



Appeal Decision

Site visit made on 5 November 2019

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/C1570/W/19/3221476

Star Green, Radwinter End, Radwinter, Saffron Walden, Essex CB10 2DU

- 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 Mrs I Loveridge against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3022/FUL, dated 30 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is described as a single storey dwelling to replace a static caravan.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey dwelling to replace a static caravan at Star Green, Radwinter End, Radwinter, Saffron Walden, Essex CB10 2DU in accordance with the terms of the application, Ref UTT/18/3022/FUL, dated 30 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location, site, floorplans & elevations – Drawing 9518
 - 3) Before development commences details of materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials.

Procedural Matters

2. The Local Planning Authority has utilised an address to describe the site as Stour Green Radwinter End on the decision notice. However, the appellant has indicated that the name Star Green has also been used historically and is used interchangeably to describe the same location. I am satisfied that there is no difference in the location and I have adopted the appellant's reference to Star Green throughout this decision for consistency.
3. There is a further discrepancy in relation to the name of the road that the site is accessed. The submitted plans refer to Park Lane whereas the Council's Officer report states Swans Farm Lane. However, the location of the site is not

questioned and this may be a alternative local name. As such, I have used the road name taken from the submitted plans throughout.

Main Issue

4. The main issue is whether the proposed development is in a suitable location for new housing.

Reasons

Planning Policy

5. The appellant has indicated that policies S7 and H1 of the Uttlesford Local Plan (2005) (the ULP) are out of date. Policy S7 sets out the circumstances in which the authority would permit new development in the countryside and indicates that this will be strictly controlled. The policy seeks to direct the location of new housing development by requiring development in the countryside to only that which needs to take place there or is appropriate to the countryside. As such, it would have the effect of restricting new housing development in the countryside and is therefore out of date.
6. Policy H1 of the ULP sets out the number of dwellings to be provided in specified settlements and locations in the District up to 2011. The policy does not provide any criteria or guidance as to how residential development would be considered outside of the defined locations. Therefore, due to the fact the policy seeks to direct housing to particular locations and identifies the quantum of housing in each location, it is also out of date.
7. The Council has indicated that it cannot demonstrate a 5 year supply of housing land as required by the National Planning Policy Framework (the Framework). As such, the 'tilted balance' set out at paragraph 11d) of the Framework is engaged.

Suitable location

8. The appeal site is located at the corner of Golden Lane and Park Lane, Radwinter End and is currently occupied by a static caravan. The site is bound by mature hedging largely screening it from the highway, and is surrounded by agricultural land. The site is outside of any defined settlement boundary and the area has a predominantly rural character. Golden Lane and Park Lane are relatively narrow and there are no footways or streetlighting present. At the time of my visit the area was quiet with no passing traffic.
9. Paragraph 79 of the Framework indicates decisions should avoid the development of isolated homes in the countryside unless particular circumstances apply. The site has no neighbouring dwellings in the vicinity and the nearest dwellings being located several hundred metres to the north along Golden Lane. The proposed development would not provide a dwelling for an agricultural worker, secure and optimal viable use of a heritage asset or subdivide an existing residential dwelling. Whilst the design of the dwelling would be acceptable by virtue of its modest size and proportions, it would not be of exceptional quality that the exception at paragraph 79e) expects. Whilst the appellant has indicated that the proposal qualifies under paragraph 79c) as it would reuse a redundant building, the structure is currently in use and there is no evidence to suggest that is likely to become redundant. As such, the

proposal would result in the creation of an isolated dwelling in conflict with paragraph 79.

10. The appellant has indicated that she has gypsy status in relation to her ethnicity, and this is not disputed by the Council. However, the appellant's statement indicates that she has not travelled for a considerable time and there is no evidence that she intends to do so in the future. As such, the appellant does not meet the planning definition of a gypsy as set out in the Planning Policy for Traveller Sites (2015) (the PPTS).
11. The parties have indicated that the site was granted permission in 1985 which imposed a planning condition allowing for the personal occupation of the mobile home for the appellant and her dependants. This permission was granted on an exceptional basis at that time in light of the appellant's gypsy status at that time in a location where such development would not normally have been granted. The existing planning condition for the mobile home did not specify a fixed time limit for its occupation which is reflected in the significant period of time the mobile home has been on site (approximately 34 years) and will continue to be in relation to its current occupation by the appellant and her daughter.
12. Whilst the site is isolated in terms of its location when considered against the Framework, due to the nature of the personal condition imposed, it is likely that the structure could be occupied for a further considerable period of time. Therefore, in terms of the potential effects of the development, the amount of vehicle movements to and from the site would be very similar if it were a mobile home or a permanent dwelling. Furthermore, the site already has domestic paraphernalia present in the form of a garden shed, refuse bins, etc. As such, the effect of the development would not result in any additional domestication of the site above the existing situation that would result in any adverse effects on the character and appearance of the area. Despite the existing permission having a finite life, due to the length of time the existing mobile home could continue to be used, its future usage could still be very lengthy. As such, any return to agricultural land is likely to be a considerable time away. As there would be no harm to the character and appearance of the area from the creation of the proposed dwelling compared to the existing situation, in these particular circumstances, the harm from a new dwelling would be very limited.
13. Two appeal decisions have been cited in Uttlesford which the appellant considers are of direct relevance to this appeal. The scheme at Macedell near Felsted differs from this appeal proposal due to a fallback position which established via a Certificate of Lawful Use, the principle of permanent residential occupation. In this appeal, the appellant's situation is not directly comparable due to the personal condition imposed which despite its length of occupation is not permanently established. The appeal decision at Clovelly, near Broxton, does share similar issues to this appeal particularly in relation to the length of time the personal occupancy condition had been established and would continue to be in use for. The only difference from this appeal is in terms of the location with the Clovelly scheme being at the end of a ribbon of development. Therefore, having regard to these schemes, whilst the particular circumstances of the appeal site are slightly different, the appeal development would have the same effects as that at Clovelly. As such, this reduces the level

of harm to being limited. Therefore, given the limited level of harm identified, I afford this significant weight.

14. In light of the above, I conclude that the development would not be in a suitable location for new housing. As such, it is contrary to Policies S7 and H1 of the ULP which seeks to protect the countryside for its own sake by only allowing planning permission to be given for development that needs to take place there, or is appropriate to a rural area, and directs development to defined locations within the District.

Conditions

15. The Council has suggested conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the Framework and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.
16. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.
17. In the interests of ensuring the satisfactory appearance of the proposed development, a condition is imposed to secure details of the materials, surface finishes, details of any hard landscaping. This is required prior to commencement, and this has been agreed by the appellant.
18. The Council has requested the imposition of a condition to address details of all hard and soft landscaping. However, from examination of the plans no such further landscaping is suggested. Having regard to the modest scale of the dwelling and the acceptability of the design in terms of the character and appearance of the area and the presence of significant existing mature screening, I do not consider this to be necessary to make the development acceptable and is therefore not imposed.

Planning balance and conclusion

19. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (the PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Although the appeal is made relating to a dwelling for an appellant that has a protected characteristic in relation to ethnicity, as they do not meet the definition of traveller for planning purposes as set out in the PPTS, the proposal would not result in detriment to their protected characteristics. I am satisfied that due to the existing situation of the site, the approval of a dwelling would not result in the loss of a site that would have otherwise been available to travellers who would meet the definition in the PPTS.
20. For the reasons that I explained earlier, the relevant Development Plan policies that are most important to the determination of this appeal are out of date. This means that the tilted balance set out in Framework paragraph 11d) is engaged.

21. Having regard to the benefit positive contribution of an additional dwelling to the Council's land supply position, this is afforded significant weight, particularly in the light of the significant period of time that the mobile home could continue to be occupied. As a result, the adverse effect of an isolated dwelling would be limited.
22. The provision of an energy efficient dwelling and reusing previously developed land would provide limited, albeit positive benefits to the proposed development.
23. The only harm that has been identified in this case is in relation to policies to control the location of development. As such, due to these being considered of date, accordingly their weight is reduced.
24. The appellant has indicated that the replacement of the mobile home with a permanent dwelling would improve the living conditions of the occupants, as well as reusing a previously developed land. A permanent dwelling would be able to provide more space and a higher degree of energy efficiency and environmental performance than the existing structure. The siting of the proposed dwelling would redevelop the base of the existing mobile home utilising an area of previously developed land. As such, these would provide some limited benefits of the scheme.
25. The footprint of the proposed dwelling is relatively most and the single storey design of the dwelling would be acceptable in terms of its effect on the character and appearance of the area. However, having an acceptably designed dwelling would be a requirement of all new development, and as such, this matter has a neutral effect in my consideration.
26. The appellant has indicated that allowing a new permanent dwelling on the site would enable her and her daughter to better care for the site. However, the site and gardens were well tended at the time of my visit and as such this would have a neutral effect on the proposal.
27. In light of these factors, the limited harm arising from the proposed development would not significantly and demonstrably outweigh the benefits of granting permission.
28. Although the proposal would be contrary to the relevant policies in the Development Plan, having regard to the Council's stated land supply position, the tilted balance as set out in the Framework is engaged and the most important policies for determining the appeal are considered to be out of date. Having regard to the positive effect on the supply of housing and the benefit of providing a more energy efficient dwelling, in this specific case the harm arising from the creation of an isolated dwelling would not significantly and demonstrably outweigh the benefits of the proposal.
29. For the reasons given above, I conclude that the appeal should be allowed.

P Mileham

INSPECTOR