

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: 9th February 2017

Appeal Ref: APP/C1570/W/16/3160739

Site rear of Village Hall, Radwinter Road, Sewards End, Saffron Walden, Essex CB10 2LG

- 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 Messors P & T Wells against the decision of Uttlesford District Council.
 - The application Ref UTT/16/0844/OP, dated 21 March 2016, was refused by notice dated 4 July 2016.
 - The development proposed is the erection of 36 dwellings and garages, creation of a new vehicular access and erection of a village shop and extension to the village hall and alteration of the existing access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for subsequent approval save for the access. I have considered the appeal accordingly. I have treated the appeal drawings as an illustration of how the development could proceed rather than a firm proposal and have referred to them where necessary in considering the principle of development.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposal would satisfactorily manage any flood risk; and
 - The effect of the proposed development on early years and primary school places and whether it would make adequate provisions for affordable housing and public open space.

Reasons

The effect on the character and appearance of the area

4. The appeal site encompasses the village hall and its car park and part of an arable field located to the immediate east of the village hall. The appeal site is broadly flat and has a frontage onto Radwinter Road (the B1053). There is
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- little in the way of existing vegetation around the appeal site, which results in it being open to views from the B1053.
5. The scale of the housing on the northern side of the B1053 opposite the appeal site tapers off when heading out of the village from two storey houses to more modest bungalows and chalet bungalows. This reduction in scale marks a transition between the village and the countryside beyond. Additionally, the open and undeveloped character of the arable field within which the appeal site is located contributes to the rural setting of the village on its eastern approach.
 6. Swards End is a small village located to the east of Saffron Walden. The grain of development in the village is predominantly linear with properties tending to have a frontage onto the B1053. Historic mapping demonstrates that there has been a significant level of infilling from the mid-20th Century onwards. This infilling includes small housing estates, which branch off the B1053 and includes Dragons Green and Tylers. However, much of the infilling has been small housing schemes located in gaps within the built up frontage along the B1053. A notable exception to this is the housing along Cole End Lane. Nevertheless, this also follows a linear character with the properties facing onto the lane, save for the The Dreys, which is a conventional cul-de-sac.
 7. Consequently, the character of Swards End is generally one of linear development focussed on the B1053 with small scale infilling along this road. Large blocks or estates of housing are not common place. The village is also surrounded by arable fields, which gives the settlement a rural setting and a sense of separation from Saffron Walden.
 8. The appeal scheme is for the erection of 36 dwellings along with a village shop and an extension to the village hall. The development would be outside the development limits of the village and would thus be an incursion into the countryside. This would inherently change the character of the appeal site from an arable field to a suburban housing estate and would harmfully dilute the rural setting of the village when approaching it from the east. It would also harm the open character of the countryside in the vicinity of the appeal site.
 9. As well as having an inherently harmful impact upon the countryside, the street scene of Radwinter Road would also appear unbalanced, as the appeal scheme would be a comparatively large estate of two storey housing set back from the edge of the street, which would jar with the more modest scale and linear character of the existing smaller properties on the northern side of the road. Thus, the proposal would be out of character with the scale and layout of development along Radwinter Road. As a consequence, the estate would appear somewhat detached from the rest of the village and thus a discordant adjunct rather than a harmonious and integrated section of townscape.
 10. The number of houses proposed would require a development in depth with meandering cul-de-sacs projecting into the site. This would harmfully disrupt the linear form and character of the village. The size of the proposed estate, which would result in something along the lines of a 19% increase in the size of the village, would also appear harmfully out of scale with the settlement and at odds with the historic pattern of small scale infilling along the B1053.
 11. To mitigate for the impact of the appeal scheme, the appellants have suggested a structural landscaping scheme in the form of a small woodland copse along the eastern boundary of the appeal site. This could have some

localised benefits to the immediate landscape, which falls within the Thaxted Farmland Plateau landscape character area. The structural planting would also be supplemented by a verdant character within the development with landscaping within and between plots.

12. Nevertheless, I have not been presented with any substantive evidence, such as a formal landscape and visual impact assessment to recognised standards, which demonstrates the extent to which the proposed landscaping would be successful at mitigating the harmful impacts I have identified. Moreover, in the short to medium term the landscaping would be immature and would be unlikely to successfully screen the development. As such, I am not satisfied the landscaping would successfully alleviate the impacts of the appeal scheme.
13. In conclusion, when the impacts above are taken together, the appeal scheme would significantly harm the character and appearance of the area contrary to saved Policies S7 and GEN2 of the Uttlesford Local Plan 2005 (LP). These policies seek to protect the character of the countryside and deliver new development that is compatible with existing development. These aims are broadly consistent with Paragraphs 17 and 58 of the National Planning Policy Framework (the Framework), which enables these development plan policies to be given significant weight.

Whether the proposal would satisfactorily manage any flood risk

14. The appeal site is located within Flood Zone 1. As a consequence, and due to the size of the proposal, it is necessary to consider how the development would manage surface water drainage. The appeal scheme is an outline proposal so not all of the matters of detail have been submitted, including the layout. Notwithstanding this, it is still incumbent upon the appellants to broadly demonstrate that the appeal scheme would incorporate satisfactory measures to manage surface water drainage and thus prevent the risk of localised flooding.
15. Saved Policy GEN 3 of the LP states that *outside flood risk areas development must not increase the risk of flooding through surface water run-off. A flood risk assessment (FRA) will be required to demonstrate this. Sustainable Drainage Systems should also be considered as an appropriate flood mitigation measure in the first instance. It goes on to state that the FRA will show that the proposed development can be provided with the appropriate minimum standard of protection throughout its lifetime and will demonstrate the effectiveness of flood mitigation measures proposed.* This is consistent with the advice in Paragraph 103 of the Framework and thus Policy GEN 3 can be afforded significant weight.
16. The Council are concerned that the FRA and Drainage Strategy submitted with the planning application does not apply the correct climate change allowances, has not been prepared following infiltration testing and does not demonstrate suitable run-off rates. Moreover, the FRA and drainage strategy are inconsistent, with differing run-off rates and storage. This conclusion follows advice from the Lead Local Flood Authority and there is nothing before me to suggest I should not give this advice significant weight. Given these limitations, I share the Council's concerns that the FRA does not provide sufficient information for a sound conclusion to be drawn as to whether the appeal scheme would satisfactorily manage flood risk. Given the

inconsistencies and the gaps in the available information, I am not satisfied this is a matter than can be left to a planning condition.

17. Consequently, the appeal scheme does not satisfactorily demonstrate that the proposal would satisfactorily manage surface water drainage and thus localised flood risk. As such, I cannot be satisfied that the appeal scheme would not result in a harmful level of surface water run-off and thus localised flooding. This is at odds with saved Policy GEN3 of the LP, which I have already found to be consistent with the Framework.

The effect on early years and primary school places and whether adequate provisions would be made for affordable housing and public open space

18. The Council have suggested that the appeal scheme would generate a need for Early Years and Childcare (EY & C) places, primary school places and secondary school places. Whilst there is sufficient capacity to accommodate the additional secondary school places, the Council have stated that there is currently insufficient capacity in the Ashdon Ward for the EY & C places that would be generated by the appeal scheme. The evidence presented suggests there is a local shortfall that the appeal scheme would compound. As mitigation, the Council is seeking a developer contribution of £45,133 to be spent on a 'project' to expand EY & C provision. Nevertheless, I have not been presented with details outlining where the money would be spent and the precise details of the project. Nor has it been demonstrated whether the contribution sought would be pooled with other contributions.
19. In respect of primary school places, again the Council have suggested that there is a local shortage and a developer contribution of £131,954 is required to mitigate the pressure on places that the appeal scheme would generate. Similarly, from the information before me, I am satisfied there is a shortage of primary education places and the appeal scheme would place additional pressure on this existing situation. The Council have been more specific in respect of where the contribution would be spent, this being RA Butler Infant School and the project would be an 'expansion'. It is unclear in what form the expansion would occur and whether the contribution would be pooled with others to achieve this.
20. The appellants do not dispute the evidence provided by the Council and has confirmed that they would have no objections to providing the required contributions. I therefore consider it would be highly probable that without mitigation the development would adversely contribute to the existing pressure on EY & C and primary school places in the area. The contributions are therefore necessary to make the development acceptable. But as a completed planning obligation has not been provided, the harmful impact of the development would remain unmitigated if this appeal were to proceed. Additionally, as there is no planning obligation before me I am unable to conclude whether the Council's proposed mechanism for securing the mitigation is consistent with Regulation 123 of the CIL Regulations¹.
21. In the absence of a planning obligation pursuant to EY & C and primary school places, I conclude that the proposal would be contrary to saved Policy GEN6 of the LP, which seeks to ensure any pressures on infrastructure arising from new

¹ The Community Infrastructure Levy Regulations 2010

developments are mitigated. This is consistent with Paragraph 72 of the Framework and therefore Policy GEN6 can be afforded significant weight.

22. The appeal scheme proposes 40% affordable housing and the indicative layout shows a large public open space along Radwinter Road. There is no dispute that the provision of affordable housing and open space are requirements of the development plan and therefore necessary to make the development acceptable. The Council is seeking to secure these benefits through a planning obligation and has refused the application in the absence of one. Nevertheless, it is unclear why suitably worded planning conditions could not be imposed to secure these parts of the proposal in the event the appeal scheme was acceptable. As such, and based on the evidence presented, the absence of planning obligations in respect of these matters does not justify a refusal of planning permission. Nevertheless, this does not overcome my concerns regarding the impact on EY & C and primary education.

Other Matters

23. As a material consideration, the appellants consider the proposal is sustainable development when the economic, social and environmental benefits are considered and weighed in an overall planning balance.
24. The appeal scheme would result in some notable economic benefits to the construction industry, including jobs. Given the size of the appeal scheme, some of the jobs could endure for a reasonable period. There would also be some benefits to the local economy from a circulation of funds associated with future occupants. However, these benefits could be derived from a development sited in a more appropriate location. The Council's 'call for sites' and subsequent site allocations process could identify sites throughout the district that are better placed to exploit the economic benefits that would otherwise be accrued by the appeal scheme, but without the significant harm I have identified.
25. The appeal scheme would also include a local shop. This has the potential to create local long term jobs that would support the rural economy. However, I share the Council's scepticism as to whether the proposed shop would be viable and therefore how much weight this can be afforded as a genuine benefit. This is because Swards End is small village of only around 200 dwellings and I have not been presented with substantive evidence to suggest these households, alongside those in nearby villages, would provide a critical mass of a sufficient size to support the shop. This is particularly relevant as the previous village shop closed and a large supermarket is located around 1 ½ miles away from the village. The shop could be run as community venture on a not for profit basis but I have seen nothing to suggest this is the intention.
26. As a consequence, I would need to see significantly more evidence that a shop would have a genuine prospect of success before I afforded its provision anything more than limited weight as a benefit. Taken together, the potential economic benefits accrue only moderate weight.
27. A development of the size proposed has the potential to support the vitality of the rural community. However, in this instance there are very few facilities within Swards End that the future occupants of the appeal scheme could support. The nearest everyday facilities, such as a shop, public house, post office and schools are located in Saffron Walden or further afield, as are most

- recreation and employment opportunities. As a consequence, residents of the appeal scheme would need to travel into Saffron Walden for everyday services and facilities and this would do little to promote or reinforce the vitality of the rural community. Additionally, there is no evidence before me that key local services, including those in nearby villages, are failing due to a lack of demand.
28. The appeal scheme would facilitate the extension of the village hall, which has been identified as requiring an upgrade². However, it is unclear whether the Village Hall Trust supports the proposed extension. It is also unclear when the works would take place. Therefore, whilst this is a potentially noteworthy benefit, the uncertainty over its delivery reduces the weight that can be afforded to it.
29. Unlike some of the recent cumulative infilling, the appeal scheme would provide 40% affordable housing. This would be a notable benefit. However, the Parish Council have confirmed that there is not a significant need within the village and I have no reason to disagree. As such, many of the homes provided would be for general needs. Whilst this could still be an important benefit, it is nevertheless one that can be accrued by a development with fewer harmful impacts than the appeal scheme.
30. Likewise, the benefits to housing supply and housing choice in a more general sense, as advocated in national policy and the Government's Rural Productivity Plan, are not overriding in this instance. This is because it is a matter of common ground between the appellants and the Council that there is currently a five year housing land supply, albeit marginal. As such, there is no urgent imperative to depart from the development plans broad strategy of located residential development within settlements and release further land in the countryside for housing. As such, I afford these social benefits moderate weight.
31. The structural landscaping envisaged as part of the appeal scheme could provide some benefits to local biodiversity and the local landscape. However, these moderate benefits are more than outweighed by the significant harm to the rural character and appearance of the area, which would be the consequence of the appeal scheme going ahead. Additionally, the appeal site is located on the eastern side of the village and therefore it is a long walk to the edge of Saffron Walden and then into the town centre. Whilst the walk is along a pavement and within statutory school walking distances, the distance is such that it is unlikely to be a regular alternative to private motorised transport and the provision of a shop would not mitigate for this for the reasons already outlined above. Moreover, I have seen nothing to demonstrate that the local bus service is frequent.
32. As such, the appeal scheme would not be located where it would contribute to a cumulative reduction in harmful greenhouse gas emissions by maximising sustainable transport solutions in a way commensurate with the rural location³. The appellants have suggested that other developments in Swards End have been found to be 'sustainable' but these developments are not of a similar scale as the appeal scheme, thus they not comparable. The harmful environmental impacts of the proposal, including the uncertainty over surface water drainage, would be significant.

² Uttlesford District Council Open Space Study 2012, which purportedly assessed the hall as 'moderate to poor'

³ See Paragraphs 29, 30, 55, 93, 95 of the Framework

33. I note that a development of 35 homes was approved in Radwinter (UTT/13/3118/OP), which has no shop and is further away from Saffron Walden. However, it does have a primary school and the approved development will apparently facilitate community benefits. This is unlike the appeal scheme, where I have been unable to afford the potential benefits anything more than moderate weight. Evidently, the Council took the view that the proposal at Radwinter, when considered on its own merits, was sustainable development. Likewise, I have considered the appeal scheme on its own merits and have come to the conclusion below.

Conclusion

34. The policies referred to by the Council in its decision notice were all 'saved' and cannot be considered to be absent or silent. They continue to form part of the extant development plan. I have found the saved Policies the Council based its decision on to be broadly consistent with the Framework and there is nothing to suggest the Council does not have a five year housing land supply. As such, I find no reason why the development plan policies relied upon by the Council should be regarded as being absent, silent or out-of-date. I have therefore afforded them significant weight.

35. I have found the appeal scheme to be contrary to the development plan when considered as a whole as it would result in housing outside a settlement with a significantly harmful impact on the character and appearance of the area and the provision of EY & C and primary education places. The potential impacts from surface water drainage are also unresolved. The application should be determined in accordance with the development plan unless there are material considerations which indicate otherwise. Moreover, the appeal site is poorly related to everyday services and facilities contrary to the aims of the Framework. The moderate benefits of the appeal scheme, as material considerations, would not outweigh the significant weight I have attached to harmful conflict with the development plan as a whole and the Framework. As such, the proposal is not sustainable development for which the Framework carries a presumption in favour. Accordingly, and having regard to all matters raised, the appeal should be dismissed.

Graham Chamberlain
INSPECTOR