



Appeal Decision

Site visit made on 8 May 2019

by **I A Dyer BSc (Eng) MIHT**

an Inspector appointed by the Secretary of State

Decision date: 20 June 2019

Appeal Ref: APP/C1570/W/18/3219136

Marlensdale, Burton End, Stansted CM24 8UF

- 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 Mrs Catton against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1092/OP, dated 31 January 2018, was refused by notice dated 20 June 2018.
 - The development proposed is removal of existing agricultural buildings. Erection of 7 dwellings and subdivision of existing dwelling to form 2 units.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline permission with all matters being reserved for future consideration. The description of the development limits its scale to seven new dwellings and the subdivision of the existing bungalow to form two dwellings. An indicative site layout plan was submitted subsequent to determination of the application by the Council. I have taken the details shown on this plan as being illustrative only.
3. Subsequent to determination the applicant submitted a noise assessment report. There is agreement between the main parties that, with suitable mitigation, noise and disturbance within the dwellings could be made acceptable. However, the matter of the effect of noise and disturbance on future occupiers using the external amenity space remains unresolved.
4. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in July 2018. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process. Whilst the Government made further revisions to the Framework in February 2019, those changes have no particular bearing for the determination of this appeal.
5. The Regulation 19 (22) Uttlesford Local Plan has been submitted but has yet to be examined and found sound. Therefore, it attracts limited weight as a material consideration.

Main Issues

6. The main issues are: -

- whether the site is an appropriate location for eight additional dwellings having regard to local policy for the delivery of housing and accessibility to everyday local facilities and services by a range of modes of transport, and: -
- whether the proposed development would provide acceptable living conditions for future occupants, with regard to noise and disturbance from aircraft.

Reasons

Appropriate location

7. The appeal site fronts onto Bury Lodge Lane at the eastern end of a cluster of development of varying scale. Generally the dwellings in the group have a frontage to the road creating a presence on the street. The site is bounded by hedges, that on the south-west being higher than those on the other sides and includes a sizeable grassed area to the south-east of the buildings. Within the site lie a bungalow and a cluster of disused agricultural buildings. There is a strong sense of openness in the area within which the group sits.
8. There is no dispute between the main parties that the appeal site lies outside the settlement boundary for Stansted as identified within Uttlesford Local Plan - 2005- (the Local Plan) and is situated within the Countryside Protection Zone as defined by the Local Plan. It is therefore defined as being in the countryside for the purposes of Local Plan Policy. In particular, Policy S7 requires the appearance of development to protect or enhance the particular character of the part of the countryside in which it would lie. Policy S8 seeks to prevent development that would result in coalescence between the airport and existing development or adversely affect the open characteristics of the zone.
9. If the block plan shown on the revised indicative site plan is anything to go by the dwellings would be placed behind the existing dwelling. Given the importance that I have placed upon the existing development having a presence on the street, this would be out of character and incongruous with the form of existing development when viewed from the street. In this particular context that lack of conformity would be so significant as to amount to harm.
10. The layout shows that the site could accommodate the seven dwellings that replace the existing agricultural buildings without extending the built form beyond the existing footprint of development. However, on the basis of the indicative plan, the massing of the development would be greater, with taller buildings and would have a greater visual impact, decreasing the sense of openness of the land. The proposed buildings would be clearly visible from the road and the south east. Given the existence of the agricultural buildings the development would not expand the developed boundary of the group of buildings and therefore would not promote coalescence.
11. Bury Lodge Lane is an unlit, rural lane without footway provision until it reaches the junction of Church Road with Bury Lodge Lane. The 30 MPH speed limit on Bury Lodge Lane starts part way along the site frontage, but extends to the junction of Church Road with Bury Lodge Lane. The nearest bus stop is

just over half a mile away, providing connections to the services in Stansted, the nearest settlement that would provide for the day-to-day needs of future occupants. The travel distance and unlit nature of the intervening road, with its lack of footways and vehicular speeds would be likely to deter pedestrians and, to a lesser degree, cyclists, particularly in adverse weather conditions and during the hours of darkness. However, whilst future occupants of the site would almost certainly rely heavily on the private car to meet their day-to-day needs, they would have access to other, more sustainable modes of transportation.

12. The NPPF recognises that sustainable transport solutions will vary between urban and rural areas and that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. The appeal site is in a relatively accessible location and future occupiers would not rely solely on the use of the private car to satisfy their transport needs.
13. I therefore conclude that, whilst the site is in a location with access to everyday local facilities and services by a range of modes of transport and is in accordance with those parts of the Framework relating to accessibility to transport, the site would not be an appropriate location for eight additional dwellings having regard to local policy for the delivery of housing and is in conflict with Policies S7 and S8 of the Local Plan. That is because the development would not protect or enhance the particular character of the part of the countryside in which it is located and would reduce the openness of the CPZ.
14. The appellant has proposed additional planting within and on the boundaries of the site, which would increase screening. Whilst such planting could be provided by planning condition, I am not satisfied that such measures would, of themselves, be adequate to mitigate the harm identified, as new planting would take time to establish itself and there is no substantive evidence before me that sufficient screening would be achieved to address the matter successfully, particularly as the introduction of additional planting could, of itself, affect the openness of the CPZ.

Living conditions of future occupants

15. The site is close to Stansted Airport, separated from the airport by a field and dense planting. During my site visit aircraft noise could be heard from the direction of the airport and airborne planes could be clearly seen on their approach to the runway.
16. Policy ENV10 of the Local Plan seeks to restrict development where the effects of noise from aircraft would have an unacceptable effect on future occupants of the development. The external noise levels identified would exceed both the desirable level of 50 dB $L_{Aeq, T}$ and the upper guideline value of 55 dB $L_{Aeq, T}$ for spaces such as gardens. The location of the sound level meter recording the data was in an area a similar distance from the airport as the gardens of the properties, with a similar open aspect. Future occupiers of the properties would experience unacceptable noise and disturbance in their private outdoor amenity space. This noise would be particularly disturbing as it would take place at regular, frequent intervals during the hours of operation of the airport.
17. Whilst the appellant has proposed that noise could be addressed through a condition, including the provision of an acoustic fence to limit disturbance

within the gardens. A fence would not be high enough to reduce the disturbance from airborne aircraft. Further, such a fence could have an impact upon the openness of the CPZ. In the absence of specified measures likely to address airborne aircraft noise, I am not persuaded that this matter can be properly dealt with by a condition requiring the submission of a mitigation scheme for approval.

18. Policy GEN4 of the Local Plan seeks to ensure that, amongst other things, the effects of noise and disturbance from development does not unacceptably affect occupiers of surrounding properties. No evidence has been provided to indicate that the development itself would generate levels of noise and disturbance that would affect neighbouring properties to an unacceptable degree.
19. I conclude that the proposal would not provide acceptable living conditions for future occupants, with regard to noise and disturbance from aircraft, which would be contrary to Policy ENV10 of the Local Plan in that the occupants would experience significant noise disturbance from aircraft. Paragraph 180 of the Framework largely replaces Paragraph 123 of the 2012 Framework. I conclude that the proposal would be contrary to the provisions of Paragraph 123 in as much as it would give rise to significant adverse impacts on the quality of life for future occupants as referenced in the Noise policy statement for England (2010). I have found no conflict with Policy GEN4 of the Local Plan, which relates to good neighbourliness.

Other Matters

20. I have been made aware of various decisions by the Council relating to apparently similar proposals in the area. From the limited evidence before me it would appear that none are directly comparable in context or location. In any case, I have determined this appeal upon its own merits.

Planning Balance

21. The parties agree that the Council is unable to demonstrate a five year housing land supply. Therefore Paragraph 11 d) of the Framework applies. The CPZ is not, for the purposes of the Framework, a protected area or asset of particular importance and so sub-section i) does not apply in this case.
22. The development would provide benefits in terms of delivering eight additional homes to boost housing supply. There would be benefits to the local economy in terms of short term employment in the construction industry and longer term support to local shops and businesses. The development would re-use previously developed land. The proposal is situated in a relatively accessible location and future occupiers would not rely solely on the use of the private car to satisfy their transport needs. Taken together, and given the scale of the development these benefits carry moderate weight.
23. I have found that the development would result in material harm to the countryside and the CPZ, contrary to policies within the Local Plan. However, the Local Plan was adopted prior to the publication of the Framework. As these policies are more restrictive than the Framework in regard to development in rural areas, I consider these policies are only partially consistent with the Framework in seeking to promote sustainable development in rural areas and protect the CPZ, and that they attract moderate weight.

24. The development would replace an agricultural business. The farm buildings have not been in use for some considerable time and so I attach limited weight to this matter.
25. The development would, by virtue of disturbance from aircraft noise, result in unacceptable living conditions to future occupiers. The policy concerned is broadly consistent with the aims and provisions of the Framework in regard to the living conditions of future occupiers of development and so this is a matter to which I attach significant weight.
26. In conclusion the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against development plan policies and the NPPF when read as a whole.

Conclusion

27. For the reasons given, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

I Dyer

INSPECTOR