
Appeal Decisions

Site visit made on 18 August 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2020

Appeal A Ref: APP/C1570/W/20/3251337 **Croft End, Molehill Green, Takeley CM22 6PH**

- 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 CJ Homes 1 Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2036, dated 1 August 2019, was refused by notice dated 26 March 2020.
 - The development proposed is 9 no. dwellings of 6 no. 2 storey 4 bedroom houses and 3 no. 3 bed detached bungalow/chalet.
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Appeal B Ref: APP/C1570/W/20/3254526 **Croft End, Molehill Green, Takeley CM22 6PH**

- 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 CJ New Homes Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0886/FUL, dated 15 April 2020, was refused by notice dated 11 June 2020.
 - The development proposed is 9 no. dwellings of 6 no. 2 storey 4 bedroom detached houses and 3 no. 3 bed detached chalet bungalows.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matters

2. As set out above there are two appeals on the same site. The schemes differ only in the detail of the design of the proposed dwellings. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

3. The main issues in each appeal are the effect of the development on:
 - the character and appearance of the area; and
 - the supply of dwellings which meets local needs, with particular reference to the size of proposed dwellings.

Reasons

Character and appearance

4. The appeal site is situated within the countryside, at the edge of the small hamlet of Mole Hill Green, which is formed from a loose knit linear collection of dwellings. The established pattern of development arises from dwellings being sited along the existing roads, with a variety of plot sizes, predominately of single plot depth. This adds positively to the character and appearance of the area.
5. Both appeal schemes would result in the construction of 9 dwellings replacing the existing bungalow. The development would be served off a single access point with the dwellings arranged either side of the central spine road. The Appeal A scheme includes 3 pairs of two storey semi-detached dwellings and 3 detached chalet bungalows, with the Appeal B scheme proposing 6 no. detached dwellings and 3 detached chalet bungalows. There are also some architectural differences between the two schemes.
6. In both appeals the increase in the amount of built development on the site; the formal arrangement of the dwellings; and the density of development arranged in-depth across the site, would be at odds with the established pattern of development. For these reasons, therefore, the proposed development would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area.
7. Permission has been granted for 4 dwellings on the same site and the appellant has provided an overlay plan to demonstrate how the layouts before me differ to that which has already been approved. I have no reason to dispute the appellants evidence which indicates that if the appeal were to fail that the approved scheme would be implemented. However, the fallback scheme would be of a smaller scale. The larger plots would be of a similar loose knit linear pattern of development that exists in and around the appeal site. Therefore, it does not justify the harm I have identified that would arise from the schemes before me.
8. I noted as part of my visit the dwellings under construction along School Lane. The appellant considers these are of a similar size and scale as the appeal proposals and details of the scheme have been provided. However, these dwellings front onto School Lane continuing the linear pattern of development within the locality, which is not the same as the proposals before me and therefore are not directly comparable.
9. I conclude, that both Appeal A and Appeal B would harm the character and appearance of the area contrary to Policies S7 and GEN2 of the LP which looks for development to be compatible with the scale, form and layout of surrounding buildings and to protect or enhance the character of the countryside. This significant, permanent environmental harm to the character and appearance of the area is a matter which weighs heavily against the proposal.
10. Policy S7 of the LP sets out the Council's approach towards development within the countryside, that is land outside of settlement boundaries. It is more restrictive than the National Planning Policy Framework (the Framework) in that it seeks to protect the countryside for its own sake. Consequently, LP

Policy S7 is only partially consistent with the Framework and can be afforded only moderate weight in the determination of this appeal. The policy requires development to only be permitted if its appearance protects or enhances the character of the countryside.

11. The appeal site falls within the 'Countryside Protection Zone' (CPZ) surrounding Stansted Airport and is therefore subject to Policy S8 of the adopted Uttlesford Local Plan 2005 (LP). In the CPZ planning permission will only be granted for development required to be there, or is appropriate to the rural area. The site already benefits from planning permission for 4 dwellings and therefore the Council when it granted planning permission found that development in this location was acceptable in principle.
12. This policy constrains new development, in order to retain the openness of the CPZ and to prevent coalescence between the airport and existing development in the surrounding countryside. The erection of 9 dwellings would inherently increase the built form at the site. However, I consider that the proposal would not cause the coalescence of the settlement with Stansted Airport and would not cause significantly greater harm to the open characteristics of the wider countryside as the development would be limited to the same plot. Therefore, I find no conflict with policy S8.

Housing Mix

13. Policy H10 of the LP requires sites of 3 or more dwellings to include a significant proportion of market housing comprising smaller properties. This is set out in more detail in paragraph 6.14 of the LP which sets out the importance of achieving mixed and balanced communities, and that developments such as those under consideration in these appeals should include an element of 2 and 3 bedroom dwellings, which should represent a significant proportion of the total.
14. Both appeals are described as having 6 no. 4 bedroom dwellings and 3 no. 3 bedroom dwellings. The 3 bedroom dwellings in both schemes are detached chalet bungalows and the first floor plans indicate a 4th room. This is annotated as a playroom but as shown on the drawings as a similar size and configuration to a single bedroom. The council have reached a similar conclusion within their evidence that each proposal comprises 9 no. 4 bedroom dwellings.
15. Even if I were to accept the appellant's position that both schemes comprise 3 no. 3 bedroom dwellings and noting that the policy does not define what is considered to be significant. In the absence of any evidence to the contrary, I cannot reasonably conclude that providing a third of the site with 3 bedroom dwellings would be a significant proportion. Additionally there is no provision of 2 bedroom dwellings in either scheme. Therefore, neither scheme meets the policy requirements set out within policy H10.
16. I am mindful of the age of the plan, which was adopted in 2005, and therefore the evidence which would support this policy may not reflect current circumstances. I also have no substantive evidence in respect of the housing mix and need within Takeley and whether there is a shortfall of 2 or 3 bedroom properties. I have been directed to the 2015 Strategic Housing Market Assessment (SHMA) which forms part of the evidence base of the emerging Local Plan, and emerging Policy H2.

17. The SHMA identifies that the greater need in the District is for family housing and in particular 3 and 4 bedroom properties. However, this document and the emerging policy does not form part of the adopted plan and as such I can not be certain that they represent the most up to date position in relation to the housing requirements for the District. I acknowledge that the SHMA provides an indication that housing needs may have changed within the District since the adoption of the LP. However, in the absence of up to date evidence of the housing need for Takeley, it is insufficient to warrant taking a decision contrary to the development plan in this instance. Therefore I have given them limited weight.
18. I have been referred to paragraph 122 of the Framework, which gives support to development that makes efficient use of land, and I recognise that the proposed schemes both increase the density of development over that which was previously approved. However, paragraph 122 also requires a number of criteria to be taken into account and this includes the identified need for different types of housing and local market conditions. I do not consider the proposed mix of development for either scheme, whilst increasing the density, would meet an identified need for different types of housing. In addition, the schemes fail to address the market conditions as set out within the adopted policy.
19. The reference to other developments near to the site where 8 no. 3 bedroom properties have been permitted, is noted. However, in this instance that would be materially different as these properties would be wholly of a size that the policy seeks to encourage.
20. In conclusion, in the absence of any up to date evidence to the contrary, I consider that in both appeals, the mix of development which lacks the inclusion of smaller properties results in a scheme that fails to achieve a mixed and balanced community. This results in considerable harm and is a matter which weighs heavily against the proposal.
21. Therefore, I consider that both Appeal A and Appeal B fail to adequately demonstrate that the development would achieve an appropriate mix of properties, in conflict with policy H10 of the LP.

Other matters

22. There is also reference to the conduct and advice of the Council and its officers during the planning application process. However, these are not matters for my deliberation in the context of a planning appeal.

Planning Balance

23. It is not disputed that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, albeit I have not been provided with details of the exact level of shortfall. However, I have been provided with an appeal decision in the same village from January 2020 as part of the appellant's evidence and at that time the level of shortfall was 2.68 years and there is nothing to suggest that this figure has improved since that time.
24. Therefore, paragraph 11d of the Framework is engaged, whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

25. Taking into account the current shortfall, 9 dwellings, 4 of which already having been approved, would provide a limited contribution to housing supply in the area. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. However, a significant proportion of these benefits would be realised with the development of 4 dwellings which already has planning permission. The additional benefits of another 5 dwellings would therefore be only modest. Similarly, any benefit arising from it being a site that could be delivered quickly will largely be realised with the smaller scheme.
26. The development would give rise to some economic benefits during the construction phase and provide limited support to local services. The provision of an energy efficient development, if as suggested were built to exceed the building regulations standard, would also be of some environmental benefit.
27. Nevertheless, the identified adverse impacts of the development in respect of character and appearance and lack of an appropriate mix of housing would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, including its presumption in favour of sustainable development.

Conclusion

28. The proposal would be in conflict with LP Policies S7 and H10. Therefore, it would be in conflict with the development plan as a whole. Therefore, in the circumstances of these appeals the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.
29. I conclude that both Appeal A and Appeal B should be dismissed.

G. Pannell

INSPECTOR