



Appeal Decision

Site visit made on 28 February 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2023

Appeal Ref: APP/C1570/W/22/3306244

Five Acres, Whiteditch Lane, Newport, Essex 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 & Mrs Venus against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0920/FUL, dated 1 April 2022, was refused by notice dated 24 June 2022.
 - The development proposed is the construction of 2 no. residential dwellings
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the development would be in an appropriate location, with particular regard to local development strategies and accessibility to services and facilities;
 - the effect of the proposal on the character and appearance of the area; and,
 - highway safety.

Reasons

Location

3. The appeal site is located outside development limits, as defined by Policy S7 of the Uttlesford Local Plan Adopted 20 January 2005 (LP) and Policy NQRHA1 of the NP and therefore defined as countryside.
4. Policy S7 of the ULP states that the countryside will be protected for its own sake, and that planning permission will only be given for development that needs to take place there or is appropriate to a rural area. This will include infilling in accordance with paragraph 6.13 of the housing chapter.
5. Policy NQRHA1 of the NP sets out that only certain types of development will be supported at locations which lie outside development limits. These include small scale infill proposals within existing clusters of development.
6. The NP defines infill as "the development of a relatively small gap between existing buildings". The NP defines the term "cluster" as "a low density grouping of houses at an individual site, or hamlet, separated from the villages, and comprising a small number of dwellings in a non-linear arrangement".

7. The appeal site is located opposite houses however the site is a large open area which provides a well-defined boundary between the development on Pastures Close and edge of the housing allocations plan shown within the NP. There are also large gaps to the nearest houses to the side and rear, as such, the proposal does not meet the definition of infill development. Nor does it meet any other exemptions in the Policy. The development therefore conflicts with these aspects of Policy S7 of the LP and NQRHA1 of the NP.
8. The site is located on the edge of the development limit, and whilst close to settlement of Newport, which offers a range of facilities, access to public transport in the area is limited. In particular, the nearest bus stop is located over 500m away from the site, with access via the unlit byway with no footpaths and, as such, the road layout would not encourage walking or cycling particularly during times of darkness and inclement weather. This being the case, there is no evidence of alternative means of transport to and from the site other than by private motor vehicles.
9. For the above reasons, the proposed development would not be in a suitable location. It would therefore be contrary to Policies S7 and GEN1 of the LP and Policy NQRHA1 of the NP which seek to ensure development is located in an appropriate location and encourages movement by means other than driving a car. It would also be contrary to paragraphs 8, 104 and 110 of the Framework which seek to ensure development encourages the use of sustainable transport.

Character and appearance

10. The appeal site is a large, open area of land situated adjacent to Pastures Close which contains a number of dwellings. The appeal site is bordered by fencing which provides a well-defined boundary between the development on Pastures Close and edge of the housing allocations plan shown within the NP. In this regard, the appeal site, due to its open, verdant appearance makes a positive contribution to the character and appearance of the area.
11. I have had regard to the appellants Landscape and Visual Assessment (LVIA) which found that the proposed development would cause no material harm to local landscape character, and has the potential to provide an improved, more thinning transition of built form and softer, more graduated or rounded edge to the settlement. I also note the findings that there would be no long range views of the proposal.
12. Notwithstanding this, the absence of built form at the appeal site, which is bordered by fencing provides a well-defined boundary and clear distinction between the countryside and adjacent house. This was noted during my site visit where I saw that there are general views across the open landscape as you walk up Pastures Close, due to the gradual incline. Whilst the fence does act as a barrier for many views from public vantage points, there is a sense of openness due to their being no build form beyond this space which is clear.
13. The dwellings would sit on lower ground to nearby existing houses, existing vegetation and further proposed landscaping would provide some screening. Furthermore, paddock fencing with native hedge planting is proposed to the rear of the plots which is characteristic of Whiteditch Lane. However, these would not mitigate against the overall built form and particularly wide plot sizes.

14. The dwellings proposed are sizeable and would occupy a large footprint which would be at odds with the existing properties nearby which are smaller and have a denser garden to built form ratio. Furthermore, the introduction of garages, large driveways and general domestic paraphernalia would further exacerbate the intensity of the proposed built form. These would result in views to and from open land, and wider countryside being obstructed and therefore erode this positive characteristic.
15. The appellant contends that the proposal is to act as a transition from the dense development on Pastures Close and the larger plots on Whiteditch Lane. However, for the reasons outlined, the proposal would not be in keeping with the open and verdant character and appearance of the area and furthermore, nearby dwellings have a linear pattern of development which would be eroded by virtue of the proposal which would have large spaces on either side.
16. The proposed heights of the dwellings would be similar to those adjacent, however due to the position of the dwellings being on open land this would change the appearance of this side of the road. Therefore, due to their overall height and built form, in the context of the open land, the dwellings would be particularly prominent and erode the open and verdant character and appearance of the area.
17. I conclude that the proposal would cause harm to the character and appearance of the area. It would therefore be contrary to Policies S7 and GEN2 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, is sensitive to the surrounding countryside and landscape taking into account the existing connection and setting of the village. It would also be contrary to paragraphs 119 and 174 of the Framework which seek to ensure development recognises the intrinsic character and beauty of the countryside and promotes an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment.

Highway safety

18. The appeal site would be accessed via Pastures Close, which is access by a short section of Whiteditch Lane which is understood to be a publicly maintained byway. Whiteditch Lane is a narrow single track with passing for vehicles only available by accesses, junctions and dedicated passing bays.
19. I sympathise with residents in that the cumulative effect of the increase in housing has increased the use of local roads. However, while there has been other developments using Whiteditch which is also used by walkers, cyclists, and horse riders, given the scale of the scheme, the increase in movements would be and any potential conflicts would be small as such, there is no compelling evidence to suggest there would be harm to highway safety.
20. I note the findings of the Inspector in the previous appeal¹ for development on the appeal site whereby it was considered that the development would result in a limited benefit to highway safety with the imposition of a planning condition. The circumstances are however different in that 5 houses were proposed which would generate significantly more vehicular movements and in this particular

¹ APP/C1570/W/21/3266548

case no improvements are being proposed. I also note the objection from the highway authority in the previous appeal, whereby there is no objection to the proposal in front of me.

21. I acknowledge that there are concerns over the condition of Whiteditch Lane; however, whilst potholes were noted, I observed that the road was not significantly damaged and was therefore in a useable condition. The proposal would also unlikely result in any significant increase in traffic using the lane, which combined with the low speeds would unlikely result in any damage to the lane.
22. In coming to this view, I have had regard to the recent appeal decisions²³ referred to by the Council whereby I share similar views with the Inspector's in regard to the effect of development in the area on highway safety.
23. I also note the concerns raised over the potential disruption during construction of the dwellings, including construction traffic, manoeuvring and noise. However, given the scale of the development, any disturbance would be for a temporary period and could be mitigated by a suitably worded condition for a construction management plan.
24. I therefore conclude that the development would not lead to harm to highway safety. According, the proposal would be in accordance with Policy GEN1 of the LP which, amongst other things, seeks to ensure development does not compromise highway safety. The proposal would also be compliant with paragraph 111 of the Framework, which states that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

25. I have had regard to the appeal decision⁴ referred to by the appellant and whilst the information is limited, in this case the Inspector found that the proposed development would constitute as infill, as there was residential development on both sides of the appeal site, which differs from this appeal where it is surrounded by open land and as such is materially different.
26. I have also had regard to the appeal decision⁵ whereby the Inspector viewed that the large plot sizes in that proposal would have regard to and reflect the character and appearance of the area. However, this appeal relates to development on Whiteditch Lane whereby the existing houses are characterised by their dispersed nature, large plots, and set-back distances from the lane. This is distinctly different to the character and appearance of the site and houses on Pastures Close as plot sizes are much smaller.
27. The appellant has cited case law⁶ which concerns factors relevant on the aspect of openness. However, this relates to openness in the context of development located within the green belt. As the appeal proposal is not located within the Green Belt this case law is therefore not relevant.

² APP/C1570/W/21/3281255

³ APP/C1570/W/21/3289808

⁴ APP/C1570/W/21/3281255

⁵ APP/C1570/W/18/3207601

⁶ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

28. I note that the site might not be in productive use and may never be, however this in itself is not a reason to allow harmful development.
29. The appellant refers to a development approved at Bury Grove, however no information has been provided about this particular application in order for me to make a comparative assessment against this appeal.
30. The proposal would have economic benefits in relation to boosting the supply of housing albeit the provision of 2 houses would be limited. Future occupiers would also have spending power, which in turn, would help support the local economy. There would also be some economic benefit during the construction and fitting out of the dwellings as well as the new homes bonus. There would be some social benefits in supporting the local community and potential local clubs and societies. The environmental opportunities include the potential for biodiversity enhancements and construction of the dwellings to a high energy rating, lowering consumption.

Planning balance

31. The LP dates from 2005 and whilst this pre-dates the Framework, paragraph 219 of the Framework makes it clear that weight should be given to existing Policies according to their degree of consistency with the Framework. In this regard, and taking account of the compatibility assessment⁷ I find that Policy S7 is not wholly consistent with the Framework, particularly due to its blanket approach to protecting the countryside which is not consistent with the more positive approach of the Framework. I therefore afford the proposals conflict with Policy S7 moderate weight.
32. Paragraph 112 a) of the Framework seeks to give priority to pedestrian and cycle movements, and so far as possible, facilitating access to public transport. Paragraph 130 seeks to ensure development maintains a strong sense of place and is visually attractive as a result of good layout. I see no fundamental conflict between these aims of the Framework and those of Policies GEN1, GEN2 of the LP and Policies NQRHA1, NQRHA2, NQRHA3 and NRQHD2 of the NP, as such the conflict between the proposal and these policies should, be given significant weight.
33. The proposal would be contrary to the policies referred to above and as such, there would a conflict with the development plan as a whole.
34. As the Council cannot currently demonstrate a 5-year housing land supply and this is an application for the provision of housing, the development policies which are most important for determining the application are considered to be out-of-date in accordance with paragraph 11 d) of the Framework. I am therefore required to consider, as set out in Framework paragraph 11 d) ii, if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
35. It is additionally necessary to consider the effect of paragraph 14 of the Framework. This sets out that in situations where the presumption applies, the adverse impact of allowing development that conflicts with a neighbourhood

⁷ Uttlesford Local Plan 2005 - National Planning Policy Framework Compatibility Assessment July 2012 Adopted by Cabinet for Development Management Purposes September 2012

plan is likely to significantly and demonstrably outweigh the benefits, where four criteria all apply.

36. To consider these criteria in turn, the NP was made on 28 June 2021 and consequently became part of the development plan two years or less before the date of this decision. The NP contains housing policies and allocations to meet its identified housing requirements. There is some dispute over the figure however even if I were to take the appellants figure it exceeds the three-year supply required. The latest data (from the Housing Delivery Test results 2022) on the Council's housing delivery shows that it was at least 45% of that required over the previous three years. The four criteria are consequently met, and I have found above that the appeal proposal conflicts with the NP.
37. There would be limited social, economic and environmental benefits associated with 2 houses even when taking account the objective of boosting significantly the supply of housing in the Framework and the Council's housing land supply position. Set against this the Framework seeks to give priority to pedestrian and cycle movements, and so far as possible, facilitate access to public transport. Furthermore, the Framework seeks to ensure development maintains a strong sense of place and is visually attractive as a result of good layout.
38. Consequently, when assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusion

39. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

D Wilson

INSPECTOR