was submitted, advertised and assessed by the Council and interested third parties.

31. It is unclear whether the Council is currently able to demonstrate it has a five-year supply of available housing land. The officer report says on pages 5 and 12 that it has a sufficient supply, and its policies are up to date, but on page 10 states that it hasn't and that its policies should therefore be considered out of date. However, even if the Council is not able to demonstrate a robust housing land supply, the benefits of the development proposed would be very limited.
32. Whilst I note that the appellants believe in using local trades and products to minimise carbon emissions, and to keep money in the local economy, and that they place great importance on protecting the countryside and local habitat, the plots would be sold to self-builders and would not be developed by the appellants, who intend to remain in their existing bungalow on the site.
33. I acknowledge that Braintree Council would benefit from a further two properties paying council tax, and that the bungalows would have EV charging points, which is now a building regulation requirement for all new homes. The same benefits would arise from two bungalows in a more sustainable location within the district.
34. Set against this, it is my view that future occupiers of the development would be heavily reliant upon car use for accessing essential services and facilities, and that the proposal would result in unacceptable harm to the character of the area, to highway safety and to priority habitat. Given the scale of the development the benefits would be very modest and would not outweigh the harm that I have identified or the conflict I have found with the development plan.

Conclusion

35. For the reasons given above, and having considered all matters raised, I conclude that the proposal conflicts with the development plan taken as a whole and there are no material considerations of sufficient weight, which indicate a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

R Bartlett

INSPECTOR