The Planning Inspectorate

Appeal Decision

Site visit made on 15 January 2019

by Rebecca Thomas MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2019

Appeal Ref: APP/C1570/W/18/3207601
Land north of Bramblemead, Whiteditch Lane, Newport, Saffron Walden, Essex CB11 3UD

- 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 Jeremy Moses against the decision of Uttlesford District Council.
- The application Ref UTT/18/0834/FUL, dated 23 March 2018, was refused by notice dated 4 July 2018.
- The development proposed is 2 no. new 4 bedroom houses with cart lodge style double garages, change of use from meadow to domestic housing.

Decision

1. The appeal is allowed and planning permission is granted for 2 no. new 4 bedroom houses with cart lodge style double garages and change of use from meadow to domestic housing at land north of Bramblemead, Whiteditch Lane, Newport, Saffron Walden, Essex CB11 3UD in accordance with the terms of the application, Ref UTT/18/0834/FUL, dated 23 March 2018, subject to the conditions set out in the Schedule attached to this decision.

Main Issues

2. The main issues are the effects of the proposed development on:

   - the character and appearance of the area; and
   - air quality.

Reasons

Character and Appearance

3. The appeal site is located at the end of Whiteditch Lane. This is a no-through road, which culminates in an access to the appeal site and a public right of way leading out to open countryside beyond. The site is a triangular shaped plot opposite and adjacent to other dwellings although it is outside the defined Development Limits of Newport as identified by Uttleford Local Plan (ULP) Policy S7 (The Countryside). There are well-defined boundaries to the site, incorporating a mix of fencing, hedge and a ditch at points.

4. The site is adjacent to Bramblemead, a detached dwelling with render and a clay tile roof. This dwelling has a detached garage building closest to the boundary with the appeal site.

5. The pattern of development along Whiteditch Lane at this point is dispersed, with many buildings set in large plots. Dwellings are located in varying positions in relation to the lane. The appeal dwellings would be set well back from the lane, behind Bramblemead. I consider that the proposed dwellings set well within large plots and with generous spacing to each other and their garages would have regard to and reflect the character and appearance of the area.

6. Moreover, features of the proposed dwellings such as the gabled design, external chimneys, sash-designed windows and external finishes, all take cues from the design of nearby dwellings, particularly Bramblemead.

7. At the time of my visit, the site was not intensively managed, with evidence of brambles and nettles as well as some grazing. There are small ramshackle buildings close to the boundary of the appeal site. Whereas the appeal site is scrubby, modest in size and clearly defined by its boundaries, the countryside beyond is more open with large arable fields stretching out along the rights of way. Beyond the appeal site there is therefore a marked difference in character.

8. I acknowledge that the appeal proposals would result in additional built form and domestication of the site would be inevitable, changing the character of this part of the countryside. Notwithstanding this, I consider that the appeal proposals would not cause harm to the wider character of the open countryside, due to the localised effects and the relatively well-defined boundaries as already discussed above. I consider that the development would not unduly impinge on the rural and open countryside. I also find that the appeal proposals would reflect the character of the nearby residential development along the lane. The appeal site and the wider countryside would remain distinct as seen from the lane as well as nearby public rights of way.

9. Based on my considerations above, I conclude that the proposal would result in limited harm to the character and appearance of the area. Therefore, this would result in conflict with Saved ULP Policy S7 of the, which seeks to protect land outside of settlement boundaries. This policy is more restrictive than the National Planning Policy Framework (the Framework) in that it seeks to protect the countryside for its own sake. It is therefore not fully consistent with paragraph 170 of the Framework which seeks to 'recognise the intrinsic character and beauty' of the countryside. Consequently, it is my view that Policy S7 can be afforded only moderate weight in the determination of this appeal.

Air Quality

10. The LPA has not provided any evidence which in my view demonstrates that air quality would be unacceptably reduced by the appeal development, or that there would be any harm to health.

11. I consider that any additional traffic using the site will not be significant given the scale of the proposed development both during and after construction. I am not provided with evidence to substantiate that the additional traffic would be directly attributable to any decrease in air quality at Wicken Road.

12. Policy ENV13 of the ULP identifies poor air quality alongside the M11 and A120, including zones where development which would involve users being exposed

on an extended long-term basis to poor air quality outdoors near ground level will not be permitted. The appeal site is located beyond the zones as set out by Policy ENV13. I note also that the Council's Environmental Health team have raised no objections and as the Council's professional expertise on this matter, this is a matter of significant weight in favour of the appeal.

13. For the reasons set out above, I find that the proposal would not result in an unacceptable effect on air quality and as such would not be in conflict with ULP Policy ENV13.

Other Matters

14. A number of other concerns have been raised. There is no evidence which persuades me that the nature of the site is such that the drainage arrangements could not be satisfactorily addressed through the usual building regulations. I am satisfied that the site is not in an area at risk of flooding.

15. I acknowledge that there may be a certain amount of disturbance during the construction of the development through site traffic. However, a development of this scale would not result in a significant or harmful increase in associated traffic movements and would be for a temporary period only.

16. I have had regard to the Framework which states that development should only be refused on highways grounds if it generates an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The proposal is for two dwellings and I consider that construction traffic as well as the resident traffic once occupied would represent a limited increase on the local road network. I am not therefore persuaded that the development before me would result in either of the situations highlighted in the Framework, whilst access arrangements could be suitably addressed through conditions.

17. I have noted the references to the draft Newport, Quendon & Rickling Neighbourhood Plan (NP) but have not been provided with copies of any relevant policies. In any case, given its stage of preparation, the NP can only be attributed limited weight.

18. The emerging Local Plan also remains unexamined and unadopted and so is also afforded only limited weight.

19. With regard to ecology and biodiversity, the proposals are not likely to have any impact on designated sites, protected or priority species or priority habitats. The LPA has found that there is low ecological value of the site and that any mitigation and enhancement measures could be secured via a suitably worded condition. I find no reason to take a contrary position.

20. I also acknowledge the concerns raised over neighbouring living conditions however I consider that the separation and relationships to neighbouring properties would prevent unacceptable harm, particularly from overlooking.

21. Concerns are raised about the need for the development and setting a precedent. However, I have reached my conclusions on the basis of the evidence before me, and any other development proposals would be subject to assessment on their own merits.

Planning Balance

22. It is accepted that the Council cannot demonstrate a 5-year housing land supply. The tilted planning balance of paragraph 11d of the Framework is therefore engaged.

23. Although the housing would fall outside of the defined settlement boundary, it would be located adjacent to it, at the end of existing housing on the lane. Moreover, for the reasons explained, the proposal would result in limited harm to the character and appearance of the area. I have also found ULP Policy S7 not to be fully consistent with the Framework. Therefore, whilst the proposal is in conflict with Policy S7, the adverse effects associated with this conflict, in the particular circumstances of this case, would not be significant. For these reasons, I have attributed moderate weight to the proposal's conflict with ULP Policy S7.

24. There are no public footpaths to the village along the road from the appeal site and it is realistic to surmise that there would be some reliance on the private car. This also weights against the appeal proposal. However, I consider that some local journeys may also be made on foot or by cycle, and this limits the harm arising from the need to travel by non-sustainable travel modes.

25. In its favour, the development would provide an additional two houses and a social benefit, taking into account the housing land supply shortfall, even though the contribution is limited. The occupants would also support the services and facilities at Newport, representing a further social and economic benefit ensuring the ability to contribute toward enhancing and maintaining the vitality of rural communities as set out in paragraph 78 of the Framework. These benefits are limited, reflected in the small amount of development, but nevertheless carry modest weight in favour of the development.

26. I therefore find that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the proposal benefits from the presumption in favour of sustainable development.

Conditions

27. The LPA has suggested a number of conditions which I have considered against the Framework and Planning Practice Guidance.

28. I have limited the number of pre-commencement clauses to where this is essential for the condition to achieve its purpose. Having had regard to the requirements of the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, the appellant has agreed all conditions.

29. I have precluded the condition for compliance with Building Regulations as the Planning Practice Guidance advises that conditions which relate to other regulatory requirements will not meet the test of necessity and may not be relevant to planning.

30. In addition to the standard condition that limits the lifespan of the planning permission (1), I have specified the approved plans for the avoidance of doubt and in the interests of proper planning (2).

31. In my view there is sufficient scope to delay agreement of the external materials (3) and landscaping (4,5) to a later stage in the build programme and I have therefore amended the triggers accordingly.

32. Due to the location of the site within a potentially sensitive area of heritage assets I have applied a pre-commencement condition in respect of archaeology (6). This will need to be addressed prior to any construction and as such there is a clear justification.

33. In the interests of highways safety and to ensure suitable visibility I have imposed a condition to ensure that the access is constructed and retained as submitted (7).

34. I have included a condition to ensure that biodiversity and habitats are protected where necessary in accordance with the findings and recommended measures of the survey (8).

35. Following the Written Ministerial Statement of 25 March 2015, it is no longer possible to apply a condition requiring compliance with the new national technical standards on accessibility and wheelchair housing standards unless there are relevant current Local Plan policies which demonstrate need and where the impact on viability has been considered. I have not been provided with any clarification on whether such policies exist. Therefore, I have not imposed the Council's suggested condition on accessible housing.

Conclusion

36. For the above reasons and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Rebecca Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

1724/PD/01 Rev A	Block Plan/Roof Plan
1724/PD/02	House Floor Plans
1724/PD/03	House Elevations – East & South
1724/PD/04	House Elevations – West & North
1724/PD/05	Design Section A-A Plot 1
1724/PD/06	Design Section A-A Plot 2
1724/PD/07 Rev A	Cartlodge Garage Plans & Elevations
1724/PD/08	Site Access
1724/PD/10	Location Plan
MS-5474	Topographical Survey
Ecological Survey & Assessment	Essex Mammal Surveys, Nov. 2017

3. No superstructure works shall commence until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.

4. Notwithstanding the approved plans as set out in Condition 2, no superstructure works shall take place until there shall have been submitted to and approved in writing by the local planning authority a scheme of the hard and soft landscaping of the site. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

5. The development shall be carried out in accordance with the approved details required by condition 4 and retained thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. The hard landscaping works shall be implemented before any part of the development is first occupied in accordance with the approved details. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

6. No development shall take place until an Archaeological Written Scheme of Investigation has been submitted to an approved in writing by the local planning authority. No development shall take place other than in accordance with the Written Scheme of Investigation.

7. No dwelling shall be occupied unless and until the vehicular access off Whiteditch Lane and the associated visibility splays have been constructed in accordance

with drawing number 1724/PD/08. The access and visibility splays shall be retained thereafter.

8. No dwelling shall be occupied until the ecological measures and/or works recommended in the Ecological Survey and Assessment (Essex Mammal Surveys, Nov. 2017) have been carried out. The measures and/or works shall be retained thereafter.