
Appeal Decision

Site visit made on 23 June 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2020

Appeal Ref: APP/C1570/W/20/3244795

Trutons, Ongar Road, Great Dunmow CM6 1JD

- 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 Wright against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1283/OP, dated 28 May 2019, was refused by notice dated 25 November 2019.
 - The development proposed is described as 'erection of four dwellings and associated works'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved for future consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative.
3. The application was refused in part as it does not secure contributions towards either affordable housing or infrastructure provision. However, the Council's officer report and appeal statement show that a contribution is sought towards affordable housing provision only. I have dealt with the appeal on this basis.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for housing, with particular regard to access to services and facilities and the effect of the proposed development on the character and appearance of the area; and
 - whether a financial contribution is required to secure affordable housing provision.

Reasons

Location for housing

5. The appeal site includes the access and part of the grounds to a group of 3 dwellings on the southern side of the B184, to the south-west of Great Dunmow. The grounds consist mostly of mown grass and long gravel driveways enclosed by vegetation and fencing. The dwellings are set back significantly

from the highway and include a farmhouse, a converted barn and a converted tractor shed, the latter having been allowed on appeal in 2018¹. The area around the site otherwise consists predominantly of arable fields. The site, the rest of the grounds and the surrounding fields provide the area with a sparsely settled, open, spacious and rural character.

6. The site is located outside defined settlement boundaries. Uttlesford Local Plan (LP) policy S7 defines such areas as the countryside. The policy seeks to protect the countryside by only permitting development that is appropriate in a rural area and requires the appearance of development to protect or enhance the character of the countryside. The proposed development does not conform to the examples of development that are indicated to be permissible in the countryside by paragraph 2.2.8 of the LP.
7. Policies DS1 and LSC1 of the Great Dunmow Neighbourhood Plan (NP) are also relevant. These policies seek to protect the rural setting of Great Dunmow and require development to contribute positively to the quality of the area.
8. The National Planning Policy Framework (the Framework) explains at paragraph 78 that housing should be located where it will enhance and maintain the vitality of rural communities. However, paragraph 79 confirms that isolated homes in the countryside should be avoided. In addition, paragraph 103 requires growth to support transport objectives including the promotion of walking, cycling and public transport use.
9. Both main parties have provided evidence, including appeal decisions, which show that LP policy S7 has been afforded varying amounts of weight in decision making, from limited to significant. The policy adopts a prohibitive approach to development within the countryside and thus has limited consistency with the Framework in this respect. However, the policy is consistent with the Framework insofar as it recognises the intrinsic character and beauty of the countryside, in accordance with paragraph 170 of the Framework. I therefore find that LP policy S7 attracts moderate weight.
10. The appellant states that the site is vacant residential garden within the same land registry title as the farmhouse and, having regard to the Dartford judgement², comprises previously developed land. Imagery has also been provided which suggests that there was historically development in front of the existing buildings. Conversely, the appellant's planning statement indicates that the site previously formed part of a paddock. Based on the evidence and my observations on site, the existing buildings are some distance from the site, have their own curtilages and are separated from the site by fences, gates, vegetation and driveways. I find that the site is not garden land within the curtilage of the existing buildings and thus is not previously developed land.
11. The Inspector for the tractor shed appeal found that the site was isolated. However, that conclusion was reached with reference to LP policy H6 which relates to the conversion of rural buildings and is not relevant to this appeal. Having regard to the Braintree³ judgements, I do not find that the site is physically remote from surrounding development and therefore it is not isolated for the purposes of paragraph 79 of the Framework.

¹ Appeal reference APP/C1570/W/17/3187250

² Court of Appeal judgement: Dartford Borough Council v SSCLG & Ors [2017] EWCA Civ 141

³ High Court judgement: Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin); Court of Appeal judgement: Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin).

12. Great Dunmow is the nearest settlement with services and facilities and thus the proposed dwellings' occupiers are likely to be more reliant on the town than rural communities to meet their daily needs. The B184 is the most direct route to the town; however, much of the road has only intermittent and narrow verges and no footpaths, cycle lanes or street lights along it, and vehicles can travel at the national speed limit. The route is therefore unattractive for most cyclists and pedestrians, especially those with mobility difficulties or small children. In addition, evidence has not been provided which indicates that buses serve the immediate area or stop near to the site. I therefore find that the occupiers would be reliant on private motor vehicles for day to day living.
13. The appellant has identified the locations of relatively recent permissions at appendix 4 of the planning statement in support of their view that the site is appropriately located. However, all of the sites referred to except the tractor shed appeal site are closer to Great Dunmow and thus are not directly comparable with the scheme before me. Nevertheless, I recognise that opportunities to maximise sustainable transport options will vary between urban and rural areas. Furthermore, Great Dunmow is only a short drive from the appeal site, arrangements could be made so the occupiers could use the nearby public right of way to walk part of the way to the town, and cycling would be an option for some of the occupiers. These matters go some way to offsetting the harm that would arise from reliance on private motor vehicles.
14. The appellant suggests that a 'barn conversion' style of building in a courtyard arrangement would be the most appropriate form of development for the site. Based on the appellant's final comments in support of the appeal, the dwellings would likely include 3 or 4 bedrooms each and be up to 2 storeys in height, with 2 of the dwellings consisting of a single storey.
15. There are a number of trees and hedges around the edges of the grounds; however, the site is visible from the B184 when the trees in front of the site are in full leaf and thus the development would be too. The development would have greater prominence in the winter months. In addition, unrestricted views of the development would occur around the accesses and the upper parts of the development would be visible above the hedges when viewed across the fields from the road to the south-west.
16. The illustrative site plan indicates that the dwellings would extend across most of the width and the depth of the site. In such an arrangement the development would appear as a large amount of built form close to the highway that would significantly harm the sparsely settled, open and spacious character of the area. Whilst the development could take another form, more conventional housing layouts and designs would likely have a greater urbanising effect than the illustrative scheme, which would be harmful to the area's rural character. Further planting would not be able to screen the development to the extent that it would no longer be harmful.
17. I conclude that the appeal site is not in an appropriate location for housing, with particular regard to access to services and facilities and the effect of the proposed development on the character and appearance of the area. Consequently, the proposal is contrary to policy S7 of the LP, policies DS1 and LSC1 of the NP and paragraphs 78, 103 and 170 of the Framework.

Financial contribution

18. Policy H9 of the LP states that the Council will seek to negotiate affordable housing of 40% of the total provision of housing on windfall sites, having regard to various considerations. The supporting text to the policy explains that such provision will be sought on sites larger than 0.5 hectares or where 15 or more dwellings are proposed.
19. The Ministerial Statement⁴ of 28 November 2014 explains that '*for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought*'. Subsequently, paragraph 63 of the Framework has set out that provision of affordable housing should not be sought for residential development that is not major development. The glossary to the Framework makes clear that this is where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.
20. The Council refused the application on the basis that the site is greater than 0.5 hectares in size and it considers that the details of the proposal indicate that the combined floor space of the development would likely exceed 1,000 square metres.
21. The appellant has confirmed in their appeal statement that the size of the site is less than 0.5 hectares and the Council has not disputed this. The appellant also states that the illustrative layout has a total floor space of 660 square metres. Based on the evidence before me it is unlikely that the development would exceed a maximum combined gross floor space of 1,000 square metres.
22. Furthermore, LP policy H9 does not state that financial contributions towards affordable housing provision will be sought. I have not been directed to any other development plan policies or guidance which otherwise require a contribution. The Council does not state what size of contribution it considers would be appropriate or how a contribution would be used. It has not therefore been demonstrated that a contribution is necessary to make the development acceptable in planning terms, directly related to the development or fairly and reasonably related in scale and kind to the development. A contribution would not therefore meet the tests set out by paragraph 56 of the Framework.
23. I conclude that a financial contribution is not required to secure affordable housing provision. In this respect there is no conflict with policy H6 of the LP or the Framework. The Council has also referred to LP policies GEN1 and GEN6 in terms of this main issue; however, I do not find that these policies are relevant as they refer to access arrangements and infrastructure provision and not the provision of affordable housing.

Planning Balance

24. The Council has confirmed that it cannot currently demonstrate a 5 year supply of deliverable housing sites. The most important policies for determining the appeal are therefore out-of-date and paragraph 11d of the Framework is engaged. This requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

⁴ House of Commons: Written Statement (HCWS50)

25. Paragraph 14 of the Framework advises that conflicts with a neighbourhood plan are likely to significantly and demonstrably outweigh the benefits where its criteria are met. The proposal conflicts with the NP; however, the criteria are not satisfied as the NP became part of the development plan over 2 years ago and the Council has less than 3 years supply of deliverable housing sites.
26. Whilst I have found that the site is not previously developed land, the development would make use of the site to increase housing supply, generate employment from its construction and maintenance and would likely provide biodiversity enhancements. There would also be benefits from the occupiers spending money locally and the New Homes Bonus. In addition, the main parties do not dispute that bungalows would be provided and that the need for such accommodation is required and will increase in the district. I also note that the Council has considerably less than 5 years supply of deliverable housing sites and withdrawn its draft Local Plan which brings into question whether the Council can deliver its housing requirement in a strategic manner. However, as a result of the small scale of the development, the matters identified constitute modest benefits weighing in favour of the proposal.
27. The proposed development would be located where its occupiers would be reliant on private motor vehicles and more likely to use services and facilities in Great Dunmow than enhance and maintain the vitality of rural communities. It is contrary to the Framework as a result. However, the town would be a short drive away and some occupiers would occasionally be able to access it by walking and cycling. I therefore attach modest weight to this adverse effect.
28. I attach substantial weight to the proposed development's adverse effect on the character and appearance of the area. The development is contrary to the Framework for this reason and LP policy S7 and NP policies DS1 and LSC1 are consistent with the Framework in respect of this matter.
29. Overall, I consider that the adverse effects of the development significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. A decision should therefore be taken in accordance with the development plan.

Conclusion

30. The proposal is contrary to the development plan taken as a whole. There are no material considerations which outweigh the conflict with the development plan. Accordingly, for the reasons I have identified, the appeal is dismissed.

Mark Philpott

INSPECTOR