The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019

Appeal Ref: APP/C1570/W/19/3236869
Mill Cottage, Cutlers Green Lane, Cutlers Green, Thaxted, Essex CM6 2QD

- 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 Michael Knight against the decision of Uttlesford District Council.
- The application Ref UTT/18/2822/FUL, dated 11 October 2018, was refused by notice dated 26 March 2019.
- The development proposed is described as 'erection of new chalet bungalow dwelling'.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

   - Whether the appeal site is a suitable location for the proposed development with reference to policies concerned with housing in rural areas; and
   - The effect of the appeal scheme on the character and appearance of the area and a special roadside verge.

Reasons

Whether the appeal scheme would be in a suitable location

3. The appeal site is not inside any defined settlement boundary and is therefore in the countryside for the purposes of applying the policies of the Uttlesford Local Plan 2005 (LP). Policy S7 of the LP seeks to protect the countryside for its own sake by strictly controlling development there. In particular, only development that needs to be in a countryside location will be permitted. It has not been demonstrated that the appeal proposal requires a countryside location. For example, it is not a rural exception scheme, allocated for development or required for a rural worker. As such, the proposal would be at odds with Policy S7 of the LP.

4. Nevertheless, Policy TX LSC4 of the made Thaxted Neighbourhood Plan 2017-2033 (NP) permits some development in outlying settlements which do not have a defined settlement boundary, such as Cutler's Green. Being more recent, Policy TX LSC4 takes precedence over Policy S7.

5. However, the extent of development permitted in Cutler's Green by the NP is intended to be of a very small scale due to the lack of services within the

settlement and in order to respect its rural character. Thus, necessary limitations are included in the policy, which states that only limited infilling of undeveloped sites between existing dwellings is permitted. The appeal site is not located between existing dwellings, there being a large field to the north west, and therefore its development would be at odds with the spatial strategy for Cutler's Green in the NP. This would be the case despite the support from the Parish Council.

6. Accordingly, the proposal would be at odds with, and harmfully undermine, the adopted spatial strategy for the location of housing in the development plan (the LP and NP in this instance) and thus the consistency and relative certainty that should ordinarily flow from a genuinely plan led approach to the location of new development.

The effect on the character and appearance of the area

7. Cutler's Green is a loose knit but discernible hamlet the centre of which is focussed on a small field. Sporadic housing tails off along Bolford Street, albeit largely on its northern side. Some of this is new housing but, unlike the appeal scheme, it is infilling between dwellings. This row of housing stops just before The Mill House, which is on the opposite side of the road. Beyond The Mill House is Mill Cottage, which is nestled amongst a generously landscaped garden and behind a boundary hedge. Both The Mill House and Mill Cottage are set in large and spacious plots with a notable gap between them. This allows the hamlet to taper off into the countryside. The two dwellings are outliers of Cutler's Green and not viewed as part of the main body of the settlement. Properties to the north west of Mill Cottage, and the site of an approved grain store, are not physically part of the hamlet of Cutler's Green given the distance and the presence of intervening fields. Thus, Mill Cottage marks the maximum extent of the hamlet.

8. The proposed dwelling would be located beyond Mill Cottage and therefore it would be an extension of the ribbon development along Bolford Street. It would also intensify development at a point where the hamlet tapers into the countryside. However, the dwelling would be contained to the residential garden of the existing property and behind a hedge. As such, the proposal would not appear as a strident incursion into a field or a discordant breach of some other natural feature. Nevertheless, the appeal scheme would expand the settlement rather than consolidate it.

9. The appeal scheme would require a hardened access into the appeal site to be constructed in lieu of the existing low key and informal field entrance, which is contiguous with a special roadside verge. This, along with the physical presence of the dwelling would erode the rural character and appearance of the appeal site, which is currently a verdant garden on the edge of a hamlet. The retention of hedging, which could be supplemented, would soften the presence of what would be a reasonably modest dwelling and the use of a locally appropriate pallet of materials would also integrate it into its wider context. These aspects would soften the impacts of the development on the rural character of the area such that the harm would only be limited.

10. I therefore conclude that the appeal scheme would result in some limited harm to the character and appearance of the area. This would be at odds with Policy S7 and GEN2 of the LP, which together seek to secure development that protects and safeguards the character of the countryside.

11. The Council also allege a breach of Policy TX LSC1 of the NP. This is an ambiguous policy but, in my view, it seeks to secure development that recognises the intrinsic character and beauty of all countryside within the NP area as well as protecting the rural setting of Thaxted, which is defined in Maps 7 and 8 therein. The proposal would not offend the latter being outside the defined rural setting of Thaxted but it would be at odds with the preceding aim.

The effect on a special roadside verge

12. To the north west of Mill Cottage is a special roadside verge designated because it is a rare chalk grassland habitat. There is no evidence before me to suggest important flora is not present. The extent of the verge is marked 'on the ground' by a post which seems to correspond with the plan submitted by the Council's Roadside Verge Coordinator. The drawings submitted with the appeal do not clearly indicate whether the access would encroach onto the protected verge. If I were to accept the appellant's proposition, then the hardened access proposed as part of the appeal scheme would be outside the special roadside verge. Essex County Council have suggested this is the case, although this is at odds with the comments from the Council's Roadside Verge Coordinator. The evidence before me is therefore incomplete and contradictory.

13. Notwithstanding this, the appellant has not provided a plan demonstrating that the necessary visibility splays to the north west would not cut across the verge. Drawing PA-357-03 shows a 295m visibility splay taken 2.4m back from the edge of the road doing just that, and being cleared to ground level. I share the view of the Local Highway Authority that such a splay is likely to be excessive, but a plan has not been provided that demonstrates a lesser splay can be accommodated without the need to cut the roadside planting in the protected verge. I therefore share the view of the Council that the appellant has not demonstrated that the appeal scheme would not harm important flora within the special roadside verge.

14. In coming to this view, I note that the Council have inexplicably approved a highway access across the protected verge to serve an agricultural barn. The circumstances behind this are not before me but, notwithstanding this, the harm that is likely to be caused by the approved access is not a sound reason for permitting further harm to the special roadside verge. Thus, in conclusion, the proposal would be at odds with Policy ENV8 of the LP, which seeks to protect special roadside verges.

Other Matters

15. The Council are currently unable to demonstrate a five-year housing land supply, with the shortfall being serious, at around 2.68 years. In such circumstances Paragraph 11 of the National Planning Policy Framework (the 'Framework') states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.

16. As an adverse impact, the proposal would be at odds with Policy LSC4 of the NP, which is wholly consistent with the Framework. This is because it seeks to permit some limited development in hamlets such as Cutler's Green in order to support rural communities. However, the inherent limitations in the policy preventing the unconstrained growth of such settlements are important, because they chime with other aims in the Framework, such as the need to

promote sustainable transport and be sensitive to local character. Being more recently adopted, Policy TX LSC4 takes precedence over Policy S7 of the LP. Thus, in this instance, the conflict with the latter is of lesser significance.

17. Paragraph 14 of the Framework states that the adverse impacts of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits of a housing development. However, this is only the case if all four of the listed criteria apply. As the housing supply is below 3 years the guidance in Paragraph 14 is not engaged. Thus, the conflict with the Policy TX LSC4 is therefore a matter of moderate weight.

18. The proposal would result in some limited harm to the character and appearance of the area contrary to Policies S7 and GEN2 of the LP and TX LSC1 of the NP. This would also be at odds with the Framework, which seeks to secure development that is sympathetic to local character and recognises the intrinsic character and beauty of the countryside. Policy ENV8 is consistent with Section 15 of the Framework and therefore the conflict with this policy carries full weight, although the extent of harm would not be significant. Overall, the adverse impacts of the proposal would carry moderate weight.

19. When considering the benefits of the appeal scheme it is apparent that the proposal would not be isolated, being the reuse of previously developed land on the edge of a hamlet. Moreover, the proposal would boost housing supply at a point in time when the housing supply deficit is acute. However, the contribution in this respect would be modest. Evidence has not been provided to suggest local services, facilities or clubs are suffering for lack of patronage and therefore the modest support to the local economy and rural community provided by the development would be of limited weight. The proposal would also result in benefits to the construction industry, but these would be short lived. There may also be some modest benefits to biodiversity through additional planting. As such, the evidence before me indicates the cumulative benefits of the proposal should carry limited weight.

20. Thus, the cumulative adverse impacts of the appeal scheme would significantly and demonstrably outweigh the limited benefits when assessed against the policies in the Framework taken as a whole. This does not indicate a decision should be taken other than in accordance with the development plan.

Conclusion

21. The proposed development would be contrary to the development plan and there are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

Graham Chamberlain
INSPECTOR