
Appeal Decision

Site visit made on 20 June 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal Ref: APP/C1570/W/19/3225516

Land at Quicksie Hill, Arkesden

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Jeremy Nicholson of Freshwater Estates (Mildenhall) Ltd against Uttlesford District Council.
 - The application Ref: UTT/18/2320/OP, is dated 17 August 2018.
 - The development proposed is described as, 'Outline application for 3 dwellings with all matters reserved bar access'.
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Decision

1. The appeal is allowed and planning permission is granted for 3 dwellings with all matters reserved bar access at Land at Quicksie Hill, Arkesden in accordance with the terms of the application, Ref UTT/18/2320/OP, dated 17 August 2018, subject to the attached Schedule of Conditions.

Procedural Matters

2. The application was submitted in outline. The application form indicates that approval was sought only for access with all other matters reserved. I have determined the appeal on this basis. While I note drawing 5286-SK03 Rev A, I have considered it only insofar as it relates to the access which is included in the application.
3. I note reference to the emerging draft local plan and that its preparation has progressed since the application was determined. However, it is at a relatively early stage and there is no certainty that the policies within it will be adopted in their current form. I have therefore attached it limited weight.

Main Issues

4. The main issues are whether the proposed development would provide a suitable location for housing having particular regard to:
 - the character and appearance of the area; and
 - the accessibility of services and facilities.

Reasons

Character and appearance

1. The site lies outside settlement development boundaries and falls within the countryside for the purposes of Uttlesford Local Plan Adopted 20 January 2005 (LP). It is therefore assessed against LP Policy S7 which relates to development in the Countryside.
2. The appeal site is located adjacent to a cluster of residential properties to the North and detached dwellings on larger plots to the south. It is therefore not isolated in the terms of the National Planning Policy Framework (Framework). The site is part of an agricultural field and to the east and west lie open countryside such that the site has a closer relationship with the open countryside than with the nearby built development and the area has an open rural character and appearance. Given the green open nature of the appeal site, it provides a pleasant setting for the attractive settlement of Arkesden, views of which can be seen from the north of the site since the ground slopes down towards the settlement.
3. Since the proposal would introduce built development, hardstanding and domestic gardens to an undeveloped site, the proposed scheme would alter the intrinsic character of the site adversely impacting the character and appearance of the area.
4. Furthermore, the extent of the site would be limited to the eastern boundary of the nearby properties to the north and south such that the proposal would occupy a gap in the ribbon development along Wenden Road. However, the gap between existing dwellings is significant and since the proposal would introduce built form on undeveloped land, it would nevertheless alter the intrinsic character of the site. Moreover, I acknowledge that the Landscape Character of Uttlesford District (Chris Blandford Associates, September 2006) states that the area has moderate to high sensitivity to change.
5. Since the proposal would result in three dwellings on an open undeveloped site, the views of the settlement from the north of the site would be affected by the development. However, from the indicative layout plan, the hedgerow along Wenden Road would be largely retained and while I am mindful that landscaping is a matter for future consideration, and given the modest number of dwellings proposed, the retention of this hedge and careful consideration of landscaping at reserved matters stage would go some way to limiting the impact of the proposed dwellings on the character and appearance of this approach.
6. The appeal site lies adjacent to Arkesden Conservation Area (CA) and is near to listed buildings. Although the Council has not referred to the effect of proposal on the setting of the nearby CA in their reasons for refusal, I am required, as a statutory consideration, to have regard to these matters when determining the appeal. The significance of the CA lies in the evidence of historic architecture and given the traditional vernacular appearance of many of the buildings in the area, it contributes to the rural character of the area. The significance of the listed building lies in the evidence of historic vernacular architecture.
7. The appeal site is located to the north of the CA and the proposed three dwellings would be likely to be largely screened from view from the CA by the

existing hedgerow along the road. From the evidence before me and my observations during the site visit, the listed building is within the CA, located to the south of the site and views to the site from the listed building are somewhat limited. Landscaping is a matter for future consideration, and the indicative site plan suggests that the dwellings could be set out on the site such that the effect of the proposed development on the setting of the CA and on the listed building would preserve their significance.

8. Overall, I consider the proposed development would harm the character and appearance of the area and would conflict with LP Policy S7 which states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set.
9. However, since the site is bound on two sides by built development and the proposal is for three dwellings, the harm identified would be limited given the localised and relatively self-contained nature of the site.

Accessibility of services and facilities

10. The appeal site is located adjacent to the settlement of Arkesden which from the evidence before me has limited services and facilities such that future occupiers would be likely to travel further afield for daily requirements. The nearest settlements such as Clavering would not be within reasonable walking distance and there are no streetlights or footpaths along the road. Therefore, it would be likely that future occupiers would be reliant on the private car for their daily requirements.
11. Consequently, the proposed development would not be in a sustainable location with particular regard to the accessibility of services and facilities. Therefore, the proposal would conflict with LP Policy GEN1 which among other things seeks development that encourages movement by means other than driving a car.
12. While I acknowledge paragraph 103 of the Framework which states that significant development should be focused on locations which are or can be made sustainable, since the proposal for three dwellings is modest in scale, it does not constitute significant development. Furthermore, I note paragraph 78 of the Framework which states that where there are groups of smaller settlements, development in one village may support services in a village nearby. Given the proximity of the nearest villages, the proposal would not conflict with the Framework in this regard. I note the comments of the Inspectors for the cases at Hawkspur Green¹ and Norton² and take a similar approach in this particular regard. Since Saffron Walden with a full range of services and facilities is a moderate distance away, the length of private car journeys is likely to be short and the number of car trips generated by the three dwellings would be modest. Consequently, taking into account these considerations, the harm with respect to the accessibility of services and facilities is reduced.

¹ Appeal Ref: APP/C1570/W/18/3197857

² Appeal Ref: APP/W3520/W/18/3207786

Other Matters

13. I note local concerns regarding highway safety. However, the Highway Authority has not objected in this regard and from the evidence before me I have no reason to disagree.
14. While I also note comments relating to the proposed visibility splays requiring the removal of existing hedgerow, based on the evidence before me, I am satisfied that any removal would not be to an extent that would harm the character and appearance of the area.
15. I acknowledge concerns regarding privacy, however, since matters including layout are reserved for future consideration, there is no evidence before me to suggest any harm in this respect.
16. I note local concerns regarding limited school places, however, there is likely to be limited increase in pressure on local school places as result of three dwellings. Therefore, this has not altered my conclusions on the main issues. While I also acknowledge comments relating to the development setting a precedent, each case must be determined on its own individual merits. I recognise concerns regarding the service provided by the Council, however, I have assessed the appeal on its planning merits.
17. None of the other matters raised outweigh or alter my conclusions on the main issues.

Planning Balance

18. The Council acknowledges that LP Policy S7 is partially compatible with the Framework since it has a more protective rather than positive approach towards development in rural areas. From the evidence before me I have no reason to disagree and attribute limited weight to the conflict with this policy.
19. Furthermore, the main parties acknowledge that the Council cannot demonstrate a 5-year housing land supply, consequently the provisions of paragraph 11(d) of the Framework are triggered. Following the publication of the updated Framework in 2019 and the updated Planning Practice Guidance, the Council contends that it can demonstrate roughly a 3-year supply of housing land. This represents a significant shortfall. I therefore attribute limited weight to the conflict with LP Policy GEN1 which relates to access.
20. I note the Housing Delivery Test, however, since the Council is not able to demonstrate a 5 year housing land supply, the provisions of paragraph 11(d) of the Framework are still engaged.
21. There would be temporary economic benefits during the construction phase and moderate benefits in terms of the additional residents supporting local services and community. I therefore attribute moderate weight to the benefits of the proposal.
22. The harm to character and appearance of the area would be limited, and the harm relating to the accessibility of services and facilities would be reduced. Furthermore, the conflict with LP Policies S7 and GEN1 are attributed limited weight. While the benefits of the scheme would be moderate, the harm arising from the development would be of a lesser magnitude. Consequently, taking

into account the Framework as a whole, I do not consider the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conditions

23. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance. I have amended some of the wording of the conditions in the interests of precision and clarity.
24. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans and details of the proposed vehicular and pedestrian access as this provides certainty as well as safeguarding highways safety. A condition relating to unbound materials is also necessary in the interests of highways safety.
25. The suggested conditions relating to landscaping and external materials are not necessary as relevant details would need to be approved as part of a reserved matters application.
26. The condition relating to accessible and adaptable dwellings is necessary to comply with LP Policy GEN2(c).
27. Given that the proposed development lies within a potentially highly sensitive area of heritage assets, a condition relating to archaeology is necessary. I have attached one condition rather than the four archaeology related conditions suggested by the Council as it is more concise. Since the condition would affect works to be carried out early in the construction phase, it needs to be pre-commencement.
28. Conditions relating to landscape and ecological management plans are necessary to safeguard the long-term ecology of the site. I have omitted the paragraph relating to an ecological clerk of works as it would not be necessary to make the proposal acceptable in planning terms.
29. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant confirmed that they approve of the pre-commencement condition.

Conclusion

30. For the reasons given above I conclude that the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority no later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place no later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved plan: 5286-SK03 Rev A, insofar as it relates to the proposed access.
- 5) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- 6) Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate vehicular crossing of the verge.
- 7) No unbound material shall be used in the surface treatment of any vehicular access within 6 metres of the highway boundary.
- 8) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the highway boundary.
- 9) All of the dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 10) No demolition/development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions:
 - the programme and methodology of site investigation and recording;
 - the programme for post investigation assessment;
 - the provision to be made for analysis of the site investigation and recording;
 - the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - the provision to be made for archive deposition of the analysis and records of the site investigation;

- the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 11) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd, March 2018) and Biodiversity Statement and Mitigation Plan (Greenlight Environmental Consultancy Ltd, July 2018).
- 12) A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Greenlight Environmental Consultancy Ltd, March 2018) and Biodiversity Statement and Mitigation Plan (Greenlight Environmental Consultancy Ltd, July 2018), shall be submitted to and approved in writing by the local planning authority prior to occupation.

The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

END OF SCHEDULE