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## Appeal Decision

Site visit made on 12 January 2021

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 February 2021**

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**Appeal Ref: APP/C1570/W/20/3251713**

**Land to the south of Radwinter Road, Swards End, Saffron Walden, Essex, CB10 2LR**

- 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 Robert Parker (Beechwood Homes Contracting Ltd) against the decision of Uttlesford District Council.
  - The application Ref UTT/19/2903/OP dated 20 November 2019, was refused by notice dated 21 January 2020.
  - The development proposed is described on the application form as "Erection of up to 9 dwellings"
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The proposal seeks outline planning permission, with all matters other than access reserved for future consideration. Accordingly, I have treated the proposed site layout plan as illustrative only.
3. The appellant states that the Council has misdirected itself on the matter of the internal access road and that this does not fall to be considered in the current application, only the point of access to the highway. However, the matter of access within an outline application is clarified by the Planning Practice Guidance<sup>1</sup>, which refers to the definition provided by the Town and Country Planning (Development Management Procedure) (England) Order 2015, namely that it means 'the accessibility to and within the site [my emphasis], for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.' The submitted drawings show an internal access road and circulation route within the site and I am therefore satisfied that the Council was correct to consider it.

### Main issues

4. The main issues are:
  - the effect of the development on the character and appearance of the area;

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<sup>1</sup> Paragraph: 006 Reference ID: 14-006-20140306, Revision date: 06 03 2014

- whether the development is in an appropriate location, with particular regard to access to shops, services, community facilities and transport choices other than the private car.

## **Reasons**

### *Appeal site context*

5. The appeal site is rectangular in shape and forms part of a larger agricultural field, which gives it a clear open-countryside character and appearance. It lies on the edge of the built-up area of the village, opposite a row of detached and semi-detached dwellings of various architectural styles and maturity. The village hall car park abuts the western boundary of the appeal site, with a community play area directly to the south. The area is primarily characterised by the wide open expanse of countryside to the south of Radwinter Road which extends into the village and gives it a prominent soft landscaped edge.

### *Character and appearance*

6. The appeal site falls outside the development limits of the village and is therefore within the open countryside for planning purposes. There is no evidence before me of a local need for the development in this precise location, or that it is required for a rural worker near their place of work in the countryside. Neither is there any evidence before me of the scheme according with specific policies of the Local Plan in respect of supporting rural communities, replacement dwellings, self-build housing or a specific development allocation. The appellant has also not justified the scheme on the basis of its exceptional quality or innovative design.
7. The appeal site does not have any statutory landscape designation, although it is within an area that benefits from county and district level landscape character assessments. In particular, the site falls within the district landscape character area 'B8 Thaxted Farmland Plateau'.
8. Although the development is positioned on the edge of the built-up area, its position on the undeveloped southern side of Radwinter Road would obliterate the openness of local countryside views from this prominent part of the village which make a substantial contribution to its local character and rural setting. Furthermore, the large open gap between the appeal site and the village hall would increase the scheme's sense of visual isolation and create the impression of it not being properly integrated into the prevailing urban grain. Neither would the scheme represent small-scale infilling compatible with the existing linear form of the village, as allowed for by Policy H3 of the Local Plan within development limits.
9. I recognise that the scheme incorporates a deep open frontage to allow for enhanced landscaping, but this would not diminish the visual impact of the scheme from Radwinter Road directly outside the site. Furthermore, the internal road that runs parallel to the public highway and provides access to each of the dwellings fails to reflect the prevailing pattern of development in the village, which is characterised by dwellings with their own driveways connected directly to the public highway.

10. My attention has been drawn by the appellant to the Inspector's comments for the previously refused scheme of 36 dwellings<sup>2</sup>, namely that the structural landscaping proposed of a small wooded copse could have some localised benefits to the immediate landscape, but that there was no substantive evidence in the form of a landscape and visual impact assessment ('LVIA') which demonstrated the extent to which this would be successful at mitigating the harmful impacts of the development.
11. I recognise that the appellant has as a consequence provided an LVIA with the current proposal and do not disagree with the conclusions reached in terms of the scheme's impact upon the wider B8 Thaxted Farmland Plateau landscape character area, with particular reference to viewpoints 2, 3 and 4. However, whilst the impact may not cause significant harm to the wider landscape, this does not mean that the localised impact is acceptable.
12. Whilst I recognise that the impact from viewpoint 5 would be partly reduced by existing roadside vegetation, to my mind a more appropriate set of viewpoints would have been slightly further to the east where there is a bend in Radwinter Road and to the west just after the roadside vegetation. At both of these points the development would be extremely visible to passers-by with a high degree of sensitivity to change. Furthermore, I am not of the view that additional landscaping in the form of trees and a native species of hedgerow would satisfactorily mitigate the scale and extent of the built form from these points, but would only serve to draw attention to it and increase its prominence, and be heavily at odds with the existing flat open arable landscape character when viewed locally from Radwinter Road.
13. Turning to viewpoint 1, the LVIA states that this view is incorporated into the experience of those passing through the receptor, and that it is not so important that viewers come to take in the view, and that as a consequence, it has been appraised as moderate. However, in my view this assessment underplays the importance of this undeveloped open countryside edge to the character of this part of the village. To my mind the local views and outlook obtained from Radwinter Road when approaching from both the east and west (as described above), are so important that the development would result in a harmful and permanent change to the character of this part of the village. The fact that such views are publicly visible and not from private land intensifies this harmful impact. I recognise that the site is not located within an area identified for its landscape or ecological value, but this does not remove the need for the development to be sympathetic to the character of the area or justify the harm identified.
14. In any event, even if it was possible to successfully mitigate the impact of the development via substantial new landscaping, I cannot be certain that; (a) this would be maintained in perpetuity; (b) that it would reach sufficient maturity to achieve its objective; and (c) that the land needed for a significant scheme of landscaping to the east and west boundaries would leave sufficient developable space to contain 9 dwellings and associated usable garden area. As such, I am not satisfied that landscaping would successfully mitigate the visual impact of the scheme.
15. In view of the above, I conclude that the scheme would appear out of place and fail to integrate into the countryside setting of the village and the

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<sup>2</sup> Council Ref UTT/16/0844/OP and PINS Ref APP/C1570/W/16/3160739.

prevailing pattern of urban grain. The proposal would therefore cause significant harm to the character and appearance of the village and conflict with Policies S7 and GEN2 of the Local Plan<sup>3</sup>, which collectively seek, amongst other things, to ensure that new development; (a) protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development needs to be there; and (b) is compatible with the layout of surrounding buildings.

16. I also find that the scheme conflicts with Paragraphs 127, 130 and 170 of the Framework<sup>4</sup> which collectively seek, amongst other things; (a) development that is sympathetic to local character; (b) schemes that establish or maintain a strong sense of place using the established pattern of buildings, streets and spaces; (c) planning decisions that recognise the intrinsic character and beauty of the countryside; and (d) the refusal of permission for poorly designed development that fails to take the opportunities available to improve the character and quality of an area.

*Whether the development is in an appropriate location, with particular regard to access to shops, services, community facilities and transport choices other than the private car*

17. I recognise that the development would be in close proximity to the built-up part of the village and not be physically isolated. However, this does not mean that it would be sustainable in terms of access to shops, services, community facilities and transport choices other than the private car, or that it should be approved.
18. The village contains a limited number of local groups and clubs, such as the Scouts, but no day-to-day amenities such as shops, schools, medical facilities, commercial employment areas or other essential services. As a consequence the proposed dwellings would be wholly reliant on a range of other towns and villages further afield such as Saffron Walden and Haverhill.
19. There is no interconnecting footway of a sufficient width with associated streetlighting that can accommodate a range of pedestrians (such as those with disabilities) between the appeal site and Saffron Walden. The scheme would not therefore enable or encourage safe-walking by all parties throughout the day and into the evening. There is a bus service available to Saffron Walden and Haverhill, but I do not consider this to be of sufficient enough frequency to encourage a shift away from dependence on the private motor car. I do however recognise that there would be reasonable opportunity to cycle to Saffron Walden, particularly the facilities to its eastern edge (such as Tesco), but would only expect a modest number of trips to be made by this form of transport given the difficulties in transporting food purchases by bicycle, and because other facilities such as the town centre, local high school and train station lie further afield.
20. The appellant has referred to research carried out by the Royal Town Planning Institute<sup>5</sup> which suggests a range of realistic travel distances that people may be prepared to walk or cycle, but this does not constitute adopted planning policy and in any event, the scheme does not comply with all the distances

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<sup>3</sup> Uttlesford Local Plan, Adopted 20 January 2005.

<sup>4</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

<sup>5</sup> How far is it acceptable to walk and how far is it acceptable to cycle, Royal Town Planning Institute, February 2018

referred to for walking. As a consequence, and when considered as a whole, it is my view that an extremely small proportion of trips would be made via sustainable modes of transport and that future occupiers would be heavily dependent on the private motor car.

21. I recognise that in rural locations access to sustainable rural transport solutions will be typically less than that of an urban area and that development in one village may support services in another nearby. However, in this case, I found the overall level of day-to-day access to shops, services and community facilities by walking and public transport to be of such a poor standard, and consequential reliance on the private motor car to be so high, that I consider the appeal site's location to be inappropriate for new residential development.
22. I recognise that the environmental impact from vehicles would diminish as combustion engines are phased out and replaced by ultra-low emission and electric vehicles. However, even if a condition was imposed for an electric charging point to each dwelling as suggested by the appellant, I consider it unlikely in the short to medium term that the majority of future occupants would use these vehicles. As a consequence, this cannot be relied upon as a means of mitigating the inaccessible location of the site.
23. The appellant states that 9 additional dwellings should be considered just as sustainable as other schemes inside the development limits, as allowed for by Policy H3 of the Local Plan. However, I do not consider this to be a sound basis upon which to justify the scheme as it could be repeated too easily and often for all forms of similar development in the countryside on the edge of small settlements, no matter how poor their access to shops, services, community facilities and transport choices other than the private car, and in doing so, would collectively undermine a sustainable approach to local development strategies and settlement hierarchies.
24. In view of the above, I conclude that the scheme conflicts with Policy GEN1 of the Local Plan, which seeks, amongst other things, to ensure that new development encourages movement by means other than driving a car.
25. I also find that the scheme conflicts with Paragraphs 9, 91 and 103 of the Framework as it would result in; (a) a planning decision not playing an active role in guiding development towards sustainable solutions; (b) a planning decision not enabling and supporting healthy lifestyles, for example with safe and accessible sports facilities and local shops; and (c) the planning system failing to actively managing patterns of growth in support of the transport objectives outlined in Paragraph 102; - namely, that it would be heavily car dependant and not promote walking and public transport.

#### *Planning balance*

26. I have not given great weight to the scheme in accordance with Paragraph 68(c) of the Framework as the development does not fall within an existing settlement and neither do I consider the site to be suitable for the reasons outlined above.
27. My attention has been drawn by the appellant to other application and appeal decisions which they feel help to justify the scheme, both within and outside development limits. However, whilst I recognise that there are similarities with some in terms of the size of scheme, accessibility of the location and the

principle of falling outside the development limits of a village, I found none to be comparable in terms of their spatial relationship with the existing settlement and resultant impact upon the character and appearance of the area. The prevailing site circumstances and submitted evidence were also unique to each of these cases and hence the factors to be assessed in the planning balance and the weight to be given to them are not entirely the same as those in the appeal before me. I have therefore reached my own conclusions on the appeal proposal on the basis of the evidence before me.

28. All parties accept that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. In these circumstances, Paragraph 11(d) and Footnote 7 of the Framework confirm that the policies which are most important for determining the application should not be considered up-to-date and that the presumption in favour of sustainable development applies. This means that 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.
29. Although the Local Plan is over 5 years old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework. The amount of weight to be given to development plan policies is ultimately a matter of planning judgement for the decision-maker.
30. Policy S7 is not a policy for the supply of housing in that it does not specify housing allocations or numbers; - its primary purpose is to protect and enhance the natural environment and ensure that planning permission is only given for development that needs to be in the countryside and that the latter will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set, both of which are objectives I consider to be generally consistent with the Framework. I do nonetheless recognise that the operation of Policy S7 would affect the supply of housing in that it takes a more restrictive approach to development than the Framework. In view of this, and the Council not having a 5-year supply of deliverable housing sites, I have only given this policy moderate weight in my assessment.
31. I also consider Policies GEN1 and GEN2 of the Local Plan to be generally consistent with the Framework insofar as they relate to the main issues of this case. However, neither of these have the same effect on the supply of housing as Policy S7 and I have as a consequence given them significant weight in my consideration.
32. Given the considerable shortfall in the Council's 5-year supply of deliverable housing sites, I have also given significant weight in my assessment to the benefits of the scheme, namely; (a) a quickly deliverable scheme of 9 dwellings; (b) future occupiers contributing to local community facilities and clubs in the village, together with shops and services in other settlements such as Saffron Walden and Haverhill; (c) a net gain in biodiversity levels from new landscaping and ecology features; (d) the use of sustainable construction techniques to exceed minimum Building Regulation standards, together with

the provision of on-site renewable energy; and (e) local employment during construction.

33. However, when considered collectively, it is my view that the adverse impacts of the scheme, primarily those relating to the significant harm to the character and appearance of the village, and to a lesser extent, future occupiers' dependence on the private motor car and the scheme's conflict with the development plan, would significantly and demonstrably outweigh these benefits when assessed against the policies in the Framework when taken as a whole.
34. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

### **Conclusion**

35. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

*Robert Fallon*

INSPECTOR