



Appeal Decision

Site visit made on 18 February 2020

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

an Inspector appointed by the Secretary of State

Decision date: 13th March 2020

Appeal Ref: APP/W1525/W/19/3241456

Land at Tiffanys, Bishops Stortford Road, Roxwell, Chelmsford CM1 4LP

- 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 Mr & Mrs Dobbs against the decision of Chelmsford City Council.
 - The application Ref 19/01315/OUT, dated 25 July 2019, was refused by notice dated 9 October 2019.
 - The development proposed is described as, 'the construction of 3 single storey, 3 bedroom barns. One is to be detached and the remaining two are to be attached. Parking will be provided and access already exists to the site off the main road. Each will have their own front and rear gardens'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved. I have therefore assessed the appeal on this basis.
3. I note the emerging Local Plan which has been examined by the Planning Inspectorate. However, there is no certainty that it will be adopted in its current form, therefore I afford it limited weight.
4. I have consulted the main parties regarding the Housing Delivery Test and have had regard to the comments received.

Main Issues

5. While I note the reasons for refusal, from the evidence the main issues are:
 - whether the proposed development would accord with the Council's development strategy for the location of housing; and
 - the effect of the proposed development on the Blackwater Estuary Special Protection Area and Ramsar site (BESPA).

Reasons

Development Strategy

6. The site lies within the rural area as defined by the Core Strategy and Development Control Policies Development Plan Document 2001-2021 Adopted February 2008 (DPD). DPD Policy CP5 states that urban growth will be contained by defining the physical limit of the Urban Areas of Chelmsford and South

Woodham Ferrers and the Defined Settlements. It also says that within the rural areas beyond the Metropolitan Green Belt, the Council will protect the intrinsic character and beauty of the countryside whilst supporting rural communities and economies. In addition, DPD Policy DC2 specifically relates to the Countryside within the Rural Area beyond the Metropolitan Green Belt as identified on the Proposals Map and sets out a number of criteria.

7. These Policies were amended in 2013 and were examined by the Planning Inspectorate. From the evidence before me the policies are consistent with the National Planning Policy Framework (Framework) and I see no reason to disagree with the Council's position in this regard. Given the proximity of nearby buildings, the site is not isolated in the terms of the Framework.
8. I note that the appellant has indicated that the dwellings could be affordable housing, which would satisfy part Aiii) of DPD Policy DC2. However, there is no mechanism suggested to ensure that the dwellings would be affordable housing. Consequently, since it would not satisfy the criteria set out in DPD Policy DC5, the proposal would not accord with this Policy.
9. With regard to accessibility of services and facilities, the site lies in the settlement of Boyton Cross which has limited services. The nearest village of Roxwell has some services and facilities including a school and post office. However, the provision is modest such that it would not remove the reliance of future occupiers of the proposed dwellings on the private car for daily requirements.
10. While I note the bus stop that is within walking distance of the appeal site, from the evidence before me it runs approximately once an hour such that it would not remove entirely the reliance on the private vehicle for day to day needs. Given the location of the site, it is likely that once in their car, future occupiers would travel further to Chelmsford which has a wider range of services.
11. I am mindful that sustainable transport solutions will vary between urban and rural areas and that where there are groups of smaller settlements, development in one village may support services in a village nearby. I also note that the accessibility of services and facilities from the appeal site would not be substantially different to that of the adjoining development. However, the proposal would nevertheless give rise to adverse effects in terms of accessibility of services and facilities and environmental impacts resulting from the reliance on the private vehicle.
12. Turning my attention to the effect of the proposal on the character and appearance of the area, the site is bounded on two sides by open countryside. To the north lies an industrial estate while to one side lies a number of single storey dwellings that appeared complete at the time of my site visit. Although the appellant considers that the site is currently unattractive, I find that it is in keeping with its agricultural context as it is largely an open area adjacent to open countryside with a single storey building previously used to accommodate pigs. Furthermore, the site is separated from the buildings of the industrial estate by some undeveloped land. As such, it has a closer relationship to the countryside than the industrial site.
13. While I note the history of the site, given the last use of the land which was occupied by agricultural buildings, the site would not constitute previously developed land. Given the ample spacing between dwellings near the appeal site,

and the open countryside beyond, the area has a spacious, rural character and appearance.

14. The proposal consists of three dwellings. While all matters are reserved for future consideration, the evidence indicates that the dwellings would be single storey and a similar style to the recently completed dwellings adjacent to the site.
15. While I note the adjacent dwellings, given the close proximity of the appeal site to the open countryside, and that the proposal would replace an agricultural building and undeveloped land with residential buildings and associated domestic paraphernalia, the proposal would significantly alter the existing nature of the site and would harm the open rural character and appearance of the area.
16. While I appreciate that the Council may have considered the adjacent dwellings to be acceptable in this regard, they are sited differently in relation to the surrounding buildings and open countryside and proximity to the road. I also note that the proposed development would not extend further east than the industrial estate. However, given that the proposal would urbanise the site and have an adverse effect on the open rural character and appearance of the area, these points have not altered my finding in this respect.
17. I note the evidence relating to Condition 9 of planning permission 17/02060/FUL (Condition 9), which requires the demolition of the piggery buildings and the return of the land to grass/paddock. While the permission has been implemented, the piggery buildings were not demolished. The proposal would run counter to the aims of that condition to restore the land to its open state and would therefore harm the open rural character and appearance of the area.
18. I acknowledge the appellant's concerns regarding the validity of Condition 9. However, this is not a matter for me to determine as part of this appeal. In any case, even if I were to disregard Condition 9, while I acknowledge the adjacent dwellings and industrial area to the north, given the open nature of the site and the proximity to open countryside, since the scheme would urbanise the site it would still harm the character and appearance of the site and surrounding area.
19. I note that an application for housing at the industrial estate has been submitted to the Council. From the evidence before me this has not been determined yet and there is no certainty that the development would be granted or implemented. Therefore, this matter has not altered my findings for this main issue.
20. Consequently, the proposed development would not accord with the Council's development strategy for the location of housing. Therefore, it would conflict with DPD Policy DC2 which seeks to control development in the Countryside beyond the Metropolitan Green Belt.
21. It would also conflict with DPD Policy CP5 which seeks to protect the intrinsic character and beauty of the countryside and with DPD Policy CP1 which directs development to locations supported by effective transport provision, leisure, community and other essential services. The proposal would also conflict with the Framework in these respects.

BESPA

22. I note the reason for refusal regarding the BESPA. The appeal scheme proposes 3 dwellings on a site that lies within the Zone of Influence (ZoI) of the BESPA. Had I found the appeal development to accord with the Council's development

strategy for the location of housing, I would have found it necessary to investigate this matter in greater detail as part of my appropriate assessment. However, in the circumstances of this case this has not proved to be a determinative matter given the harm that would arise from the development.

23. New housing development within the ZoI would be likely to increase the number of recreational visitors to BESPAs, potentially resulting in disturbance to the integrity of the habitats of qualifying features. Given the modest number of dwellings proposed, the number of additional recreational visitors from the dwellings would be limited. Therefore, the likely effects on BESPAs from the proposed development alone may not be significant. However, while I note the distance by road to the site, in combination with other developments it is likely that the proposal would give rise to at least some harm to the BESPAs.
24. While I acknowledge that the Council did not ask for monetary payment towards a mitigation strategy, no means of securing mitigation has been provided either as part of the application or during the appeal.
25. While not determinative, as it has not been demonstrated that the proposal would not harm the Blackwater SPA and RAMSAR site, it would not accord with DPD Policy DC13 which seeks to restore, maintain and enhance biodiversity and geological conservation interests. It would also conflict with the Framework in this particular regard.

Other Matters

26. I acknowledge the government's objectives in boosting the supply of housing as well as the emphasis on effective use of land and the viability of rural communities. I also note the comments of the Highway Authority. Likewise, I acknowledge that the Parish Council did not object to the proposal. In addition, I note the evidence relating to growth and infrastructure in Chelmsford, and regarding contamination. However, these matters do not outweigh the harm identified.
27. I note that the proposal would provide three houses to the local housing supply, that there may be temporary economic benefits during the construction process and that future occupiers may provide some social and economic benefit by contributing to the local communities in Boyton Cross, Roxwell and other villages. I also note the reference to modern construction techniques. However, since the proposal is for a small number of houses, these benefits would be limited.
28. Therefore, given the significant harm to the character and appearance of the area, the adverse environmental effects of the proposal and conflict with development plan strategy, even if paragraph 11(d) of the Framework were applied, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

29. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR