
Appeal Decision

Site visit made on 12 June 2017

by Claire Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2017

Appeal Ref: APP/Z1510/W/17/3170257

Land adjoining and to the rear of 1 to 8 Leyfields, Cressing, Essex CM77 8HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Athanasiadis against the decision of Braintree District Council.
 - The application Ref 16/01782/FUL, dated 22 October 2016, was refused by notice dated 16 December 2016.
 - The development proposed is change of use of land from agricultural to residential and the erection of a barn style detached house.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land from agricultural to residential and the erection of a barn style detached house at land adjoining and to the rear of 1 to 8 Leyfields, Cressing, Essex CM77 8HS, in accordance with the application Ref 16/01782/FUL, dated 22 October 2016, and subject to the conditions in the attached schedule.

Main Issues

2. The main issues in the appeal are the effect of the proposal on the character and appearance of the area and whether future occupiers of the dwelling would have satisfactory access to local services and facilities.

Reasons

Character and Appearance

3. The appeal site is located to the rear of Nos 1 to 8 Leyfields, a short row of semi-detached dwellings on the east side of Braintree road (the B1018). Access to the site is taken from an existing dropped kerb to the south east of No 8, via a strip of land approximately 5 metres wide which runs the length of that property. On the eastern side of the appeal site is the long rear garden of The Nook, a detached dwelling, and beyond this, an open field separates The Nook from the nearest dwelling, Deans. To the south east is an open field, with a short row of detached dwellings beyond fronting Braintree Road.
 4. Policy RLP2 of the Braintree District Plan Local Review (LP) (2005) states that new development will be confined to the areas within Town Development Boundaries and Village Envelopes. The site lies outside the village envelope of Tye Green/Cressing, which is identified as an 'other village', the lowest in the settlement hierarchy. Policy CS5 of the Braintree District Core Strategy (CS)
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(2011) states that development outside defined boundaries will be strictly controlled to uses appropriate to the countryside in order to protect and enhance landscape character, biodiversity, geodiversity and the amenity value of the countryside.

5. However, it is not disputed that the Council is unable to demonstrate a five year supply of deliverable housing sites. As such, paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up to date. In such circumstances, or where the development plan is absent or silent, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole, or where specific policies in the Framework indicate development should be restricted. As LP Policy RLP2 seeks to constrain housing supply, it should be considered a relevant policy for the supply of housing, and is thus out of date.
6. The eaves and ridge height of the proposed dwelling would not be significantly taller than properties nearby. It is proposed to be constructed with dark grey vertical timber cladding and a black or dark grey metal roof. Although the proposed materials do not reflect those of the adjacent dwellings on Leyfield, dwellings in the wider area are constructed from a variety of materials. Furthermore, the dwelling would be in a secluded location set back from the road and thus would not be prominent in the streetscape.
7. The proposed site plan indicates a soft landscaping scheme incorporating a wildflower meadow in the rear part of the appeal site and a new native hedge to be planted along the north west and north east site boundaries. Some existing trees are also to be retained within the site. The details of external materials used in the proposed dwelling and the hard and soft landscaping scheme can be secured by appropriate conditions. In this way the proposal would blend satisfactorily into its surroundings, and provide an appropriate transition to the open countryside.
8. LP Policy RLP3 seeks to avoid inappropriate backland development. Although the site abuts open fields to the north east and south east, it lies adjacent to residential development to the north east and south west, and thus the site would not extend beyond the existing rear garden boundary of The Nook or the residential curtilages of the dwellings to the south east. As a result it would not encroach into open countryside or undermine the rural setting of the village. It would therefore accord with LP Policies RLP3 and RLP90 and CS Policy CS9. Amongst other things, these policies require development to be in harmony with the scale, design and intensity of surrounding development and protect the character of the existing streetscene.
9. The Council contends that the proposal is not outstanding or innovative in terms of design and therefore cannot be justified as an exception to policies of housing restraint in the countryside. However, paragraph 55 of the Framework, to which the Council refers, seeks to avoid new isolated homes in the countryside unless there are special circumstances. The term isolated is not defined in the Framework, but for the reasons I have already described, I do not consider the dwelling would be isolated, and thus the proposal is not required to meet the special circumstances set out in paragraph 55.

10. I note that whilst the appeal site was put forward for residential use as part of a call for sites exercise, it was not taken forward by the Council, and that the Council has consulted on a Site Allocations and Development Management Plan DPD, parts of which are to be incorporated into the draft Local Plan. Nonetheless, as the draft plan is not well advanced I can give it only limited weight in determining the appeal.
11. I conclude that the proposal would not harm the character and appearance of surrounding area. There would be a conflict with LP Policy RLP2 by virtue of the site's location outside the village envelope, but as the Council has only about 3 and a half years housing supply full weight cannot be attributed to the aforementioned policy.

Access to shops and services

12. Tye Green/Cressing has a primary school, village hall, shop and post office, located about 5 minutes' walk from the appeal site. There is also a recreation ground within the village. Opposite the site on Mill Lane are bus stops providing half hourly services to the main centres of Braintree and Witham, where residents can access higher order shops and services. Whilst there are no bus services after about 19:00, Cressing railway station is about 1km away on gently undulating roads and provides public transport connections outside peak hours within a reasonable walking distance of the site. Cycling would also be an option for some residents as Braintree is less than 4 miles away. Accordingly, for a small village at the lower end of the District's settlement hierarchy there is reasonably good access by non-car modes of travel.
13. Taking all of the above into account, I conclude that future occupiers would have satisfactory access to local shops and services.

Other Matters

14. There are concerns with the loss of a large tree and the location of a garage at the rear of No 8, but no garage is shown on the submitted plan, and in any case, the loss of private views is not a planning matter. Details of soft and hard landscaping, including the proposed parking area and trees to be retained can be secured by condition.
15. No objection has been raised by the Highway Authority in respect of visibility at the site entrance, and it appeared to me at the site visit that there would be adequate visibility on either side of the existing site access for the access and egress of vehicles given the absence of front boundary enclosures or soft landscaping close to the footway. Furthermore, although no secure cycle parking is shown on the plan there would be sufficient space within the garden to provide this.
16. The Parish Council is concerned with the loss of agricultural land but it was apparent on site that the land has not been cultivated for some time. As the Council has not raised concerns in this respect, the village is surrounded by extensive agricultural land, and there is no compelling evidence that the proposal would prejudice the future supply of agricultural land in the District, I have given this matter limited weight in reaching my decision.

Balancing and Conclusion

17. I have found that future occupants of the proposed dwelling would have satisfactory access to local shops and services, and that there would be no harm to the character and appearance of the surrounding area. There would also be modest economic benefits arising from the proposal during the construction phase and increased economic activity within the village in the longer term. As such the proposal would constitute sustainable development having regard to the policies in the Framework as a whole.
18. There would be a conflict with LP Policy RLP2 as the dwelling would be located outside the village envelope, but this policy is out of date for the purposes of paragraph 49 of the Framework, and other material considerations outweigh the conflict as I have found the proposal would be sustainable development.
19. I have specified the approved plans for certainty, and shall require details of external materials, hard and soft landscaping, and the submission and approval of a tree survey in order to safeguard the character and appearance of the surrounding area. In addition, details of refuse and recycling storage and collection points, controls on construction hours and methods and a dust and mud control management scheme to safeguard the amenity of neighbouring occupiers.
20. The Council's schedule of proposed conditions includes the requirement for a scheme of archaeological investigation. Whilst it notes the archaeological importance of the site, no justification is provided and there is no consultation response in relation to the archaeological interest of the site in the delegated report. As such I consider it would be unreasonable to impose the condition.
21. For the above reasons I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Location Plan 167-LEYFIELD-PL02; Proposed Elevations, Floor Plans, Sections and Site Plan 167.LEYFIELD.PL01.
- 3) Development shall not be commenced until a schedule of the types and colour of the materials to be used in the external finishes has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 4) Prior to the occupation of the development hereby approved a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying where appropriate. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the local planning authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.
- 5) All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development. Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species.
- 6) Development shall not be commenced until a Tree Survey has been submitted to and approved in writing by the local planning authority, which shall include: a detailed survey plan drawn to an adequate scale indicating the height, girth, spread, species and exact location of all existing trees, shrubs and hedges on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed in accordance with BS5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); a schedule in relation to every tree identified listing details of any proposed pruning, felling or other work; details of any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area. The development shall be carried out in accordance with the approved details.
- 7) Prior to construction, a scheme including an implementation timetable for the following has been submitted to and approved in writing by the Local Planning Authority: details of the location and design of refuse bin and recycling materials storage areas (for internal and external separation) and collection points; details of any proposed external lighting to the site. The development shall be constructed in accordance with the approved details and thereafter so maintained.

- 8) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times: Monday to Friday 0800 hours - 1800 hours; Saturday 0800 hours - 1300 hours; and no work on Sundays and Bank Holidays. No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process. No burning of refuse, waste materials or vegetation shall be undertaken in connection with the site clearance or construction of the development.
- 9) Development shall not be commenced until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority and shall be adhered to throughout the site clearance and construction process.