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## Appeal Decision

Site visit made on 27 July 2016

by **R M Pritchard MA PhD MRTPI**

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

Decision date: 17 August 2016

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**Appeal Ref: APP/Z1510/W/16/3147717**

**Land at Foxes Road, Ashen, Essex, CO10 8JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr S Norris against the decision of Braintree District Council.
  - The application Ref 15/00980/OUT, dated 27 July 2015, was refused by notice dated 27 October 2015.
  - The development proposed is the erection of 17 dwellings (10 private and seven affordable).
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider the main issue to be whether the proposed development is appropriate within an area defined by the adopted development plan as open countryside.

### Reasons

3. The proposal was made in outline with all matters reserved at this stage and seeks to establish the principle of residential development on the appeal site. 17 dwellings would be erected on the southern edge of the village of Ashen, close to the Essex – Suffolk boundary. An indicative masterplan (Ref. 215039 DWG 102) shows a scheme that would occupy land between Foxes Lane and Upper Farm Road and which would be bisected by Foxes Road.
4. The appeal site is outside the village envelope for Ashen as established by the proposals map of the adopted Braintree District Local Plan Review 2005, in which 'saved' Policy RLP2 states that new development will be confined to land within town development boundaries and village envelopes. Furthermore, the Council adopted a Core Strategy in September 2011. Policy CS5 essentially repeats Policy RLP2 by stating that development outside town development boundaries, village envelopes and industrial limits will be strictly controlled to uses appropriate to the countryside. There is no dispute that the proposed development would be contrary to the above two policies.
5. However, Paragraph 49 of the Government's National Planning Policy Framework ('the Framework'), which is material to all planning decisions, states that housing applications should be considered in the context of the

Framework's overarching presumption of sustainable development and that relevant policies for the supply of housing '*...should not be considered up-to-date...*' if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In such circumstances, Paragraph 14 of the Framework states planning permission should be granted unless specific policies in the Framework indicate development should be restricted, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework '*...taken as a whole*'.

6. There is no doubt in my mind that Policies RLP2 and CS5 are relevant to the supply of housing and that whether they remain up-to-date must depend on whether the Council can demonstrate a five-year supply of deliverable housing sites. The Council's original position in its officers' delegated report was that it could so demonstrate such a supply although the appellant disputed this. However, an update in the Council's appeal statement states that as a result of the latest information available to the Council on the Objectively Assessed Need (OAN) for housing in the district, the claim of a five-year supply of deliverable housing sites can no longer be sustained. In simple terms, the total new housing requirement for the district has risen from 4,367 new dwellings between 2009 and 2026 to 14,365 new homes between 2016 and 2033. As a consequence, the Council now concedes that, as of 31 May 2016, the supply of deliverable sites in the period 2016-2021 is 3.52 years and for 2017-2022 is 3.59 years.
7. It is therefore my clear conclusion that Paragraph 14 of the Framework is relevant to the proposed development. Furthermore, I have no evidence to suggest that any of the specific policies of the Framework – for example in terms of sites that may be nationally designated for their natural or historic significance – apply to the appeal land. In these circumstances, planning permission should be granted unless there are significant and demonstrable adverse impacts that outweigh the benefits when assessed against the policies of the Framework.
8. The Council is in the process of identifying sites that will be necessary to deliver the substantial increase in required housing numbers. A new Local Plan is in preparation and it is hoped that it will be adopted in 2017. There is no suggestion on the Council's part, however, that bringing forward the appeal site might be premature and no argument in support of prematurity has been advanced. This is a view with which I agree.
9. Nevertheless, the Council intends that the location of the additional homes required will continue to observe the principles adopted by the 2011 Core Strategy. Growth will be located primarily, as previously proposed by Policy CS1 of the adopted Core Strategy, '*...in the Towns and Service Villages...*' and in identified strategic growth locations. Neither the appeal site nor Ashen as a general location falls within any of the priority categories.
10. Outside towns and specifically identified strategic locations, growth is to be concentrated in key Service Villages where there are already opportunities for convenient walking, cycling and public transport links to nearby shops, services and employment opportunities. The Council points out that this is commensurate with the principles of sustainable development. It also meets the penultimate of the 'core planning principles' set out in Paragraph 17 of the

Framework as reflected in Policy CS7 of the Core Strategy that development should occur in accessible locations to reduce the need to travel.

11. Ashen is not a key Service Village but only an 'other village' which forms the bottom category of settlement. It is small, with a population just over 300, and although with a church and village hall, has no shop, school, bank, doctor's surgery or public house. Furthermore, Ashen is not especially conveniently located in relation to other settlements where these facilities and services can be found. Villages with shops, public houses, a primary school and a doctor's surgery, may be found between around a mile and a half and 2½ miles away but can only be reached along narrow, unlit country lanes. The nearest towns – Haverhill, Sudbury and Halstead – are between 7 and 10 miles away with infrequent bus services that run only occasionally during the week. By any standards, Ashen is an isolated settlement where virtually all journeys to services, to school, to work or for leisure would have to be made by car.
12. The appellant's case, in the absence of a five year supply of deliverable housing sites, rests on the rejection of Policy CS7 and relies on the Framework's objective of supporting thriving rural communities. As example, Paragraph 55 of the Framework acknowledges that where there are groups of smaller villages, development in one may support services in a village nearby. I acknowledge these issues, including the appellant's particular argument about support for local primary schools. However, I am sceptical that development of the scale here proposed would prove a sufficient catalyst for the retention of the facilities discussed in nearby villages let alone any expansion.
13. I therefore share the Council's view that there is insufficient evidence to accept the appellant's argument that the proposed development would prove significant in retaining rural services as opposed to the demonstrable and generally accepted fact that future residents would rely virtually entirely on the private car. Moreover, I note that the Parish Council, who I must assume would be closely interested in the maintenance of services to which the villagers could have access, are opposed to the proposed development. Some of their objections relate to the principle of developing in the open countryside and some to matters which are reserved at this stage. However, amongst their objections is that Ashen is an unsustainable location and that residents of the proposed development would be dependent on travel by car.
14. Paragraph 7 of the Framework identifies three roles for sustainable development – economic, social and environmental. The emphasis put on boosting the supply of housing is relevant to both the first two roles, although the economic benefits of a development of this scale must, inevitably, be limited. Notwithstanding that, however, the proposal would include 7 out of 17 properties as affordable housing, i.e. just over 41% of the total. I have no doubt that the provision of additional affordable homes in this rural location should be welcomed. Moreover, this number meets the requirement of Policy CS2 of the Core Strategy that 40% provision of affordable housing should be made in schemes in rural areas. It is the factor to which I give most weight in terms of favouring the proposed development.
15. Nevertheless, I see little to support the proposed development in respect of the environmental role for sustainable development. Apart from the unsustainable location in terms of the dependence of future residents on the private car, the

appeal site clearly represents an extension of the village into the open countryside. It would occupy two fields currently in arable cultivation.

### *The Planning Balance*

16. There is no doubt that the Framework promotes policies that can be contradictory in specific circumstances and where any decision maker has to exercise a judgement as to where priorities should lie. In this case, in circumstances where there is no five year supply of deliverable housing land, the critical question is whether there are significant and demonstrable adverse impacts to outweigh any benefits. That issue has to be assessed against the policies of the Framework as a whole. My judgement is that such impacts can be identified in terms of the unsustainable location of the development and do outweigh the benefits which I see principally as the provision of additional housing and especially the provision of additional affordable housing. I therefore conclude that my assessment of the planning balance is that the proposed location fails the test set by Paragraph 14 of the Framework.

### **Other Matter**

17. The Council also advanced a second reason for refusing the original application, namely the absence of an Undertaking made under section 106 of the Town and Country Planning Act to govern the means by which the affordable housing provision should be made and to make a financial contribution to additional public open space required in the area and to be provided in Upper Farm Road in Ashen. The appellant agreed to these requirements and a signed Undertaking, dated 21 July 2016, was duly sent to me and copied to the Council. I agree with the latter that the Undertaking overcomes the second reason for refusal. However, it cannot override the material harm that I have identified would result from the proposed development under the main issue.

### **Conclusion**

18. For the reasons given above I conclude that the appeal should be dismissed.

*R.M Pritchard*

INSPECTOR