
Appeal Decision

Site visit made on 10 August 2016

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 13th October 2016

Appeal Ref: APP/C1570/W/16/3150013

Cedar House, Broad Green, Chrishall, Essex SG8 8QR

- 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 Guy Rackham against the decision of Uttlesford District Council.
 - The application Ref UTT/15/3231/FUL, dated 16 October 2015, was refused by notice dated 21 December 2015.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the site is a suitable location for housing having regard to access to shops, services and employment opportunities, the effect of the development on the character and appearance of the landscape and surrounding countryside, and to the development plan;
 - The effect of the development on protected species

Reasons

Suitability of the site as a location for housing

3. The appeal site forms part of the large curtilage of Cedar House and was formerly an orchard, although this use appears to have ceased some time ago. It lies outside the defined development limit for Chrishall and is located in an area known as Broad Green which consists of a group of dwellings occupying large plots in a wooded setting to the north west of the main village. Policy S7 of the Uttlesford Local Plan 2005 (ULP) states that outside development limits, the countryside will be protected for its own sake and that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. Policy S7 does recognise that housing can be appropriate to a rural area and sets two tests in respect of development beyond settlement boundaries, namely is the development infilling and, if so, does it protect and enhance the character of the part of the countryside within which it is set.
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4. Policy S7 is clear that the countryside is all those areas of the district that are not within settlement boundaries or development limits. The Policy does not differentiate between agricultural land and residential properties. It is common ground between the parties that the appeal site lies beyond the development limit of Chrishall. Although stating that the countryside will be protected for its own sake, Policy S7 does allow for infilling where there are existing groups of buildings.
5. Cedar House is located on the edge of a group of buildings with agricultural fields to the north, beyond the appeal site. There is a single existing dwelling on the east side of Abrams Lane, slightly to the north of Cedar House. The appeal site is located to the north of both of these existing properties. Within this context I do not consider that a development on the site would represent infilling of a gap in a group of houses, as it is some distance from the nearest dwellings to the south and adjoins countryside to the north. Whilst I note the appellant's point that there is an existing outbuilding on the appeal site, this is clearly an ancillary building to Cedar House rather than being a separate residential curtilage and does not alter my conclusion that the development would not be infilling within an existing group of buildings.
6. The appellant makes reference to an emerging policy, Policy HO5 of the Uttlesford Local Plan Pre-Submission Consultation 2014. This replacement local plan has been withdrawn and I have no indication of the current status of this document. As it is not an adopted policy or part of the development plan only very limited weight can be given to this point.
7. The development therefore fails to meet first test of Policy S7 in that the degree of separation from existing dwellings is such that it cannot be considered infill development. The development would thus represent an encroachment of built development into the countryside contrary to Policy S7.
8. The surrounding countryside is largely flat and comprises medium to large scale fields with some scattered blocks of woodland and remnants of hedgerows. Due to its former use as an orchard the appeal site retains a slightly different character from the more cultivated and managed garden of Cedar House which it adjoins. The development of a dwelling on the site would alter this character and give it a more domestic appearance.
9. Broad Green is a discrete group of buildings set apart from Chrishall and having a generally linear form along a lane running south west from Cedar House. Although these dwellings have large curtilages, they are relatively closely spaced and the area has a coherent overall appearance. The siting of the proposed new dwelling, remote from the other dwellings would be inconsistent with this form.
10. The proposed dwelling is of a contemporary design with a monopitch roof finished in zinc sheeting and external walls finished mainly in timber cladding. This design approach is atypical of other residential architecture in the area. However, the appeal site is not within a Conservation Area and the design of the proposed dwelling is not, of itself, inherently objectionable.
11. Although the appeal site is well screened by existing trees and hedgerows and the development would not be readily visible from outside the site or from other residential properties, the introduction of a new residential unit, situated some distance from existing dwellings would nonetheless have an urbanising

effect by extending the built up area further beyond its current extent which would be harmful to the character of the area.

12. My attention has been drawn to an appeal decision at Cedar Cottage, Church Road, Great Hallingbury¹ in respect of the effect on the character of the area. I do not have full details of this case and cannot be certain that the circumstances are the same. However, from the details provided, the site in question was located immediately adjacent to an existing group of dwellings fronting a highway and, consequently, I do not consider that the case is directly analogous to the appeal before me.
13. Within the village there are a very small range of facilities available, including a public house, a school, a playing field and churches although there is no food shop. It is approximately 300 metres from the appeal site to the primary school and approximately 500 metres to the centre of the village. These are within walking distance or could be accessed by cycle. There is no footway alongside the road for much of the route between the appeal site and the village and, in addition, I saw that the route to the village is not lit and as a result it is less likely to be attractive to pedestrians, especially during the winter months.
14. The town of Saffron Waldon is approximately 12 kilometres away by road. Due to the distance involved, I consider that it is unlikely that occupiers of the new dwelling would use cycles to access goods and services or to travel to work in Saffron Waldon. There are very limited bus services to the village and due the restricted range of facilities and employment opportunities available and the lack of a food shop within Chrishall, future occupiers of the new dwelling would be largely dependent on the private car in order to meet their day to day living requirements.
15. I therefore find that the appeal site would not be a suitable location for housing having regard to access to shops, services and employment opportunities, the effect of the development on the character and appearance of the landscape and surrounding countryside, and to the development plan. It would be contrary to Policy S7 of the ULP which seeks to protect the countryside and to restrict new development to that which is appropriate to a rural area.

The effect of the development on protected species

16. The Council's second reason for refusal related to insufficient information being provided in respect of the effect of the development on great crested newts and badgers. Limited ecological information was submitted with the planning application. Further ecological assessments have been submitted with the appeal, which conclude that the site is of limited value to great crested newts, although as they are present in the area. The assessments suggest mitigation in the form of a pre-commencement site search, removal of any newts discovered on the site, and measures to exclude newts from re-entering the development area. The assessments also found no evidence of recent badger activity on the site but, again, suggest mitigation during the construction phase.
17. The Council has had the opportunity to comment on these additional assessments and has not challenged their findings, although the reason for

¹ Appeal Reference APP/C1570/W/15/3022907

refusal has not been withdrawn. From my site visit, I have no reason to question the findings of the ecological assessments.

18. Subject to appropriate mitigation as detailed in the ecological assessments, I conclude that the development would not cause harm to protected species and meets the requirements of Policy GEN7 of the ULP which seeks to prevent new development from having a harmful effect on wildlife and geological features.

Conclusion

19. There is some dispute between the parties over whether there is a five year supply of housing land in the district and, consequently, whether the relevant policies for the supply of housing in the Local Plan can be considered up to date. Policy S7 of the ULP is restrictive of development, including new dwellings, in the countryside and is therefore a relevant policy for the supply of housing.
20. The Council's current figures suggest that whilst there has been a shortfall in delivery in recent years, it is estimated that completions will rise in the future and that a five year supply of housing land can be demonstrated. The appellant has not produced any competing figures but relies on a number of appeal decisions and a statement in the planning officer's report on the planning application acknowledging an anticipated shortfall in delivery in 2015/16 and 2016/17 and that there may be a need to grant permission for sustainable development outside development limits to conclude that housing land supply is in a state of flux.
21. However, even if the policies are not up to date, this would not mean that little or no weight can be given to development limits as they are still a useful tool to establish whether development is appropriately located in relation to services, facilities and public transport. As such the policies would therefore still have some weight.
22. Paragraph 49 of the National Planning Policy Framework requires that proposals for housing should be considered in the context of the presumption in favour of sustainable development. The proposal would make a very minor contribution to the housing supply in the area and would have modest economic and social benefits through the investment in its construction and use of local services. Although I have found that the proposal would not have an adverse effect on any protected species, nevertheless, there would be clear environmental harm through the increase in built development in the countryside and the reliance of the future occupiers on the private car for their daily needs. This harm would significantly and demonstrably outweigh the benefits, and the proposal would therefore not constitute sustainable development.
23. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR