



Appeal Decision

Site visit made on 18 May 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2021

Appeal Ref: APP/C1570/W/21/3266548

Five Acres, Whiteditch Lane, Newport CB11 3UD

- 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 and Mrs Venus against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0843/FUL, dated 3 April 2020, was refused by notice dated 10 July 2020.
 - The development proposed is 5 no. New Build Residential Units and associated highways works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the appeal was lodged the Newport Quendon & Rickling Neighbourhood Plan 2018 – 2033 (the NP) has been the subject of a referendum. The majority voted in support of the NP. Paragraphs 41-064-20180222 and 41-080-20180222 of the Planning Practice Guidance state if more than half of those voting vote in favour of the neighbourhood plan, the plan comes into force as part of the statutory development plan, reflecting section 38(3A) of the Planning & Compulsory Purchase Act 2004. I have allowed the Council and the appellant the opportunity to comment upon the NP and taken the responses into account in determining this appeal.

Main Issues

3. The main issues are:
 - whether the development would be in a suitable location having regard to policies for the location of development in the countryside;
 - the effect of the development upon the character and appearance of the area;
 - the effect of the development upon pollution; and,
 - the effect of the development upon highway safety.

Reasons

Location of development

4. The appeal site is a sizeable area of open paddock north and west of recent residential development, approximately 280m north of the village limits under Policy S7 of the Uttlesford Local Plan (2005) (the LP). It lies just to the north and outside the development limits under Policy NQRHA1 of the NP, which has a boundary separating more comprehensively developed land to the south and east from more open land and limited dwellings north and west. The scale and nature of this proposal would result in a significant incursion of development into the open countryside significantly urbanising open rural land.
5. Policy S7 of the LP seeks to protect the countryside for its own sake, only permitting development where it needs to take place within and is appropriate to a rural area, and if its appearance protects or enhances the character of the countryside. Land to the north and west is open, so the proposal does not constitute the infill of a cluster of dwellings. The evidence does not demonstrate this scheme is appropriate to or can only take place in the rural area. Therefore, the development conflicts with this aspect of Policy S7.
6. Policy NQRHA1 of the NP also seeks to limit development outside the limits to specified development types or uses which need to be located in the countryside, or proposals such as small scale infilling or the construction of new houses of exceptional design. Given its scale and the land being open on two sides this proposal does not constitute small scale infilling, and while in keeping with the local vernacular it does not constitute exceptional design. Therefore, it conflicts with Policy NQRHA1 of the NP.
7. For the reasons set out above the proposed development would not be in a suitable location having regard to policies for the location of development in the countryside. Therefore, it conflicts with Policies S7 of the LP and NQRHA1 of the NP, the relevant provisions of which I have referred to above.

Character and appearance

8. The dwellings to the south are enclosed by an approximately 2m high fence and the plan indicates a similarly defined boundary for new dwellings to the east. Fencing to the south provides a strongly defined boundary between the NP village limits and open countryside. The open, well-vegetated and verdant appearance of the appeal site makes a significantly positive contribution to the character and appearance of the area and the setting of the village. Given the visibility at close proximity from a number of properties, the open lower land to its north and west, and some longer distance views, I regard this as a sensitive location.
9. Notwithstanding the spacing between dwellings, the significant height and scale of these dwellings, and the garages/car ports, access, parking, fencing, and domestic paraphernalia constitutes a significant intensity of new built development. It would project large dwellings on a significantly sized site, north and west of existing building and plot lines, markedly diminishing and harming the landscape features and value of the paddock. It would also significantly obstruct views to and from the countryside.
10. Given the layout, no of dwellings and spacing, it would not represent over development. It would also reduce the number of dwellings adjacent to the

open countryside. However, the site layout means the dwellings increase in height and the building line increases in distance from the settlement boundary to the west. Consequently, this development would result in a somewhat abrupt boundary and urbanised setting to the settlement, that would not respect the character and appearance of this countryside location. Therefore, it would have a significant adverse effect upon the visual connection of the village, the rural setting and the character and appearance of the area.

11. There is several established trees and areas of scrub within the appeal site and on the settlement boundary which would be lost. The suggested planting and planning conditions do not assure me there would be any overall benefit to the village setting. The numbered Viewpoints 1 – 5 in the Landscape & Visual Assessment (LVA) are not to the north, where the site is most visible. Furthermore, the LVA concludes that after 10 years the effect on landscaping will be unchanged from the effect upon completion. The development would not make a positive contribution to the distinctive character of the village and would be harmful to its setting.
12. The full evidence before the Inspector for Ref APP/C1570/W/15/3003038 is not before me, which pre-dates the current NP. I note the conclusions in respect of linear development and the wider countryside. However, for the reasons set out above, this proposal in its current context would be significantly harmful and contrary to a number of development plan policies. As the proposal at Bramblemead was for the replacement of existing buildings with 2 dwellings, it is not directly comparable to this scheme. The scheme Bury Grove was a renewal of a permission with fewer dwellings, appearing to benefit from greater landscape screening. Furthermore, at the time of that approval the NP was not at such an advanced stage. These examples are not directly comparable to the appeal proposal, and do not justify allowing this appeal.
13. For the reasons set out above the development would be significantly harmful to the character and appearance of the area, in conflict with Policy S7 of the LP and Policies NQRHA2, NQRHA3 and NRQHD2 of the NP. Amongst other things these policies require that development protects and enhances the character and appearance of the countryside, taking into account existing views into and from the countryside, is sensitive to the surrounding countryside and landscape taking into account the existing connection and setting of the village.

Pollution

14. The Council's delegated report and first reason for refusal refers to the cumulative impact of the development conflicting with paragraph 180 of the Framework, which relates to the effects of pollution. I have also noted the concerns raised by interested parties in this regard. The development would result in some noise, disturbance, and additional vehicles during the temporary construction period. There would also be a small increase in vehicles using the lane upon completion as well as very limited noise associated with the vehicle movements and normal domestic use of the dwellings.
15. The Council's Environmental Health Officer has raised no objection to the development subject to the imposition of planning conditions in respect of construction management and electric vehicle charging. Having regard to the imposition of suitable planning conditions, there is no substantive evidence advanced demonstrating this development of five dwellings would be likely to result in material harm in respect of noise, air, water, or light pollution on

health, living conditions or the natural environment. Therefore, I do not find the development would not conflict with paragraph 180 of the Framework, the relevant provisions of which I have referred to above.

Highway safety

16. The site would be accessed via an approximately 400m long section of Whiteditch Lane which is understood to be a publicly maintained byway used by vehicular traffic. Residential developments have resulted in some passing bays being installed and a limited section of footway terminating north of the 'S' bend in proximity to Bury Water Lane. The 'S' bend is one of the parts of the lane where pedestrians share the byway with vehicular traffic and other users.
17. I note the highway concerns raised by interested parties, and the appellant's evidence in respect of matters such as the cumulative effect with other developments, number of movements, vehicle speeds and absence of recorded personal injury incidents. This development would result in a small increase in vehicular, cycle and pedestrian movements along the byway. Therefore, it would be likely to result in a small increase in the potential for conflict on parts of the lane, and some potential harm to highway safety.
18. The highway proposals include a segregated footway around the 'S' bend and to its north, likely to provide some benefit for pedestrians. However, I see no evidence that would lead me to conclude the benefits of these works would be more than limited. The Highway Authority (HA) has outstanding concerns in respect of matters such as land ownership, aspects of construction management, details of the structure and footway gradients. However, if I were to find the effects acceptable in respect of character and appearance, and agreed it has been demonstrated a satisfactory scheme would be deliverable through the Grampian condition suggested by the HA, this scheme would be likely to ensure a limited highway benefit.
19. Based upon the evidence before me, subject to the imposition of suitable planning conditions, the development would result in a limited overall benefit in respect of highway safety. Therefore, it would not conflict with Policy GEN1 of the LP which requires development must not compromise highway safety. It would also not conflict with paragraph 109 of the National Planning Policy Framework (2019) (the Framework) which states development should be refused on highway grounds if there would be an unacceptable impact upon highway safety.

Other Matters

20. The ecological information submitted with the application and Council's ecological advice indicates that subject to the imposition of suitably worded conditions the development could be made acceptable in respect of biodiversity. There might be some enhancements possible secured through the imposition of suitably worded planning conditions. However, the evidence suggests the proposed benefits would be small.

Planning Balance

21. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration. The Council's updated trajectory of housing land supply (HLS) at April 2020 suggests it was 3.11 years, but the

appellant's calculations suggest it may now be at 2.71 years. In either scenario the shortfall would be acute, and therefore the tilted balance in paragraph 11d) would apply. If I were to agree with the appellant, paragraph 14 of the Framework would not be engaged as the HLS would be below 3 years.

22. I have not been presented with substantive evidence from the Council that demonstrates it would be able to address its acute housing land supply deficit without permitting some housing outside of settlement boundaries. However, the development conflicts with Policy S7 of the LP and Policies NQRHA1, NQRHA2, NQRHA3 and NQRHD2, in respect of the location of development and the significant harm to the character and appearance of the area. Therefore, while it may comply with some policies of the development plan, it does not comply with the development plan read as a whole.
23. I note Inspector's positive overall findings in relation to appeals concerned with significantly larger developments¹ outside of settlement boundaries and the LP was adopted approximately 16 years ago. I have also been provided with a number of references to appeal decisions and copies decision letters² finding varying weight to be attributed to S7. The full evidence before those Inspectors is not clear and the balance of considerations (for example, No of dwellings, affordable housing, flood risk, stage of the NP, effect upon the countryside and sports facility provision) are not the same as this appeal.
24. However, I share the view of the appellant that the LP settlement boundary for Newport is based upon historic housing need, and the blanket approach to protect all countryside in S7 is not compliant with the more positive, balanced, and nuanced approach of the Framework, so it is not up to date. However, in seeking to protect and enhance the character of the area it is consistent with the design policies of the Framework. Therefore, the conflict with S7 still attracts moderate weight overall. Furthermore, the development also conflicts with a number of policies of the newly made NP, which are consistent with the Framework. Having regard to the totality of harm, especially to the character and appearance of the area, the conflicts attract significant weight in this instance.
25. The proposal would result in a modest economic benefit during construction and once complete a small on-going spend in the local economy that could provide limited help to sustaining the settlement as a key village. In the context of District housing need these five dwellings would make a small contribution. The development would also make a small contribution to the vitality of rural communities and services, in a location reasonably well located to access the transport network. As a small site it may be built out relatively quickly contributing to boosting the supply of housing. There would be a limited highway benefit through the proposed improvement works. Any benefits with respect to ecology would be small, attracting a small amount of weight in favour of the scheme. The overall benefits would attract moderate weight in favour of the scheme.
26. Taking together the harm from the conflict of the development with the policies of the LP and the NP outlined above, the harm from the development is such

¹ APP/P1560/W/17/3176089 and APP/P1560/W/17/3174843.

² Ref APP/C1570/W/19/3242550, APP/C1570/W/16/3166101, APP/C1570/W/19/3229420, APP/C1570/W/18/3207601, APP/C1570/W/18/3209655.

that it significantly and demonstrably outweighs the benefits of the development when assessed against the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

27. The development conflicts with the development plan read as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR