The Planning Inspectorate

Appeal Decision

Site visit made on 3 January 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 18th January 2017

Appeal Ref: APP/C1570/W/16/3157486
Fullers End, Tye Green Road, Elsenham, Essex CM22 6DU

- 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 Steven Murnane against the decision of Uttlesford District Council.
- The application Ref UTT/16/0949/OP, dated 6 April 2016, was refused by notice dated 9 June 2016.
- The development proposed is the erection of 1 dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form indicates that the planning application was submitted in outline with all matters reserved for future consideration. The drawings submitted are consistent with this aspiration as they do not outline a firm proposal. I have determined the appeal accordingly. I have taken the description of development from the decision notice in the interests of brevity.

Main Issue

3. The main issue in this appeal is whether the proposed development would constitute a suitable site for housing having regard to local and national rural housing policy.

Reasons

4. The appeal site is located in the countryside being outside the development limits of a settlement defined in the development plan. Saved Policy S7 of the Uttlesford Local Plan 2005 (LP) has a broadly restrictive approach to development in the countryside. This approach is primarily in order to protect the countryside for its own sake by only permitting development in the countryside if it needs to take place there or is appropriate in a rural area.

5. As the appeal scheme relates to the erection of a new house that would be situated in the countryside, it would undermine the broad strategy for housing supply and the protection of the countryside contained in the LP. I have not been presented with evidence that the Council is currently unable to demonstrate a 5 year housing land supply, as required by the Framework, which would otherwise render Saved Policy S7 of the LP as out of date.

6. Nevertheless, the Council has undertaken an analysis[1] of the consistency of Policy S7 with the National Planning Policy Framework (the Framework) and have concluded it is partially consistent, a conclusion I share. The Framework has a more nuanced approach to development in the countryside seeking to encourage development that supports the vitality of rural areas whilst also recognising the intrinsic character and beauty of the countryside and the need to promote travel choice. As such, it is necessary to consider the proposal within the context of the national planning policy set out in the Framework.

7. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances. The Framework does not define the meaning of 'isolated' and there is no up to date local interpretation. Nevertheless, in my experience there are two main aspects to be assessed when considering 'isolation', these being whether the appeal site is physically and spatially isolated relative to a discernable settlement and whether it is functionally isolated relative to services and facilities.

8. The appeal site encompasses a parcel of land located to the rear of businesses operated by the appellant and his wife. There are open arable fields to the east, south and south west and paddocks to the west. This gives the area a rural character. Notwithstanding the sporadic development in the vicinity of the appeal site, including Apple Tree House, the appeal site does not read as being part of a discernible settlement. It would thus be isolated. Moreover, it would not constitute infilling within the meaning of Paragraph 6.13 of the Local Plan.

9. A public footpath passes along the western boundary of the appeal site and there are views into the site from this vantage point, although these would be more limited when the boundary hedge was in leaf. As such, the proposed dwelling would be visible from the public footpath. Moreover, the proposed dwelling would also be visible from the road to the north east of the appeal site in views across the intervening field. Consequently, the proposed dwelling would appear as an urbanisation of the appeal site and a discordant incursion into the countryside. This harmful impact would be particularly noteworthy as the site is located in a countryside protection zone.

10. The nearest defined settlement to the appeal site with a number of facilities is Elsenham, which is identified in the Local Plan as a Key Rural Settlement. The appellant has suggested that Elsenham is a comfortable walk from the appeal site. Whilst walking may be possible, it is necessary to consider the likelihood that it would be a genuine alterative to travel by private motorised vehicles on a regular basis. This is because although the Framework recognises that the opportunities to maximise sustainable transport will vary from urban to rural locations, it does not advocate car dependency in rural areas. Some facilities should be reasonably accessible by other means to meet the Framework's objectives of promoting travel choice, supporting the vitality of rural communities and reducing carbon emissions.

11. During my site visit I was able to identify two possible walking routes into Elsenham. The first was through Fullers End, which is quite a convoluted route which the appellant suggests is 0.69 miles long with significant sections that are

[1] Uttlesford LP - National Planning Policy Framework Compatibility Assessment adopted 2012 – by Ann Skippers

devoid of pavements. It would also require the future residents of the appeal scheme to cross the rail line through a pedestrian gate. This may discourage walking. The second route is via Hall Road. This would require a walk along the country lane that the appeal site is accessed from, which is devoid of pavements and is unlit. More significantly, this route would also require a walk along a section of Hall Road that is also without pavements. Hall Road appears to be a busy road with the potential for high traffic speeds. Consequently, I am not satisfied this is a route along which pedestrians should be encouraged to travel frequently.

12. A plan detailing the location of bus stops has not been provided with the appellant's submissions nor has a timetable of services. I noted the presence of a rail station in Elsenham but again, the scope and frequency of the service is unclear. As such, I am unable to afford public transport any meaningful weight as a means by which future occupants of the appeal scheme could access services and employment. In respect of the latter point, the appellant and his wife have their businesses at the appeal site so they would not currently need to travel for work. Nevertheless, this may not always be the case. Therefore, it is necessary to consider the accessibility of the site in a more general sense.

13. Cycling could be an option for some future residents as a means of accessing services, but not all, depending on mobility and proficiency thus reducing the reliance that can be placed on this mode of transport as an alternative to a private car. Consequently, the distance, inconvenient walking environment and apparent lack of other alternative modes of transport means it would be highly likely that future residents of the appeal scheme would be predisposed to rely on a private car to access everyday services and facilities. As such, the proposed development would be a functionally isolated development in the countryside due to its remoteness from everyday services and facilities.

14. This isolation would result in harm when considering the social and environmental dimensions of sustainable development. It would leave future occupants of the proposed dwelling largely reliant on private vehicles with limited travel choices. It would also undermine the Framework's aim of locating new dwellings in rural areas close to services and facilities as a means of protecting the vitality of rural communities and reducing unnecessary travel by car, with its associated carbon emissions, as one measure to cumulatively limit the effects of climate change.

15. In considering any special circumstances that would justify the isolated location of the appeal scheme, the appellant has suggested it is necessary for him to live on site for the proper functioning of his business. The Framework suggests that an isolated dwelling could be justified as a special circumstance if there is an essential need for a rural worker to live at or near their place of work.

16. Nevertheless, it is unclear what the nature of the appellant's business is. Moreover, I have not been provided with evidence indicating that it is essential for the proper functioning of the business for there to be a regular on-site presence through the day and night, that the business has suffered losses from there not being an on-site presence and that it is financially sound and likely to endure into the future. The appellant has referred to security concerns but I have not been presented with substantive evidence that site security has been a significant issue in the past and could not be mitigated by CCTV cameras or other similar measures. As such, I do not consider it has been demonstrated

that there is an essential need to live on site that would amount to a special circumstance justifying the appeal scheme.

17. I do not have substantive evidence before me to suggest that the other examples of special circumstances listed in Paragraph 55 of the Framework are met. Nevertheless, the list is not exhaustive and the appellant suggests the presence of Apple Tree House sets a precedent, having been built in the 1990s. The details of this approval are not before me and in any event it was approved some time ago before the adoption of the current policy framework. As such, this is not a consideration to which I afford determinative weight.

18. I therefore conclude that as an isolated dwelling outside the development limits of a defined settlement, the appeal proposal would present a conflict with Saved Policies S7, S8 and GEN2 of the Local Plan. I also conclude that the proposal would conflict with the aims of Saved Policies S7, S8 and GEN2 by harmfully urbanising the existing open and rural character of the appeal site. The proposed development would also be contrary to the Framework (Paragraphs 17 and 55 in particular), which seek to deliver developments that minimises the above adverse impacts by siting development in locations that maximise opportunities for future residents to live in a sustainable way, whilst recognising the intrinsic character and beauty of the countryside.

Other Matters

19. The proposal would provide a single family dwelling that would increase the rural housing stock. However, this would be in a location isolated from services with the inherent harm this would bring. A single dwelling could provide some very limited assistance towards the vitality of rural communities and services. But, most of the facilities future occupants would likely use on a regular basis are in Elsenham and in villages and towns further afield. Therefore, a dwelling would be better sited closer to these settlements. In this respect, the appellant has referred to a number of housing approvals at Elsenham. Consequently, I do not find these social benefits as persuasive considerations that justify the dwelling. Nor do I find the very modest economic benefits that would be derived from the construction of the dwelling, and the future 'spend' of occupants, as overriding benefits either.

20. Consequently, I do not find that the social, environmental or economic matters, identified as material considerations, are sufficient to outweigh the conflict with the development plan and national planning policy in the Framework. I therefore find that when taken as a whole, the proposal is not sustainable development for which the Framework caries a presumption in favour.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, including the lack of local objections, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR