
Appeal Decision

Site visit made on 13 November 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/C1570/W/19/3235176

Land South of Oaklea, School Road, Bartholomew Green, Felsted CM3 1QG

- 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 and Mrs Bird against the decision of Uttlesford District Council.
 - The application Ref UTT/19/0827/FUL, dated 5 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is erection of a pair of semi-detached dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the absence of a site address being set out on the application form, I have used the address as stated on the appeal form. As a point of clarity, whilst Oaklea is accessed from School Road, which is referenced in the address given, the appeal site itself fronts a road I understand to be named Bartholomew Green Lane (the Lane).
3. I am satisfied from the evidence before me that the emerging Uttlesford Local Plan (the EULP) is at a stage that attracts limited weight. This is because there is no certainty that its policies shall ultimately be adopted in their current form. I shall consider the appeal on this basis.
4. The emerging Felsted Neighbourhood Plan 2018-2033 (the EFNP) is at an advanced stage. The submission version of the EFNP has been independently examined and the examiner's report, dated 29 September 2019, confirms that, subject to specified modifications, it meets the requirements that allow it to proceed to a local referendum, which is now due to take place on 30 January 2020. On this basis, the EFNP's emerging policies can be considered to demonstrate general conformity with the National Planning Policy Framework (February 2019) (the Framework). Nevertheless, the EFNP is at a stage that attracts moderate weight in my consideration of this appeal.

Main Issues

5. The main issues are:
 - The effect upon the character and appearance of the rural area; and
 - Whether the appeal site represents an appropriate location for housing, having particular regard to access to facilities and services.

Reasons

Character and appearance

6. The appeal site is situated at Bartholomew Green, a rural hamlet made up of various clusters and sporadic forms of development. The site itself is formed of a wooded parcel of land located at the end of a short linear row of residential properties. Development along the Lane is typically infrequent and the stretch containing the appeal site has retained a green and semi-rural character and appearance.
7. Saved Policy S7 of the Uttlesford Local Plan (January 2005) (the Local Plan) sets out that in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there or is appropriate to a rural area. The policy is clear that there will be strict control on new building and that development will only be permitted if its appearance protects or enhances the particular character of the countryside within which it is set.
8. The proposal would introduce built development to a site that, being undeveloped and heavily vegetated, makes an important contribution to the semi-rural character and appearance of the Lane. Whilst a short row of residential properties is in place directly to the southwest of the site, its neighbouring land to the northeast is, like the site itself, inherently rural in its appearance. A notable break in development is in place between properties situated to the southwest of the site and the buildings that exist at Oaklea on School Road. The proposal, rather than infilling a gap between existing developments, would appear as an excursion into the open countryside that would be readily observable from the Lane. Whilst the site does not form part of a valued landscape, the proposal would have an adverse effect upon the Lane's green and semi-rural character and appearance. On this basis, I do not consider that erecting two dwellings would constitute making effective use of the land.
9. I note here that a recent appeal decision¹ elsewhere in the District at Arkesden has been submitted in evidence by the appellant. The Inspector in that case, which related to the development of three dwellings, found that the harm to the character and appearance of the area would be limited. However, it is apparent that the site in question was bound on two sides by built development and that the retention of an existing established hedgerow factored heavily in that Inspector's considerations. In this case, whilst merely a pair of dwellings are proposed, they would occupy a prominent location setback only a short distance from the Lane. Whilst new hedging is proposed to parts of the site's frontage, this would realistically take time to properly establish and could not be relied upon to provide a solid buffer to views of the development.
10. For the above reasons the proposal would cause harm to the character and appearance of the rural area. It conflicts with saved Policy S7 of the Local Plan, emerging Policy SP10 of the EULP and emerging Policies FEL/HN5, FEL/ICH1 and FEL/CW1 of the EFNPP in so far as these policies place strict control on new building in the countryside and state that development will only be permitted if its appearance protects or enhances the particular character of the countryside within which it is set.

¹ APP/C1570/W/19/3225516

Whether an appropriate location for housing

11. The appeal site is situated in proximity to existing development such that it does not occupy an isolated location in a purely physical sense. However, it is situated far beyond the defined development limits of nearby settlements and thus in an area where no other similar development is expected.
12. The stretch of the Lane that incorporates the site is unlit and is not served by pathway. I observed several traffic movements along the Lane during inspection such that it does not appear as an attractive route to be navigated on either foot or by bicycle. It is also apparent that the site is not served by closely or conveniently located bus stops. Thus, it is likely that future occupiers would be reliant on private modes of transportation in order to meet their day-to-day needs, whether this be in Rayne, Great Notley or beyond.
13. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making. Indeed, relatively short journeys would be necessitated in order to access the wide range of facilities and services available in nearby Braintree. Nevertheless, the increase in travel by private modes of transportation that would be anticipated sits uncomfortably alongside the Government's objectives of delivering sustainable development in a planned and coordinated manner.
14. I refer again to the recent appeal decision at Arkesden submitted in evidence by the appellant. Arkesden is a village that contains some facilities and services of its own and, for the avoidance of doubt, I must consider the appeal before me based on its own individual merits and site circumstances.
15. For the above reasons, the proposal would cause material harm by virtue of the site not representing an appropriate location for housing, having particular regard to access to surrounding facilities and services. The proposal conflicts with saved Policy GEN1 of the Local Plan in so far as it requires that development will only be permitted where it encourages movement by means other than driving a car.

Other Matters

16. It has been brought to my attention that the site is situated within the 22km Zone of Influence for the Blackwater Special Protection Area and RAMSAR site. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore the implications of this any further here.
17. I have noted objections raised by interested parties with respect to matters including construction management, the effect upon neighbouring living conditions and to personal circumstances. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

Planning Balance

18. I am of the understanding that a 2.68 year housing land supply currently exists in the District, which represents a significant shortfall. The Framework is clear that where a five-year supply of deliverable housing sites cannot be demonstrated the presumption in favour of sustainable development, as set out under paragraph 11 of the Framework, is engaged. For decision making this

means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.

19. Whilst paragraph 14 of the Framework identifies different considerations where a neighbourhood plan is present, its provisions would not apply in this case because the EFNP has not yet been made. In any event, one of the Framework's provisions refers to a 3-year supply of deliverable housing sites and the supply in the District is lower than that.
20. I have identified conflict with saved Policy S7 of the Local Plan. However, this policy is not consistent with the Framework in terms of its approach to countryside protection. This is because the Framework does not imply that protection from development be given to the countryside in its totality, rather that recognition be given to the intrinsic character and beauty of the countryside. I apportion only limited weight to the conflict I have identified with saved Policy S7.
21. The site's location outside of any defined settlement boundary is not determinative in this case. Nevertheless, in the context of the Framework, the proposal would cause harm by virtue of failing to recognise the intrinsic character and beauty of the countryside which, even noting the limited scale of development under consideration here, attracts considerable weight in the planning balance.
22. I have also identified conflict with saved Policy GEN1 of the Local Plan, which is broadly consistent with the Framework in so far as it seeks to encourage movements by means other than private car. Even so, whilst the Framework promotes opportunities for walking, cycling and public transport use to be identified and pursued, opportunities to maximise sustainable transport solutions will be limited in rural areas when compared to urban areas and the proposal before me is at small scale. I thus apportion moderate weight to the conflict I have identified with saved Policy GEN1 in this context and to the associated harm.
23. Turning to the scheme's benefits, it would deliver two additional residential units that would be suitable for family occupation in a District where there is currently a significant shortfall in housing land supply. Whilst this represents a meaningful contribution in such circumstances, the delivery of only two additional units would not make a clear and noticeable difference to the overall housing land supply position in the District. I thus apportion this benefit of the scheme moderate weight. The scheme would also generate expenditure in the local economy and support for local community facilities in the area both during its construction and once occupied, these are benefits that attract limited weight given the modest scale of development under consideration.
24. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, does not apply therefore. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

25. For the reasons set out above, the appeal is dismissed.

Andrew Smith

INSPECTOR