



Appeal Decision

Site visit made on 16 July 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2019

Appeal Ref: APP/C1570/W/19/3228909

Land at Whitehall Hotel, Church End, Broxted CM6 2BZ

- 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 Tormage Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3298/OP, dated 26 November 2018, was refused by notice dated 22 March 2019.
 - The development proposed is a residential development of 11 dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Part E of the appeal form shows that the description of development has been changed and a new description is provided. However, I have not been provided any written agreement between the main parties for such a change. Consequently, I have used the description of development within the application form in the heading above which adequately describes the proposal.
3. The application is in outline with all matters reserved for future consideration. A drawing showing an indicative layout of the development was submitted with the application, and I have considered it on this basis.
4. The Council's second reason for refusal relates to the absence of a legal agreement to secure the requisite amount of affordable housing. However, a signed S106 Agreement has been received during the appeal process and the Council has confirmed that this overcomes its objection in relation to this matter. I am satisfied that this agreement meets the tests set out in the Community Infrastructure Levy Regulations 2010 and I have therefore taken it into account in my decision.
5. The Council has referred me to relevant policies within its Draft Local Plan (DLP) that are not within its decision notice. However, although the DLP has now been submitted for examination, these policies could be subject to change and I also do not know whether or not there are unresolved objections to them. Consequently, I attach limited weight to these emerging policies at this time, in line with paragraph 48 of the National Planning Policy Framework (the Framework).

Main Issues

6. The main issues are:

- whether or not the appeal site is a suitable location for residential development, with particular regard to local and national planning policy for the delivery of housing;
- the effect of the proposal on the character and appearance of the countryside; and
- the effect of the development on the setting of nearby listed buildings.

Reasons

Suitable Location

7. The appeal site is located outside of the settlement boundary of part of the village of Broxted known as Church End, as defined within the Uttlesford Local Plan (LP). For the purposes of planning policy, it is therefore within the countryside.
8. Policy S7 of the LP deals with the countryside and advises that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. This is partly to reinforce the spatial strategy of the Council which strives to focus the provision of housing on land within or on edge of existing settlements. In this regard, Policy S7 is consistent with the Framework's aims of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities. That said, the Council agree that the restrictive nature of this policy is not entirely consistent with the approach of the Framework.
9. Given the proximity of built form to the north and south of the appeal site, I am satisfied that the proposal would not represent truly 'isolated homes in the countryside', with regard to paragraph 79 of the Framework. Nevertheless, from the evidence before me, Broxted has limited employment opportunities and does not have any facilities other than a public house. This is located at Brick End, which is a significant distance away from the appeal site. The limited nearby services and facilities would not meet the day-to-day needs of future residents. I note that the site would offer some public travel options. However, larger settlements such as Takeley and Thaxted, as well as employment opportunities at Stanstead Airport, are further away and are more likely to be accessed by car. On this basis, not only would future residents be some distance from the day-to-day services that they need, but it is highly likely that they would rely heavily on private vehicles to get around.
10. Furthermore, even in the event that the expansion of Stanstead Airport had been formally granted planning permission, I have no substantive evidence to show that this proposal needs to take place at this location. Taking everything together, I find that the appeal site is not a location where new dwellings would normally be considered acceptable. This is a significant factor weighing against the scheme.
11. My attention has been drawn to a development¹ approved at the nearby Whitehall Hotel, which included new residential dwellings. This development is

¹ UTT/16/3549/FUL

outside of the settlement boundary of Broxted. However, from the evidence before me, this approved scheme allowed for the conversion and long-term preservation of heritage assets. It also concerned development on previously developed land. Consequently, I consider that this development is not directly comparable to the appeal scheme, which I have assessed on its own individual merits.

12. For the reasons given, I conclude that the appeal site is not a suitable location for residential development due to being positioned outside of a settlement boundary with a lack of access to services and facilities. The proposal would therefore conflict with Policy S7 of the LP. In addition, the site's location would place significant reliance of future occupants on private transport. This would not contribute to giving people a real choice about how they travel or help towards the achievement of a low carbon future, as advocated by the Framework. I am also not satisfied that the proposal would align with the Framework's aim of enhancing or maintaining the vitality of rural areas.

Character and Appearance

13. The appeal site is a large, broadly triangular, field. It is positioned between a linear row of relatively modern dwellings within the village to the south and a collection of more historic built form to the north. Established trees and hedging are on the eastern side of the appeal site and a narrow lane runs parallel to this vegetation. However, beyond this are large, open, fields. This gives the area a distinctly open and rural character. Views of the appeal site are available from a public footpath which runs along the length of its western boundary. Consequently, although somewhat contained by vegetation, I find that the predominately undeveloped nature of the site contributes positively to the open and rural character and appearance of the area.
14. The proposal seeks outline permission for 11 dwellinghouses. From the indicative layout, these would be large, detached, properties with associated detached garages. Overall, the proposal would introduce urbanising features including residential buildings, hard surfaces, parking areas and gardens with their associated domestic paraphernalia to the site. Not only would this substantially erode the openness of the site, but in my view the considerable presence of urban development would also appear out of place at this rural location.
15. The indicative residential layout would also be markedly different to that of nearby linear residential plots within the village. Furthermore, although it would increase natural surveillance of the adjacent footpath, the scheme would not be connected to this path. Neither would it be connected to adjacent development to the north and south. I therefore find that the proposal would appear as a fragmented addition to the village that would be difficult to integrate effectively with its character. This would reinforce its incongruous appearance.
16. Taking all of the above into account, I do not consider that the proposal would promote a community feel to the settlement. On the contrary, it would not function well or add to the quality of the area, as advocated by the Framework. Its harmful overall impact would be visible from certain vantage points along the adjacent public footpath. In reaching this view I am aware that the scheme at this stage is indicative only, and that its detailed design would be reserved for consideration at a later stage. However, I am not satisfied that a layout that

would assimilate appropriately with its surroundings could be achieved for this quantum of development through reserved matters applications.

17. I have been referred to appeal decisions² which dismissed 36 dwellings as well as a SUDS pond and swale at Henham. In terms of character and appearance, it would appear that the Council's principal concern with these dismissed schemes related to the loss of trees. The evidence before me also shows that this development would have been positioned next to built form which is denser in character compared to that near to this appeal proposal. Consequently, I find that the schemes are not directly comparable to the appeal proposal and I afford them limited weight.
18. For the reasons given, I conclude that the proposal would result in harm to the character and appearance of the area. It would therefore conflict with Policy S7 of the LP insofar as it seeks to protect the character and appearance of the countryside.
19. Turning to the Framework, I note that this states that windfall schemes and small and medium sized sites can, in the right circumstances, make a valuable contribution to meeting the housing requirement of an area by making efficient use of land. However, it is clear that this should not be at the expense of achieving high quality development which is sympathetic to local character, including the surrounding built and landscape setting. I have found that the scheme before me would not achieve such an outcome. There is therefore conflict with the design objectives of the Framework when read as a whole.

The Setting of Nearby Listed Buildings

20. The appeal site is not adjacent to or within a Conservation Area. It is also too distant from listed buildings within the village to the south to have any appreciable effect on their settings or significance. However, the Council raises concern that the proposal would harm the setting of a cluster of listed buildings to the north of the site. From the evidence before me, this comprises a Grade II* listed church as well as other listed buildings at Whitehall Hotel (which now includes a listed farmhouse).
21. I note that no specific policies concerning the historic environment are referenced in the Council's reason for refusal. Nonetheless, I have a duty to have special regard to preserving the setting of the above mentioned listed buildings. The Framework also advises that great weight must be given to the conservation of designated heritage assets and any harm which is less than substantial must be weighed against the public benefit of the proposal.
22. Whilst they are now somewhat divorced from buildings within Church End, the significance of the listed buildings to the north of the appeal site appears to derive partly from the fact that they were once part of the central and historic 'hub' of the village. Although they are relatively well contained by established trees and are not dominant within the landscape, I consider that their setting arises from the surroundings in which they are experienced, which in this case is tranquil and rural. I accept that the appeal site is separated from these listed buildings by an established tree belt and by more recent residential development. However, I consider that its predominately undeveloped nature contributes positively to this setting.

² APP/C1570/W/16/3162954 and APP/C1570/W/17/3171425

23. Although the rural setting of buildings at Whitehall Hotel has been eroded by recently approved development at this site, the urbanisation of the appeal site would cause minor harm to the setting and significance of the cluster of listed buildings to the north by reason of the loss of a part of their open countryside setting. In terms of the Framework, this harm would be less than substantial and must be weighed against the public benefits of the scheme. I will return to this matter in my overall planning balance.

Planning Balance

24. Although the nationally available figures indicate that housing delivery in the District was 147% over the past three years, the Council accepts that it can demonstrate only a 3.6 year supply of deliverable housing land. Under these circumstances, regardless of whether or not Policy S7 is out-of-date, paragraph 11 of the Framework is engaged. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
25. The proposal would add 11 dwellings to the Council's housing stock in circumstances where there is a local and national shortage against assessed needs. A signed Section 106 Agreement has also been provided which would secure the provision of four affordable dwellings at the site. These factors weigh in the scheme's favour and amount to a social and public benefit that attracts significant weight.
26. Additionally, the proposal would result in the creation of construction jobs and associated expenditure, albeit over the relatively short build-out period. However, I am not persuaded that it would contribute significantly to the Framework's aim of supporting housing development where it would enhance or maintain the vitality of any locally based services and facilities. In this context, I give only modest weight to the identified economic public benefits.
27. On the other hand, the appeal site would not be a suitable site for housing due to being positioned outside of a settlement boundary with a lack of access to services and facilities. That said, conflict with Policy S7 of the LP in this regard carries only limited weight against the proposal as a result of the Council's current land supply position and for other reasons discussed within the first main issue. However, the proposal would also significantly harm the character and appearance of the area. This carries substantial weight against the appeal proposal. Additionally, it would cause some limited harm to the setting of identified listed buildings.
28. The harm to the setting of the listed buildings would not outweigh the public benefits. Thus, these effects would not on their own provide a clear reason for refusing the development. Nonetheless, in my view the need for housing, even when it is as pressing as it is in the District, cannot be a justification for building new homes of a scale and layout that would so harmfully fail to integrate with the existing settlement and rural character of the area. I consider that this would seriously undermine the social benefits of the proposal.
29. The above factors lead me to conclude that the adverse impacts of the scheme would significantly and demonstrably outweigh the social and economic benefits associated with the provision of 11 dwellings. This is so even though only limited objections were received from the local community through the

appeal process. The appeal scheme would not therefore meet the policies of the Framework, which taken as a whole seek to secure the delivery of sustainable development. Consequently, no material considerations justify a decision other than in accordance with the development plan, with which the appeal scheme would clearly conflict.

Conclusion

30. Having regard to the above reasons and to all other relevant matters raised, I conclude that this appeal should be dismissed.

M Heron

INSPECTOR