



Appeal Decision

Site visit made on 22 July 2025

by **A Phillips MPlan BA CertHE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 August 2025

Appeal Ref: APP/Z1510/W/25/3364029

Finchingfield Nurseries, Bardfield Road, Finchingfield, Essex CM7 4LL

- 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 Mr Martin Jose against the decision of Braintree District Council.
 - The application Ref is 24/02218/FUL.
 - The development proposed is demolition of ancillary outbuildings and construction of a single storey dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant was given the opportunity to provide additional information regarding potential mechanisms to demonstrate the development as a self-build dwelling. This also links to the requirements of biodiversity net gain (BNG), as if the property does not meet the requirements of a self-build then there is no exemption to BNG for this development.

Main Issues

3. The main issues are:
 - Relevant policies for the location of housing in line with the Council's spatial strategy and its accessibility to services and/or facilities.
 - Effect on the character and appearance of the local area.
 - Whether the proposal meets the definition of a self-build dwelling.

Reasons

Spatial strategy and accessibility to services and/or facilities

4. The site is in the rear garden of the host dwelling. Both parties have confirmed that the site is outside of the village's development boundary and at the current time the Council can demonstrate a five year supply of deliverable housing sites. Policy LPP1 of the Braintree District Local Plan 2021 (Local Plan) states that outside the development boundary, only development that is appropriate to the countryside will be allowed. Policy SP3 of the Local Plan allows for development adjoining an identified settlement subject to its scale and sustainability and beyond these identified main settlements supports diversification of the rural economy and conservation or enhancement of the natural environment.

5. The appellant has put forward the argument that the site is previously developed land, which is a view the Council agrees with. However, the National Planning Policy Framework 2024 (Framework) in paragraph 125c only grants substantial weight on brownfield land that is within settlements. Therefore, the proposal replacing existing outbuildings only holds limited weight in favour of the proposal.
6. The appellant states that paragraphs 82 and 83 of the Framework supports their proposal. It is accepted the provision of a single dwelling would benefit the local economy and services. However, given the scale of this development this only provides limited weight in favour of the proposal. With the proposal not being affordable or community led development, further positive weight cannot be granted.
7. It is noted that on the opposite side of the road there is a large residential development site referred to as Eden Green. This residential development site has a formal footpath that connects into the public highway footpath that leads into the village, as well as an informal footpath that connects into the village recreation ground. The development site does not connect to a highway footpath, which would mean any pedestrian would need to walk in the active unlit carriageway with a national speed limit. This is a significant difference between this site and the Eden Green development.
8. Whilst it is noted there is a Public Right of Way (PRoW) to the rear of host dwelling, this is not within the red line site boundary and more fundamentally its use would be heavily dependent on time of year and weather. People with reduced mobility or who are more vulnerable are less likely to use the PRoW or walk along a national speed limit road. Therefore, potential occupiers of a dwelling on the site by virtue of its location would be heavily car dependant, which would conflict with the Framework that seeks pedestrians and cyclists should be given priority and the needs of people with disabilities/reduced mobility are addressed.
9. On this issue, I conclude that the proposal would not comply with Council's spatial strategy and the site would not be able to access services and facilities by sustainable transport options. On this basis the proposal does not comply with Policies LPP1 and SP3 of the Local Plan that limit development in the countryside; as well as Policies LPP 42 and SP7 of the Local Plan that seeks development to have safe pedestrian and cycle routes that is well connected to open spaces and facilities.

Character and appearance

10. The site currently has two black weatherboarded single storey buildings located a substantial distance from the main road in the rear garden of the host dwelling. The proposed single storey dwelling would replace both outbuildings and would be of similar footprint. There is also a one and a half storey black weatherboarded building in the rear garden and another single storey black weatherboarded building at the entrance of the driveway leading to the site.
11. The proposed dwelling by having a similar design to the existing buildings does reflect the immediate architecture of the site and on this basis would preserve the character and appearance of the local area.
12. I conclude the proposal while not being of innovative design, would preserve the local distinctiveness of the local area. The proposal, therefore, meets the

requirements of Policy LPP 52 of the Local Plan that seeks overall design should reflect the area's local distinctiveness including form and scale.

Self-Build

13. The reliance on self-build in the description of development does not control the development, as the change between market home and self-build or custom build would not have any material change in the use of the land. Therefore, the change would not be development.
14. The appellant has put forward a condition to control the self-build element. However, it is my judgment that it does not meet all the six tests for conditions as set out in the Framework, with specific reference to enforceability, and I do not see any amendment that would lead me to a different view. With no legal agreement to ensure the proposal comes forward as a self-build plot, the potential benefit of this coming as a self-build plot and fulfilling a demand in the district only holds limited weight.
15. With the proposal not meeting the definition of a self-build dwelling, it is therefore not exempt from BNG. With no valid exemption, the proposal would be subject to the biodiversity gain condition and the minimum information requirements as detailed under Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The failure to provide the necessary information to satisfy the biodiversity condition significantly weighs against the application.

Other Matters

16. Regarding the comparison to development in the Green Belt, there is no evidence before me that the site is within the Green Belt. Notwithstanding this, Green Belt provides an additional level of control over potential development in the countryside; so, would make development harder to achieve in order to preserve openness. Given the replacement of outbuildings, I have not found any harm to the character and appearance of the countryside as detailed above.
17. As also detailed above, with the Council having a five year land supply and actively seeking to control the site coming forward as a self-build property paragraph 11d of the Framework is not engaged.
18. Other applications have been referred to when the Council could not demonstrate a five year supply of deliverable housing sites and therefore there is a material difference to this appeal.

Conclusion

19. The proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Phillips

INSPECTOR