



Appeal Decision

Site visit made on 18 July 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/C1570/W/23/3315609

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 and Mrs Venus against the decision of Uttlesford District Council.
 - The application Ref UTT/22/2209/FUL, dated 5 August 2022, was refused by notice dated 24 October 2022.
 - The development proposed is the construction of 2 no. new residential dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. During the course of this appeal a related appeal decision¹ was issued. Consequently, the Council have withdrawn their concerns regarding highway safety. The Council's decision notice encompasses two further matters under a single reason for refusal. I have therefore dealt with these two matters as one issue as reflected below.

Main Issue

4. Having regard to the above, the main issue is whether the appeal site is a suitable location for the proposed development, having regard to local policy, national policy and the character and appearance of the area.

Reasons

5. The area is rural, characterised by dwellings surrounded by open fields. The appeal site abuts the north of Pastures Close and comprises a large open field, free from built development. It is predominantly bound by fencing and mature hedges, providing a well-defined boundary between the existing residential development and the open countryside beyond. The properties immediately to the east are substantial in scale set within spacious verdant plots, positioned facing Whiteditch Lane. The properties to the south, front Pastures Close and

¹ Appeal Reference APP/C1570/W/22/3306244

- are more tightly spaced. To the north and west, the appeal site is open with significant separation distances to the next dwellings.
6. Despite the tall boundary fencing and limited public viewpoints, when viewed from Pastures Close there are unrestricted views across the appeal site towards open countryside and sky. Whilst the fence does somewhat screen the appeal site, the lack of built development and open, verdant appearance positively contribute to the rural character of the area and the setting of the village.
 7. Policy S7 of the Uttlesford Local Plan (January 2005) (ULP) defines the countryside as all parts of the plan area beyond the Green Belt that are not within the settlement or other site boundaries. Policy NQRHA1 of the Newport Quendon & Rickling Neighbourhood Plan (June 2021) (NP) sets development limits. The parties agree that although directly abutting the settlement boundary of Newport, the appeal site is designated as countryside.
 8. Development within the countryside is strictly controlled by ULP Policy S7, which only supports development that needs to take place within the countryside or is appropriate to the rural area, including infilling. Although the Uttlesford Local Plan 2005 – National Planning Policy Framework Compatibility Assessment (September 2012) highlights that Policy S7 takes a more protective approach than the National Planning Policy Framework (the Framework), the broad thrust of the policy is consistent in seeking to distribute development to the most appropriate locations whilst maintaining the character and appearance of an area.
 9. Similarly, NP Policy NQRHA1 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. The aims of such housing allocation policies include to preserve and promote green areas within the village, to protect the special landscape characteristics of the area and to ensure that the location of new developments is sustainable. Infill is defined by the NP as 'the development of a relatively small gap between existing buildings'.
 10. ULP Policy S7 also stipulates that development must protect or enhance the character of the countryside. Further details are provided by NP Policies NQRHA2, NQRHA3 and NQRHD2 which set out design criteria to ensure that the visual connection to the countryside is not lost, historic settlement and field patterns are protected, and that development relates well to its site and surroundings, making a positive contribution towards the distinctive character of the village as a whole.
 11. The appeal site is immediately adjacent to other recently constructed dwellings² on the north side of Pastures Close. However, the adjacent dwellings are in a backland position and do not address the highway. Further, despite the proximity of No 20 Pastures Close, the proposal would be set back substantially from the existing building line of the street. Although the proposal would align with the recently constructed dwellings to the east, when viewed in context, the proposed dwellings would appear distinctly separate and would not relate well to the surrounding properties. They would not appear to infill a small gap between existing buildings and as such, would not meet the definition of infill

² Application Reference UTT/20/0805/FUL

development, nor would it meet any other exemption criteria highlighted by Policy NQRHA1 as acceptable outside development limits.

12. Although the proposed dwellings would be smaller than those previously proposed³ and would be of a similar design and height to the existing dwellings on Pastures Close, their built form would be substantial. Existing and proposed landscaping would provide some screening and the use of paddock fencing and native hedge planting would be in keeping with the rear garden boundary treatments of adjacent properties. Whilst I acknowledge that the proposed dwellings would not be visible in long range views, due to their scale, position, and the proposed removal of the tall fencing they would appear prominent when viewed from Pastures Close and would erode the existing visual connection with the countryside.
13. The subdivision of the large open field and its development with two substantial dwellings and associated features, including areas of hardstanding would urbanise the plot and would significantly diminish the contribution that it makes to the open rural character of the area and the setting of the village. Although the proposal would provide a more graduated edge to the settlement, acting as a transition between the denser development to the south and the more spacious plots to the north. The introduction of development in this location would alter the historic field pattern at the edge of the settlement and greatly reduce the sense of openness currently found on this section of Pastures Close.
14. I note the Council's concerns regarding accessibility and the use of sustainable transport. Notwithstanding, that the proposal would be located outside of the development limits and more than 400m from the nearest bus stop. The Council have withdrawn their highway safety concerns and I am satisfied that the proposed dwellings would be within walking or cycling distance of a range of services and facilities available in Newport and would have access to suitable routes.
15. However, having regard to local and national policy as a whole and the character and appearance of the area, I conclude that the appeal site would not be a suitable location for the proposed development. The proposal would conflict with Policy S7 of the ULP and Policies NQRHA1, NQRHA2, NQRHA3 and NQRHD2 of the NP which collectively seek to locate development in appropriate locations whilst ensuring development protects visual connections to the countryside and the historic settlement and field pattern, whilst positively contributing to the distinctive character of the area.
16. Similarly, the proposal would conflict with the Framework where it requires development to be sympathetic to local character, including landscape setting and maintain a strong sense of place.
17. In this case, I find no conflict with Policy GEN1 of the ULP which requires that development encourages movement by means other than car, whilst taking account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.

³ Appeal Reference APP/C1570/W/22/3306244

Other Matters

18. 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.
19. My attention has been drawn to other appeal cases in the area ^{4,5} which dealt with the construction of developments of similar scale. However, there are fundamental differences to the appeal proposal, including the immediate site surroundings and plot characteristics. As such, the context would differ significantly to that of the scheme before me, and so it does not lead me to a different view in this case.
20. The appellant has cited case law ⁶ 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.

Planning Balance

21. Although the parties agree that the Council cannot demonstrate a five-year housing land supply as set out in the Framework. The appellant asserts that the shortfall is greater than that reported by the Council, suggesting a figure of 4.28 years is more accurate than the Council figure of 4.89 years. Regardless of the alleged shortfall, Framework paragraph 11d is engaged. Although the NQRNP contains policies and allocations to meet its identified housing requirement, it was adopted over two years ago and the circumstances in Framework paragraph 14 do not apply.
22. The Framework requires that developments add to the overall quality of the area, and are sympathetic to local character and landscape setting, whilst maintaining a strong sense of place. I have concluded that the proposal would erode the existing visual connection with the countryside, diminish the contribution that the appeal site makes to the open rural character of the area and the setting of the village and reduce the sense of openness. Therefore, the conflict between the proposal and Policy S7 of the ULP and Policies NQRHA1, NQRHA2, NQRHA3 and NQRHD2 of the NP should be given significant weight.
23. Nevertheless, the Framework seeks to boost the housing supply and highlights the important contribution small sites can make. The proposal would provide two additional dwellings within an accessible site and contribute towards the boroughs housing supply. However, two additional houses, would make little difference to the overall supply of housing, even if any shortfall in supply were in line with the figure alleged by the appellant. These benefits would be of moderate weight.
24. The proposal would be able to offer biodiversity enhancements and would be constructed with a high energy rating. While the Framework seeks to ensure development mitigates climate change and provides a biodiversity net-gain, these matters only attract moderate weight.

⁴ Appeal Reference APP/C1570/W/21/3281255

⁵ Appeal Reference APP/C1570/W/18/3207601

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

25. Short term employment would be provided during the construction and in the long term the future occupiers would benefit the local economy and community by helping to sustain the vitality and viability of the existing settlement. In addition, the Council would receive funding in the form of the New Homes Bonus. However, the social and economic benefits of two additional dwellings would be modest and would attract limited weight.
26. Consequently, when assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

27. Overall, for the reasons given above, I conclude that the proposal would conflict with the development plan, as a whole, and there are no material considerations, including the provisions in the Framework and the benefits of the proposal, which indicate that the development should be determined other than in accordance with it. Therefore, the appeal is dismissed.

K Allen

INSPECTOR