



Appeal Decision

Site Visit made on 16 November 2021

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2021

Appeal Ref: APP/C1570/W/21/3272768

Land east of Bannister Green, Felstead, Dunmow CM6 3NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr P Hutley against Uttlesford District Council.
 - The application Ref UTT/21/0079/OP, is dated 5 January 2021.
 - The development proposed is described as, 'outline application with all matters reserved with the exception of access and landscaping for 9 detached dwellings on Land East of Bannister Green, Felstead, Dunmow CM6 3NH'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was made in outline with only the matters of access and landscaping being sought for approval. I have therefore had regard to the submitted the drawings insofar as they relate to access and landscaping only.

Main Issues

3. The main issues are:
 - whether the proposed development would provide a suitable location for housing with regard to the character and appearance of the area; and
 - the effect of the proposal on Blackwater Estuary Special Protection Area (SPA) and Ramsar site.

Reasons

Character and appearance

4. The site lies outside of defined settlement limits. As such, the proposal for nine market dwellings would conflict with Policy HN5 of the Felstead Neighbourhood Plan 2018-2033 (NP) which restricts development outside of Village Development Limits other than for a number of exceptions, none of which apply in this case.
5. Policy S7 of the Uttlesford Local Plan Adopted January 2005 (LP) states, among other things, that in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area.

6. NP Policy CW1 states that Development which results in the interruption or severance of the landscape character of the countryside, including important views and vistas, traditional open spaces and including that which results in the coalescence of the individual greens and hamlets in Felsted or our parish with surrounding parishes, will not normally be permitted. It goes on to say that development will only be permitted where it includes mitigation measures that minimise the visual impact of the development through appropriate screening and design, and should include measures to enhance the landscape character.
7. The site is a parcel of undeveloped agricultural land that lies adjacent to a ribbon of development to the east. Since the site is undeveloped and forms part of a wider agricultural field, it has a closer relationship to the open countryside than to the dwellings along the road. As such it is in keeping with the rural character of the area and provides an attractive setting for the group of dwellings nearby.
8. The proposal for nine dwellings would not only introduce built development, but also significant areas of hard standing and domestic paraphernalia that would urbanise the site and harmfully intrude into the countryside.
9. The flank elevation of Kunduchi, the dwelling which lies to the west of the site, is visible from the site and wider countryside. Therefore, while there may not be a soft transition to the countryside, the ribbon of development on this side of the road has a clear end point defined by Kunduchi as well as the public footpath. The proposal would not only urbanise the site, but it would also be separated from the existing settlement by the public footpath. As such, the development would appear as an intrusion into the open countryside, and not as a natural extension of the settlement.
10. I acknowledge the findings of the Landscape and Visual Appraisal December 2020. The proposed landscaping strategy includes a landscaping buffer around the south and east sides of the development as well as retention of the trees and hedgerow along the northern border with the highway. As such, views of the development would be partially mitigated from long views across the countryside. I also acknowledge that given the proximity to the existing ribbon of development, the proposal would be viewed against a backdrop of existing dwellings including the dwellings at Weston on the opposite side of the road, which were under construction at the time of my site visit.
11. Since the appeal scheme would not extend further to the east than the development at Weston, it would not bring the settlement edge closer to other settlements. Therefore, the scheme would not conflict with NP Policy ICH5 which resists development where it would increase the risk of coalescence of Felsted hamlets with any other settlement.
12. However, given the number of dwellings proposed for the site and that the plot is currently a part of the open countryside, the scheme would constitute an intrusion into the countryside that would significantly diminish the rural setting of the settlement. This effect would be most apparent in close views from along the highway even with the existing hedgerow and trees.
13. Consequently, the proposed development would not provide a suitable location for housing, with regard to character and appearance. Therefore, it would conflict with LP Policy S7 and NP Policy HN5 which directs developments to within settlement boundaries. In addition, the scheme would conflict with

NP Policy CW1 which resists development which results in the interruption or severance of the landscape character of the countryside among other things.

Blackwater Special Protection Area (SPA) and Ramsar site

14. Since the site lies within the Zone of Influence (ZOI) for the Blackwater Estuary SPA & Ramsar site. New housing development within the ZoI would be likely to increase the number of recreational visitors to SPA, potentially resulting in disturbance to the integrity of the habitats of qualifying features.
15. The number of additional recreational visitors from nine dwellings would be limited, the likely effects on SPA from the proposed development alone may not be significant. However, in combination with other developments it is likely that the proposal would have significant effects on SPA and Ramsar site.
16. A signed and dated Unilateral Undertaking which secures financial contribution towards the Essex Coast Recreational Avoidance Mitigation Strategy (RAMS) was submitted as part of this appeal.
17. The Essex Coast (RAMS) sets out detailed mitigation measures that would be funded by S106 contributions at a specified tariff per dwelling. The submitted S106 makes for financial contributions in accordance with the RAMS. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
18. Consequently, the proposed development would not harm the Blackwater Special Protection Area (SPA) and Ramsar site. Therefore, it would not conflict with LP Policy GEN7 and ENV7 which relate to nature conservation and designated sites.
19. Since LP Policy GEN6 relates to infrastructure, it is not directly relevant to this main issue.

Other Matters

20. I acknowledge local concerns including those relating to flooding, and the effect on doctors' surgeries and schools. However, there is little evidence before me to substantiate these matters and in any event, they have not altered my overall decision.
21. I note the comments of the Inspectors for the cases at Cressing and Newport. However, the site at Newport lies some distance from the appeal site and the scheme at Cressing is for a far greater number of dwellings such that they do not form a direct comparison to this appeal which must be determined on its individual merits.

Planning Balance

22. The Council are unable to demonstrate a five-year housing land supply. Since the figures lies in the region of 3 years, the shortfall is significant. As such, the tilted balance in the terms of paragraph 11(d) of the Framework is engaged.

23. The proposal would contribute nine dwellings to the local housing supply. In addition, future occupiers would be likely to contribute to the community and local services. Furthermore, they may be temporary economic benefits during the construction phase. In addition, the evidence indicates that there would be some biodiversity benefits to the site. Given the number of dwellings, I attribute these benefits moderate weight.
24. Since LP Policy S7 seeks to protect the countryside for its own sake, it is not strictly in accordance with the Framework, which takes a less restrictive approach. I therefore attribute reduced weight to the conflict with this Policy. However, NP Policies HN5 and CW1 are in accordance with the Framework and I attribute the conflict with these Policies significant weight.
25. The proposal would result in harm to the character and appearance of the area. I acknowledge that the harm may be partially mitigated by the landscaping proposal. However, the proposal would nevertheless significantly urbanise the site and intrude into the open countryside. I therefore attribute significant weight to the harm in this respect.
26. Therefore, while I note the evidence regarding paragraph 14 of the Framework, even if these provisions were not engaged, the adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

27. For the reasons given above the proposed development would conflict with the development plan as a whole and in the event of material considerations to indicate otherwise, the appeal is dismissed.

R Sabu

INSPECTOR