



Appeal Decision

Site visit made on 21 July 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2020

Appeal Ref: APP/V0510/W/20/3249162

Land to south of 18, Cross Green, Dullingham CB8 9XH

- 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 Dudley (Dudley Developments) against the decision of East Cambridgeshire District Council.
 - The application Ref 19/01725/FUL, dated 12 December 2019, was refused by notice dated 6 March 2020.
 - The development proposed is erection of new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the description of development set out above, I consider the description found on the Decision Notice (DN) and Appeal Form better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'construction of 1no. three bedroom, two storey detached dwelling'. I have therefore dealt with the appeal on this basis.
3. The DN and Officer Report (OR) refer to the location of the appeal site outside the development envelope of Dullingham. The OR also acknowledged that the proposed development was not for any of the exceptions listed in Policy GROWTH 2 of the East Cambridgeshire Local Plan (April 2015) (the LP), but the policy was not listed on the DN. The Council has therefore introduced this as an additional concern during the appeal process, which they have justified by a change of circumstances since permission was refused, in respect of their housing supply position. Moreover, the Council has now referred to the aforementioned conflicts with Policy GROWTH 2. As the appellant has had an opportunity to consider the relevance of this matter to the appeal proposal, I have dealt with this as a substantive matter, as set out in the main issues below.
4. Similarly, during the course of determining this appeal, the appellants drew my attention to a linked appeal decision¹ for two sites in Witchford (the Witchford appeals). This in turn referred to an appeal at Fordham². I therefore invited the main parties to provide comment in relation to any implications that the

¹ Appeal References: APP/V0510/W/18/3213834 & APP/V0510/W/19/3227487.

² Appeal Reference: APP/V0510/W/19/3227639.

Witchford appeals would have for this appeal, particularly in relation to housing land supply.

Main Issues

5. The main issues are: -

- whether the proposal is consistent with policies relating to housing in rural areas, including with regard to accessibility to local shops, services and facilities; and
- the effect of the proposed development on the character, appearance and countryside setting of the area.

Reasons

Rural housing

6. The appeal site concerns a rectangular parcel of land to the south of a linear grouping of dwellings, including that under construction which was recently approved by the Council³. For the purposes of planning policy, the site is situated within the countryside, as defined by Policy GROWTH 2 of the LP, which suggests that the majority of development will be focused on the market towns of Ely, Soham and Littleport, but more limited development will take place in villages. The policy text for Policy GROWTH 2 suggests the overall aim is to focus development within or on the edge of towns and villages, thereby helping to promote easier access to jobs and services, and to minimise unnecessary development of open fields and countryside areas of the district.
7. Moreover, in the countryside, outside defined development envelopes, development is strictly controlled to protect the countryside and the setting of towns and villages. Development is therefore restricted to particular types of development, including affordable housing through exception schemes or community-based development, dwellings for essential rural workers and the extension and replacement of dwellings in the countryside. The policy also outlines that these exceptions may be permitted, providing there is no significant adverse impact on the character of the countryside and that other Local Plan policies are satisfied. The impact on character is referred to in the second main issue.
8. The appeal scheme is not for any of the types of development listed under the policy, which would bring conflict with the locational strategy in Policy GROWTH 2 of the LP, as it would encompass housing outside a defined development envelope.
9. Whilst the appeal site is situated within an area of countryside, in terms of whether the dwelling would be 'isolated' in the language of the National Planning Policy Framework (the Framework), it is important to have regard to the site's relationship to existing built development as well as accessibility to local shops, services and facilities. Paragraph 78 of the Framework seeks to restrict housing in rural areas to locations where housing will enhance or maintain the vitality of rural communities.

³ Planning References: 18/1365/FUL and 19/00428/VAR.

10. Taking the physical dimension of isolation first, the proposed dwelling would be immediately south of the other dwellings situated in Cross Green, so the proposal could not be said to be isolated from other dwellings. Nonetheless, it would do little more than add to existing development in the open countryside, some distance away from the settlements of Dullingham and Stetchworth. There are few facilities and services available in the immediate vicinity that would meet the day-to-day needs of future occupiers. The reality is therefore that future residents would be obliged to travel further to Bury St Edmunds, Cambridge, Ely, Ipswich and Newmarket, where there are a greater range of facilities and services available.
11. In terms of accessibility, the appeal site is poorly located. Paragraph 103 of the Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Cross Green lacks street lighting and pedestrian footways and the route across fields to the west towards Dullingham is unlit and predominantly on unmade footpaths. The opportunities to walk or cycle to the services and facilities available nearby would therefore not be convenient or realistic ones, particularly after dark or in bad weather.
12. Given the location of the proposed dwelling, future residents would therefore be highly likely to be required to travel regularly by private motorised transport to access retail, employment and healthcare. The proposal would not, of itself, generate a large number of traffic movements and a greater dependency on car use is inevitable in more rural locations. Furthermore, there are existing residential properties in the immediate vicinity. However, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the amount of unsustainable journeys made.
13. I note that regular services are available from Dullingham Railway Station along the Ipswich to Ely line but this is beyond the village to the northwest of Dullingham. I also have limited information before me regarding the bus services available from Stetchworth Road to Stetchworth, Cambridge and Newmarket. I am not therefore able to conclude that the use of public transport available would sufficiently discourage further use of private motorised transport.
14. I note that part of the Council's motivation for the approval of the dwelling under construction to the north, was the absence of five-years of deliverable housing land in the district and because the site was adjacent to the development envelope for Dullingham. However, both of the sites and the other dwellings in Cross Green are within the countryside, some distance from Dullingham. The existing dwelling approved by the Council therefore represents an example of harmful incremental development, which would add to the unsustainable journeys made from this location. For this reason, the further similar harm that would result from the appeal proposal would not be justified.
15. In light of the above, I conclude that the appeal site would not represent an appropriate location for housing, having regard to access to shops, services and facilities. Hence, the proposal would conflict with Policy GROWTH 2 of the LP and paragraphs 78 and 103 of the Framework.

Character, appearance and countryside setting

16. The dwellings within the vicinity of the site vary in their design and the extent to which they are elevated above the carriageway, but each is served by its own vehicular access. The established planting of boundaries, including to either side of the carriageway of Cross Green, creates a verdant character which softens or fully intervenes in views of the dwellings and parking situated to their frontages. Together with the space around the dwellings the planting to their rear provides a transition to the open, undeveloped paddocks and fields beyond. However, the hard surfacing associated with the access and parking areas of several dwellings to the north of the site, including that under construction, interrupt the otherwise green frontage. Nevertheless, taken together the other stated features create a clear and distinct pattern to development that makes a significantly positive contribution to the character and appearance of the area.
17. To the south of the site, the land rises steeply up from the carriageway, so the site and existing built development are less prominent in views north. Although views in the opposite direction through the proposed access would be fleeting, the proposal would be sat on higher ground and would be likely to be visible above planting at the site frontage. I appreciate that the presence of some planting formed part of the reason for the approval of the dwelling under construction. However, clear and open views of the dwelling and the appeal site are also available from the public footpath to the north, as the land to the west and that encompassed by the house under construction are without planting. The presence of the approved dwelling beyond the established planting to the north therefore provides a clear indication of the likely effect of the proposal, particularly the extent to which it would integrate within the immediate locality.
18. I note that the proposal would be identical in scale and appearance to the house under construction and the Council found this, including the use of a traditional palette of materials, to be appropriate to this location. Due to the varied architecture locally, the design of the proposed dwelling would also not, of itself, offend the appearance of the surrounding area. I also accept that the dwelling could be constructed to high environmental standards and would be accessible and liveable for future disabled occupants.
19. Nevertheless, given that the other dwellings to the north nestle in behind established planting, the proposed development would add to the strident form of development under construction which is clearly perceptible and distinguishable from existing development further north. The proposal would therefore extend development further south which would reduce the openness and unbuilt qualities of the site and the surrounding area to an unacceptable degree and blur how the dwellings in Cross Green currently blend more naturally into their countryside setting.
20. The appellants' Landscape and Visual Appraisal suggests that the effect of the proposal would be mitigated in time by the presence of planting. In this case, this would include enhancement of existing hedgerow planting and further planting to the site perimeter, including a landscape buffer on the appellants' land to the south of the site. However, the planting would be unlikely to have a meaningful effect for some time and would be by no means certain to establish. In any event, vegetation is subject to seasonal change and is

ephemeral, so when planting is not in leaf during autumn and winter there would be a greater degree of visibility of the proposal.

21. I do not subscribe to the notion that development that would cause harm to appearance would be acceptable if it can be hidden. I am not therefore persuaded that my concerns could be addressed with planning conditions in relation to landscaping or that such landscaping would be likely to inhibit further harmful development, particularly as both the dwelling under construction and the appeal scheme are situated beyond existing established planting to the north.
22. Furthermore, the access serving the site is in place but terminates at the frontage of the house under construction, this would therefore need to be extended further south. Although this would avoid the introduction of a new independent access, the form of shared access proposed would not be akin to the established visual characteristics of accesses in the immediate locality. It would therefore be a new form of development that would be prominent and visually harmful within Cross Green.
23. For the reasons outlined above, I conclude that the appeal scheme would have a significantly detrimental effect on the character, appearance and countryside setting of the area. Hence, the proposal would not accord with Policies ENV 1, ENV 2 and GROWTH 2 of the LP, which together seek, amongst other things, that all development will be designed to a high quality, enhancing and complementing local distinctiveness. In particular, the location and layout of buildings should relate sympathetically to the surrounding area and each other; and should protect, conserve, and where possible enhance the unspoilt nature and tranquillity of the area.

Other Matters

24. I note the adequacy of the proposed access arrangements in terms of highway safety; there would not be harm to the living conditions of neighbouring occupiers and to the occupiers of the proposed development in respect of flood risk; and the potential effects of land contamination upon human health and biodiversity enhancements could also be dealt with by planning conditions. Whilst there is no substantive evidence before that would lead me to arrive at a different conclusion, none of these other matters raised would alter or outweigh my conclusion on the main issues.
25. The appellant has referred to the conduct of the Council in the determination of the planning application, including the approach to and consistency of its decision-making, in particular, the weight afforded to one dwelling in terms of housing stock and construction. However, in reaching my decision I have been concerned only with the individual merits of the appeal scheme in relation to the relevant policies and evidence before me.

Planning Balance

26. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
27. The development plan for the area comprises the LP, which predates the current Framework, as it was examined when the 2012 version of the Framework was in place. However, the Framework makes it clear that existing

policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.

28. In the context of Policy GROWTH 2 of the LP, a settlement envelope policy, in isolation of other considerations, would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. Moreover, although I have not found the appeal proposal to be isolated, the policy does not include all of the policy exceptions to isolated homes in the countryside referred to within the Framework, particularly in circumstances where the design is of exceptional quality or relates to the subdivision of an existing dwelling. However, the policy is consistent with the aim of the Framework to direct housing to locations where it is supported by local facilities and services through an established pattern of distribution; and contributing to and enhancing the natural and local environment by recognising the intrinsic character and beauty of the countryside. In light of this I have regarded the underlying objectives of the policy, as being generally consistent with the revised Framework.
29. Policies ENV1 and ENV2 are consistent with the Framework in terms of its aim to achieve well designed places.
30. Overall, whilst there is some inconsistency of Policy GROWTH2 with the Framework, taken as a whole these policies are not to be regarded as out-of-date. I have therefore afforded full weight to the conflict of the proposal with the abovementioned policies, as set out in the main issues.
31. A period of five years has passed since the adoption of the LP. In such circumstances, the Framework suggests that the housing requirement used in assessing a Council's five-year supply of deliverable housing land will be based on the standard method for determining local housing needs for the local planning authority area. Accordingly, the Council issued a new Five Year Housing Land Supply Report⁴ (FYHLSR), which has regard to the latest Housing Delivery Test results⁵, so includes a 20 percent buffer. The FYHLSR identifies that the Council can demonstrate 6.61 years supply of deliverable housing land within East Cambridgeshire.
32. In the Witchford appeals the Council argued that it could demonstrate 3.94 years supply of housing land but the Inspector ultimately relied on the Fordham appeal, where the position was only calculated to be 2.1 years. However, the Fordham appeal decision has since been quashed, specifically in relation to how the Inspector calculated the housing land supply. I am not therefore able to give any weight to the quashed decision or the Witchford appeals in respect of this matter.
33. I note that paragraph 74 of the National Planning Policy Framework (the Framework) states that a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State. There is no evidence before me to suggest that the supply of housing stated in the FYHLSR

⁴ East Cambridgeshire District Council Five Year Housing Land Supply Report 1 April 2019 to 31 March 2024.

⁵ Published in February 2020.

has been calculated using this method. However, other than point to the fragility of the situation presented by the Fordham and Witchford appeals, I have not been provided with any evidence by the appellants setting out an alternative calculation for the five-year housing land supply in the district.

34. I am also mindful that the presence of a five-year supply does not represent a ceiling on the delivery of housing, as the Framework supports the Government's objective to significantly boost the supply of homes. I note that this position was also discussed by other Inspectors in several appeal decisions to which I have been referred⁶. On this basis, I did not reengage with the main parties following receipt of their comments. Clearly should I determine that the Council cannot demonstrate a 5-year housing land supply, paragraph 11 of the Framework would be engaged.
35. In the context of paragraphs 59 and 68 of the Framework, I note the contribution that would be made to the supply of housing by the appeal proposal, particularly as it could be carried out relatively quickly. The appeal before me would deliver one additional dwelling, which would contribute to the overall housing mix in the District, particularly given the use of sustainable construction techniques. However, the contribution to the supply of housing would be minor in its extent and would be achieved at the expense of the locational strategy outlined in the LP, so it would only be afforded limited weight.
36. I also recognise that the proposal could be said to make more efficient use of the site. However, paragraphs 117 and 122 of the Framework are clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
37. The possibility of biodiversity enhancements would also not be considered to constitute benefits, particularly as many of the enhancements would not be unique to the development proposed and could be carried out without it.
38. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period but this would be short term. Similarly, future occupiers could add to local labour supply and help to support local services and facilities, including those in nearby villages, but would be likely to do so using private means of transport. I therefore afford these benefits limited weight.
39. The proposed development would not comply with development plan policy in respect of its location and the harm to the character, appearance and countryside setting of the area. The proposal would not therefore amount to sustainable development under the terms of the Framework. Overall, the adverse impacts of the proposal are matters of significant weight against the grant of planning permission.
40. Even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested in the Fordham and Witchford appeals, the

⁶ Appeal References: APP/C1625/W/15/3133335 (Land rear of Canonbury Street, Berkeley, Gloucestershire); APP/V2635/W/16/3166074 (Land north of St. Nicholas Close, Gayton, Norfolk) however the original decision was quashed; APP/H0520/W/17/3174462 (Biggin Lane, Ramsey, PE26 1NB); APP/P0240/W/17/3176444 (64 Biggleswade Road, Pottton, SG19 2LX); and APP/W0530/W/18/3214057 (Land to the south of Whitecroft Road, Meldreth, Royston SG8 6ND).

adverse impacts of granting permission identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This does not indicate the proposal should be determined other than in accordance with the development plan.

Conclusion

41. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR