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## Appeal Decision

Site visit made on 3 February 2026

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

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**Appeal Ref: APP/Z1510/W/25/3375959**

**Land to the East of Choats Cottage, Elms Hall Road, Colne Engaine CO6 2JL**

- 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 Terry Donovan against the decision of Braintree District Council.
  - The application Ref is 25/01861/OUT.
  - The development proposed is the erection of 1.no dwelling together with associated hardstanding and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved for subsequent approval. I have dealt with the appeal on that basis and treated the detailed plans provided as illustrative.
3. The appeal documentation included a Preliminary Ecological Appraisal (PEA) that was not before the Council when it made its determination of the planning application. The Procedural Guide: Planning appeals – England explains at section 16 that the appeal process should not be used to evolve a scheme and there are no provisions within the Rules for amendments to be submitted. Furthermore, were I to take this new information into account, there is a risk that it would result in procedural unfairness. Accordingly, I have not taken the submitted PEA into account in reaching my conclusions here.

### Main Issues

4. The main issues are:
  - 1) whether the site is in a suitable location for the proposed development having regard to its location outside of any defined development boundary,
  - 2) the effect of the proposed development on the character and appearance of the area,
  - 3) the effect of the proposed development on the setting of nearby heritage assets, and
  - 4) whether sufficient information has been provided to assess the impact of the proposed development on biodiversity.

## Reasons

### *Suitability of location*

5. The appeal site is located in a rural area and outside any development boundary as defined in the Braintree District Local Plan 2022 (BDLP). Policy SP3 of the BDLP sets out that existing settlements will be the principal focus for additional growth. Policy LPP1 further explains that development outside development boundaries will be confined to uses appropriate to the countryside. Policy LPP39 provides a limited exception to this 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; exceptions may be made for the filling of a gap, for a single dwelling, between existing dwellings in hamlets and small groups of dwellings.
6. The site is set amongst a small cluster of homes that are located approximately equidistant from the village of Colne Engaine and the outskirts of Halstead. The site is along a single track road that features no footway or street lighting. No evidence has been provided to indicate that there is any public transport connectivity to the site. It is distant from local services and facilities and effectively inaccessible other than through the use of a private motor vehicle. The use is not one that is appropriate to the countryside. I therefore find that it is in an unsustainable location due to its remote position.
7. Policy LPP39 of the BDLP does allow for some limited infilling in a gap within a nucleus of at least ten existing dwellings. However, the group of homes here does not appear to amount to anywhere near ten dwellings. The appellant's evidence appears to highlight residential outbuildings and agricultural barns with the suggestion that these amount to, or could amount to, dwellings. Moreover, it is also inferred that a number of such buildings may be used as unauthorised dwellings. Neither scenario would fit the definition given at policy LPP39 of the BDLP. Equally, I do not accept the appellant's suggestion that the ten dwelling figure is simply a helpful guide. It is an adopted policy to a relatively recently adopted Local Plan.
8. Accordingly, I conclude that the proposal is not an appropriate use outside development boundaries and is in an unsustainable location. The proposal therefore conflicts with policies SP3, LPP1 and LPP42 of the BDLP and National Planning Policy Framework (the Framework).

### *Character and appearance*

9. The site sits amongst a small cluster of homes that address Elms Hall Road. Properties are of a mixed vernacular but commonly in the general form of larger farmhouses or as barns which have been converted to dwellings. Some are set back from the road whilst others are in closer proximity to it. They are spaced well apart with the distinct gaps between the properties giving way to views of the countryside beyond or landscaped backdrops.
10. This proposal would infill an existing gap and would result in a short, but nevertheless, fully developed frontage along Elms Hall Road. This would usurp the rural character of this area through the removal of this distinct and open feature. This harm would be further compounded by the small size of the plot compared to neighbouring plot sizes which are all appreciably larger. This would create the

impression of a cramped appearance which would be detrimental to the areas rural character and verdant setting.

11. Therefore, I find that the proposal would conflict policies SP7, LPP35 and LPP52 of the BDLP and Framework insofar as its scale, layout, height massing of buildings and overall elevation design would not reflect or enhance the area's local distinctiveness and would not be in harmony with the character and appearance of the surrounding area.

*Effect on heritage assets*

12. The site is set in proximity to three listed buildings. These comprise Mayflower House to the west, Elms Hall Farmhouse to the east and the Granary immediately adjacent to the site. All three buildings are listed Grade II and therefore s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA) requires that special regard is had to the desirability of preserving a listed building, or buildings, and their setting.
13. Mayflower House and Elms Hall Farmhouse are both former farmhouses dating from circa 1600, albeit they have been altered and extended in intervening years. Both are timber framed with brick construction. The Granary is a former barn/cart lodge that has been converted to a dwelling. The buildings each have individual value for their historic significance, built form and function. Furthermore, their spacing and relationship allows for a reading of the traditional arrangement and function of the buildings along the narrow lane and this also provides group value.
14. The proposed dwelling would disrupt this arrangement and introduce a new building where one would not formerly have existed. It would be very close to the Granary and, although this proposal is in outline, would likely block views of the flank facing wall to this barn. It would fundamentally alter, and adversely affect, the relationship between these buildings, particularly considering the historic relationship between the Granary and Elms Hall Farmhouse. The immediate setting of the Granary and this relationship with the other listed buildings has already been impacted by the presence of boundary fencing to the west. Accordingly, I do not find this to be a strong argument to permit development that would further harm the setting of the listed buildings. Nor would landscaping enhance this situation.
15. I conclude that the proposed dwelling would fail to preserve the setting of the Grade II listed buildings at the Granary and Elms Hall Farmhouse contrary to the LBCA, policy LPP57 of the BDLP and Framework. The harm is at the moderate level of less than substantial harm but even so, the Framework is clear that this remains a cause for concern.
16. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset (or assets), great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
17. Under paragraph 215, the Framework explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, as is the case here, this harm should be weighed against the public benefits of the proposal. Some limited economic, social and environmental benefits have

been presented to me including economic benefits during construction, electric vehicle charging and biodiversity net gain. However, even if I were to accept these matters as benefits – as some are neutral considerations – this would be insufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage assets. The addition of one additional dwelling to the local housing stock is a benefit. It is, again, however, one which does not outweigh the harm to the setting of the listed buildings.

### *Biodiversity*

18. The Ecology Survey and Assessment provided with the application did not provide sufficient ecological information to allow for a considered assessment of the proposal. A subsequent PEA was provided with the appeal but as I have set out above, this is new information and I have regarded it as an attempt to evolve the scheme. Even if I were to take this into account, it would not outweigh the objections to this proposal that I have set out above. Moreover, I must also heed the advice in the Council's statement – that it would still not resolve their concerns about this proposal.
19. As such, I conclude that the proposal provides insufficient ecological information to provide sufficient certainty that the proposal would not be harmful to local ecological assets. The proposal is thus contrary to policy LPP64 of the BDLP insofar as it does not ensure that there is no harm to protected species and no net loss of priority species.

### **Planning Balance and Conclusion**

20. The appellant has put forward the argument that the Council may not be able to demonstrate a five year supply of deliverable housing land and/or meet its' Housing Delivery Test targets. However, even if I were to accept this; as the proposal has an adverse effect on designated heritage assets, this provides a strong reason for refusing the development and, therefore, the provisions of paragraph 11 d) i. of the Framework are engaged.
21. The development would not be in a suitable location, would be harmful to the character and appearance of the area, harmful to heritage assets and to biodiversity. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
22. The appeal is dismissed.

*N Bowden*

INSPECTOR