
Appeal Decision

Site visit made on 3 April 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 19th April 2017

Appeal Ref: APP/C1570/W/16/3164463

Land adjacent to 1 Chestnut Cottages, Burton End, Stansted Mountfitchet, Essex CM24 8UQ

- 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 Richard Searle against the decision of Uttlesford District Council.
 - The application Ref UTT/16/0795/OP, dated 29 March 2016, was refused by notice dated 18 May 2016.
 - The development proposed is the erection of one new home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters of detail reserved for future consideration. I have considered the appeal accordingly. The application form is undated but the Council registered the application on the 29 March 2016. I have taken this as the date of the application.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal site is an appropriate location for residential development with particular reference to local planning policy, the effect on the character and appearance of the countryside and the accessibility of services and facilities;
 - Whether the proposal would provide adequate living conditions for its future occupants with particular reference to noise; and
 - The effect of the proposal on biodiversity.

Background

4. The proposal before me follows the dismissal of a previous appeal at the site in 2014 for the erection of up to two dwellings¹. I have not been presented with anything to suggest there have been relevant changes to local or national planning policy since this decision was made or that the circumstances in and around the appeal site have materially altered either. Similar planning

¹ APP/C1570/A/14/2215744

applications should be considered in a similar manner and therefore the previous appeal decision is a material consideration of significant weight.

Reasons

Whether the appeal site is an appropriate location for residential development

5. The previous Inspector in 2014 concluded that the appeal site is located in the countryside being outside the development limits of a settlement defined in the development plan. I agree given the site's physical separation from a defined settlement by extensive agricultural fields. The Inspector also concluded that housing development within the appeal site would not amount to infilling in spite of the proximity of Burton End and the historic presence of dwellings within the appeal site. I have no reason to come to a different conclusion.
6. 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. This is reinforced in saved Policy S8 of the LP, which sets out a Countryside Protection Zone around Stansted Airport.
7. The Council have undertaken an analysis of the consistency of Policies S7 and S8 of the LP with the National Planning Policy Framework (the Framework) and have concluded that Policy S7 is partially consistent and Policy S8 is broadly consistent. These are conclusions I share as 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 choice². As such, Policy S7 can be afforded moderate weight and Policy S8 significant weight.
8. As the appeal scheme relates to the erection of a new house that would be situated in the countryside, it would harmfully undermine the broad strategy for housing supply and the protection of the countryside contained in Policies S7 and S8 of the LP.
9. The appeal scheme would intensify the level of development within the appeal site, would fill a broadly open gap in a small outlying pocket of development and consolidate and intensify the existing sporadic development in the vicinity of the appeal site. These impacts would harm the character and appearance of the countryside contrary to saved Policy GEN2 of the LP, which has the objective of safeguarding the setting of sites. This is consistent with Paragraph 58 of the Framework and can thus be afforded significant weight.
10. This harmful impact is not outweighed by the previous use of the appeal site as an area to store building materials because the site has since blended back into the landscape and should not be afforded the priority accorded to the development of brownfield land. Moreover, the appeal scheme could tidy up the appeal site but such an outcome need not be dependent on the erection of a dwelling. As such, this is a point of very limited weight as a matter in favour of the appeal scheme.

² See Paragraphs 17, 29, 30 and 55 of the National Planning Policy Framework in particular

11. The previous Inspector in 2014 concluded that the appeal site was located in a position where most of the journeys that would be undertaken by future occupants would be by private car and that this would be an inherently unsustainable situation. I share this conclusion because Stansted Mountfitchet is around one mile away from the appeal site and this is the nearest settlement with an array of services. A walk or cycle to Stansted Mountfitchet from the appeal site would require future occupants to negotiate narrow country roads with many bends, few footpaths and little lighting. I have no details relating to bus services before me. As such, they would have a predisposition to use private motorised transport and this would be contrary to the Framework³.
12. I therefore conclude that the appeal scheme would undermine the strategy for housing in the development plan, would harm the character and appearance of the countryside and would be sited in a location where future occupants would not have ready access to services and facilities without the use of private motorised transport. As such, the appeal site is not a suitable location for residential development being contrary to Policies S7, S8 and GEN2 of the LP and the requirements of the Framework.

Whether the proposal would provide adequate living conditions

13. The appeal site is located close to Stansted Airport and therefore potential future occupants of the appeal scheme would be exposed to noise emanating from its operation, including aircraft taxiing and commencing take off. Noise exposure contours prepared by the Civil Aviation Authority shows the appeal site to be within the contour for 57-60 dB LA (16hr) daytime noise. Stansted Airport Ltd advised the Council that the site falls within the contour of 60-63 dB LA (16hr) when considering the increased airport activity permitted by existing planning permissions. At night time the appeal site falls within the contour for 51-55 dB LA (8hr) noise and within an area where single noise events of 82db may occur. The appellant suggests that the contour maps have been revised but he has not provided different figures to those suggested by the Council. I have therefore used the figures above for the basis of my assessment.
14. The Council are satisfied that it would be possible to attenuate noise so that the internal levels within the proposed dwelling would be acceptable. I have no reason to doubt this. However, when referring to the noise contours outlined above the outdoor living areas of the appeal scheme would be subject to noise levels which would constitute the onset of 'serious annoyance' when applying the World Health Organisation guidelines. This would amount to significant noise disturbance. The appellant has not provided substantive technical evidence to demonstrate otherwise⁴ or that the noise impacts could be mitigated. As a consequence, the future occupants of the appeal scheme would be exposed to unacceptable levels of noise and thus the appeal scheme would provide inadequate living conditions.
15. This conclusion is supported by the findings of the previous Inspector in 2014 and I have nothing before me to suggest the noise environment has materially changed. Moreover, the adverse impacts that would be likely to arise from airport noise are a matter advocated by the Council's specialist Environmental Health Officer (EHO). Whilst the appellant suggests they may never have been to site, the expert opinion has not been challenged by the appellant with

³ Particularly Paragraphs 17, 29, 30 and 55

⁴ Including any baffling of noise from structures, landforms and vegetation

reference to substantive technical evidence or an alternative expert. Consequently, the view of the EHO is a matter weighing against the proposal.

16. I therefore conclude that in the absence of evidence to the contrary, the appeal scheme would provide inadequate living conditions for future occupants. As a consequence, the proposal is at odds with policy ENV10 of the LP⁵, which does not permit housing when the occupants would experience significant noise disturbance. This is consistent with Paragraph 123 of the Framework and thus Policy ENV10 can be afforded significant weight.

The effect on protected species

17. The appeal site is located close to a number of known wildlife sites, is over grown and is close to a network of trees and hedges. As such, the County Ecologist suggested there is a reasonable likelihood that reptiles, amphibians, bats and breeding birds could be present within the appeal site and therefore a survey should be undertaken to ascertain whether or not this is the case. There is no substantive evidence before me that leads me to question the Ecologist's conclusion, which was based on the Biodiversity Checklist submitted by the appellant.
18. The appellant has not provided a survey because he considers it could be submitted at the reserved matters stage in the event the outline application was allowed. I disagree. In my view, and following a precautionary approach, it is necessary to identify the presence or otherwise of protected species before granting outline planning permission so that any impacts of the proposal, alongside potential mitigation, can be identified and fully understood. The absence of an assessment is therefore a significant omission. Without it, I cannot be certain the development would safeguard protected species and their habitat and thus biodiversity.
19. I therefore conclude that the proposal would be contrary to Policy GEN7, which seeks to prevent harmful effects to wildlife. This is consistent with Paragraph 118 of the Framework, which seeks to conserve and enhance biodiversity. As such, Policy GEN7 can be afforded significant weight.

Other Matters

20. The appellant has suggested that the proposed dwelling could be designed for, and occupied by, his son, who is suffering from ill health. Nevertheless, I have not been provided with substantive evidence to suggest he requires specialist accommodation or that such accommodation is unavailable in the locality. As such, this is a material consideration to which I afford very limited weight as a matter justifying the appeal scheme.
21. The appellant has referred to a number of planning approvals⁶ which he considers to be material considerations that indicate planning permission should be forthcoming. Nevertheless, the precise details behind these approvals are not before me so I am unable to ascertain whether my findings would be inconsistent with them. In any event, the noise impacts and accessibility to services will be particular to each location and there is nothing

⁵ The Council have also referred to Policy GEN4 in its reason for refusal but this relates to development generating material disturbance through noise, which the appeal scheme would not. Thus, this policy is of limited relevance.

⁶ Council reference UTT/15/0504/P3MPA, UTT/16/041/DFO and UTT/16/0964/OP

substantive before me to suggest the appeal scheme is similar to the previous approvals referred to, especially as they appear further from the airport.

22. The appeal scheme would not be without some benefits, including its contribution to the district's housing supply and choice as well as economic benefits to the construction industry and from the 'spend' of future occupants. It would also make a more efficient use of the site. However, these benefits are limited due to the small scale of the proposal. As such, they are not sufficient as material considerations to outweigh the harm I have identified and the subsequent conflict with the development plan, to which I afford substantial weight. Thus, the proposal is not sustainable development.

Conclusion

23. The appeal scheme would be contrary to the development plan taken as a whole and there are no material considerations that suggest planning permission should be forthcoming in spite of this conflict. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR