



Appeal Decision

Site visit made on 3 September 2025

by **I A Dyer BSc (Eng) FCIHT**

an Inspector appointed by the Secretary of State

Decision date: 25th September 2025

Appeal Ref: APP/Z1510/W/25/3362731

Adjacent Woodstock, Dunmow Road, Rayne, Essex CM77 6WF

- 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 P King and King & Co Ltd against the decision of Braintree District Council.
 - The application reference is 24/01641/OUT.
 - The development proposed is redevelopment of existing site to erect up to 8 residential dwellings (C3) with associated access, landscaping, parking and infrastructure with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was in outline with all matters reserved with the exception of access. The description of the development limits its scale to 8 houses. For the purpose of this appeal I have taken all matters shown on the appellants' plans, other than the access, as being illustrative only.
3. With their appeal, the appellants have submitted a Tree Survey and Arboricultural Impact Assessment (AIA), dated October 2024 in order that they may address some of the Council's concerns. This document did not form part of the original application. Nevertheless, the Council has had the opportunity to comment on the document, and I have taken their comments into account in my decision.

Main Issues

4. The main issues in this appeal are: -
 - Whether the site is a suitable location for housing, having regard to local policies for the provision of housing, and access to services and facilities;
 - The effect of the proposal on the character and appearance of the site and the surrounding area;
 - Whether the proposal would provide adequate living conditions for future residents; and: -
 - The effect of the proposal on biodiversity.

Reasons

Location

5. The appeal site is currently laid out as a hardstanding for the retail display of trees. It fronts onto Dunmow Road, and there are two existing vehicular accesses to the site, which break a mature hedge. At this point, Dunmow Road is subject to a 50 MPH speed limit and is unlit. It has a single footway, on the same side as the development. A third access, from Pods Lane, also provides access to the tree nursery.
6. There is no dispute between the parties that the site lies outside of the settlement boundary for Rayne, as defined in Policy LPP1 of the Braintree District Local Plan Part 2 (2022) (LP2). It is therefore within the countryside for planning purposes, where development is restricted other than for uses appropriate to the countryside. There is no suggestion that the appeal scheme is needed for a rural worker or for any other essential rural need.
7. Policies SP3 of the Braintree District Local Plan Part 1 (2021) (LP1) and LPP1 of LP2 set out the Council's Spatial Strategy and are broadly consistent with the aims of the National Planning Policy Framework (the Framework) in terms of promoting sustainable development with good access to services and facilities, whilst supporting development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities as set out in Paragraph 83 of the Framework.
8. Rayne is identified within Policy LLP1 of the LP2 as a "Second Tier" village, which may not serve a wider hinterland but provides the ability for some day-to-day needs to be met. Within the village lie a number of services, including a post office, small convenience store, a primary/nursery school, a restaurant, a cafe and two public houses. The village does not, however, contain a full range of facilities and services such that all of the day-to-day needs of future occupiers would be satisfied without a trip further afield to, say, Braintree.
9. The site is connected to the village by a footpath which, although unlit and narrow in places, provides a continuous route that segregates pedestrians from vehicular traffic. Although some future residents may choose not to use the path due to the distance to the village and the proximity to moving vehicles, it does provide an option to access the village on foot, particularly during the daytime and in good weather. It is, however, unlikely, given the vehicular speeds on the adjacent carriageway, and the narrow width of this footway, that parents would choose to walk or cycle with young children to the local school along the route.
10. There is also a bus stop on the road frontage near to the site, which provides services between Stansted and Braintree. However, I have not been provided with the frequency, or hours of operation of the service. Journeys to Rayne and Braintree are relatively short and so the bus is likely to be, to a degree, an alternative for some to private car travel.
11. Given the distances involved to reach services and the unwelcoming nature of Dunmow Road for walking and cycling, the realistic alternative mode to the private car would be the bus service. However, this does not access the school and all of the above facilities and, lacking details of the service provided, it has not been demonstrated that it will prove convenient for users.

12. Thus, the proposal would undermine the Council's spatial strategy by locating development without access to all the facilities and services necessary to meet the day-to-day needs of future occupiers. However, this harm would be limited, to a degree, by having access to bus services and the ability for some to access services on foot and by cycle.
13. I conclude that the proposal would not be a suitable location for housing, having regard to local policies for the provision of housing, and access to services and facilities. It is, therefore, contrary to Policies SP3 of LP1, and LPP1 and LPP42 of LP2 is as much as these, together, seek, amongst other things, to locate development within defined settlements, limit development in the countryside to that for which a countryside location is necessary and ensure that development prioritises cycle and pedestrian movements and access to public transport.

Character and appearance

14. The site lies in a small cluster of development comprising the tree nursery and a small number of dwellings. There are several such clusters along Dunmow Road and these are separated from each other by gaps of varying size formed by open fields. Such a gap separates the cluster of development within which the appeal site lies from the built-up area of Rayne, and the cluster is clearly set within open countryside, distinct from the village.
15. Many of the gaps are fronted by mature hedging, interspersed with trees. The dwellings are set back off the road, often fronted by such planting. This provides an overall character of rurality and verdant spaciousness. These are positive characteristics contributing to the rural nature of the area and contrasting with the more urban built form of Rayne.
16. I note that the description of the proposal sets out that the development is for a maximum of eight dwellings. The supporting documents for the application provided layouts and other illustrative documents. Although these only indicate potential ways in which the development could be delivered, they are provided to demonstrate the feasibility of the proposal. The layout and other drawings relate to a proposal to deliver eight dwellings and are an appropriate vehicle for assessing the effect of the proposal on the character and appearance of the site and the surrounding area. Whilst a proposal for fewer dwellings would be likely to have a lesser effect, I have considered the proposal on the maximum number of dwellings that it could provide, and thus the likely worst effect.
17. Whilst within the cluster, the site provides a degree of openness to the frontage, behind the hedge, and thus a degree of separation on the buildings to either side fronting onto Dunmow Road. This break in built form is clearly visible through the gaps formed by the existing accesses when travelling along Dunmow Road. The development would fill this separation with a row of substantial dwellings.
18. Whilst each of the dwellings could provide a gap between itself and its neighbours, and this could be visually augmented through varying the design and appearance of each building, the effect would, nonetheless, be to close the existing gap with substantial built form.
19. In regard to the wider area, the site and the adjoining village settlement are located within the Rayne Farmland Plateau Landscape Character Area (LCA) as identified within the Braintree Landscape Character Assessment (BLCA). Amongst the

characteristics identified within the BLCA as contributing to the distinctiveness of the LCA are, among other things, long-distance wide views over fields with the field boundaries generally delineated by hedges, which are often gappy and fragmented. The hedgerows vary in height from low well-trimmed to tall, with many hedgerow trees across the whole area. The LCA is identified as having a moderate to high sensitivity to change. The wider area around the site shows evidence of such features.

20. The appeal site would be contained within the existing planting around the nursery site, provided that the hedgerow was retained along the frontage. However, as I have identified above, glimpses into the site would remain through the access points. Thus, whilst, given the enclosure of the site from wider views, it is unlikely that the development would have a significant adverse effect on the wider LCA, it would, nonetheless harmfully undermine the positive features that I have above to contribute positively to the defining characteristics of the area. Given the visibility of the site from the highway I find this harm would be of a significant level.
21. Whilst landscaping is a matter for determination at a later stage, the trees around the site are mature and of significant scale. As such they, and the hedges around the site, make a significant positive contribution to the rural, spacious, verdant character and appearance of the area.
22. An AIA has been submitted to accompany this appeal. This identifies the likely loss of four trees if the development were to realise the aspiration to build eight dwellings. However, these are trees within the site and they have very limited presence from the public realm. Whilst some other works, such as crown lifting, would take place, this would be unlikely to have a significant effect on the overall verdancy of the locality. Any works to the trees could, in the event I were minded to allow the appeal, be controlled through the imposition of a suitably worded planning condition.
23. In conclusion, I find that the proposal would adversely affect the character and appearance of the site and the surrounding area. It would therefore be contrary to the aims of policies SP7 of LP1 and LPP1, LPP35 and LPP52 of LP2 in as much as these, together, seek to preserve and enhance the intrinsic beauty and character of the countryside, and ensure that new development responds positively to local character and context to preserve and enhance local distinctiveness.
24. I find, however, that there would be no conflict with Policies LPP65 and LPP67 of LP2 in as much as these, together, seek to retain trees and key landscaping features which make a significant positive contribution to the character and appearance of their surroundings.

Living conditions

25. As noted above, the appellants have provided an indicative layout for the proposed development. The proposal states that the hedge will be retained, and two points of access have been identified, using existing accesses to the site. Access is not a reserved matter and their location and number are fixed.
26. These accesses, between then, would serve eight dwellings, and a significant part of the appeal site would be taken up with shared accesses and parking provision,

particularly given the need to accommodate access for fire appliances within the layout.

27. The site is of limited depth and, given the constraints of the site it is difficult to identify how sufficient plot depths could be provided to satisfy access needs whilst accommodating a dwelling and private amenity space within each plot that would not be crammed between the dwellings and the commercial/horticultural business to the north. Further, given the likely orientation of the gardens, some, or all, would be likely to experience shade for much of the day. Under these circumstances there is doubt that, were the full scale of development to be realised, sufficient good quality, usable amenity space could be provided for the future occupiers of each dwelling.
28. I therefore find that it has not been demonstrated that the proposal would provide adequate living conditions for future occupiers. The proposal would, therefore, be contrary to the aims of Policy LPP52 of LP2 in as much as this, amongst other things, seeks to ensure that residential developments provide a high standard of accommodation and amenity for all prospective occupants, including the provision of accessible, usable and well-related private outdoor amenity space having regard to the standards set out in the Essex Design Guide.
29. For similar reasons the proposal would be contrary to the guidance provided within the Essex Design Guide itself.

Biodiversity

Protected species

30. As identified above, the development would result in the loss of trees on the site. Other than this works on retained trees to lift crowns or prune are proposed. The trees to be removed are internal to the site and of limited ecological value. However, there is potential for the tree works to affect nesting birds or bats.
31. Nesting birds may be affected during tree works and so care must be taken in the timing of such works. However, such matters, together with securing adequate protection to trees during construction phase, could be secured through appropriately worded planning conditions.
32. This notwithstanding, the AIA is silent regarding any potential harm to roosting or foraging bats, and I am mindful of the advice provided in Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and Their Impact on Planning that “It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.”
33. I therefore find that it has not been demonstrated that the proposal would not have a harmful effect on biodiversity and it is therefore contrary to the aims of Policy LPP66 of LP2 in as much as this seeks to protect biodiversity, or mitigate or compensate for any adverse impacts resulting from development.

Protected Sites

34. There is no dispute between the parties that the proposed development is within the Zone of Influence of Natura 2000 Designated Protected Sites (Protected Sites) covered by the Norfolk Green Infrastructure and Recreational Disturbance Avoidance and Mitigation Strategy (GIRAMS). The relevant Protected Sites in Norfolk comprise: Breckland SPA and Breckland SAC; The Broads SAC and Broads SPA; North Norfolk Coast SAC; North Norfolk Coast SPA; The Wash and North Norfolk Coast SAC; Norfolk Valley Fens SAC; The Wash SPA; The Wash Ramsar.
35. The Habitats Regulations require the Competent Authority to consider whether or not the development could adversely affect the integrity of a protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
36. Had I been minded to allow the appeal, it would have been necessary for me to undertake an Appropriate Assessment (AA). The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the Protected Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal and, whilst the issue of the effect of the development on Protected Sites remains unresolved, the outcome could only be, at best, neutral in my considerations.

Other Considerations

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise, whilst the Framework, at Paragraph 15 seeks to secure a truly plan-led planning system.
38. I have found that the proposal would be contrary to the aims of Policies SP3 and SP7 of LP1, and LPP1, LPP35, LPP42, LPP52 and LPP66 of LP2. The proposal would, therefore, be contrary to the Development Plan when read as a whole.
39. The Council is currently able to demonstrate a housing land supply of 5.32 years, which is in excess of the Government's requirement that a minimum supply of five years be demonstrated. The Government has, more recently, increased its emphasis on significantly improving the supply of homes and the five-year supply is, by no means, a maximum. The Framework, at Paragraph 73 identifies that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly. There is no evidence before me that the provision of eight additional homes would result in a local oversupply. The additional homes would, therefore, make a modest, but positive, contribution to the Council's supply of housing.
40. The Framework, at Paragraph 89, supports the use of previously developed land, and sites that are physically well-related to existing settlements, where suitable opportunities exist. The site is previously developed, and is on the edge of a settlement. Whilst the adjacent settlement does not provide a complete range of

services and facilities for the day-to-day needs of future occupiers, there are some opportunities to take advantage of more sustainable transport modes.

41. The increase in population would provide long-term support for local shops businesses and social groups, whilst there would be short term economic benefits through increased activity in the construction and supply chain sectors. These would be modest, given the scale of the development.
42. Taken together these are public benefits that provide moderate weight in support of the proposal.
43. Paragraph 83 of 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 and that Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. I have found that the proposal would be largely dependent on the private motor car to meet the day-to-day transport needs of future occupiers, but that there is access to public transport and this, to a degree, limits the harm due to lack of access to sustainable transport modes. Nonetheless, the likely heavy reliance upon the private car of future occupiers would be ongoing and this counts against the proposal. Overall, I give this harm moderate weight.
44. The proposal would also, through its design, result in harm to the character and appearance of the area and it has not been demonstrated that the proposal would provide adequate living conditions that would support the wellbeing of future occupiers. There may also be further harm in relation to protected species. Good design, the wellbeing of the population and the support of biodiversity are matters that the government places great emphasis on and so, taken together, I have given these matters significant weight in my considerations.
45. Taken overall this is a case where the identified harms outweigh the benefits accruing from the provision of up to eight dwellings.

Conclusion

46. The development conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

I A Dyer

INSPECTOR