



Appeal Decision

Site visit made on 12 March 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12.04.2024

Appeal Ref: APP/C1570/W/23/3327093

Land adjacent Greenfields, Bartholomew Green, Great Leighs, Chelmsford CM3 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr J Bird against Uttlesford District Council.
 - The application Ref is UTT/23/1345/OP.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application is submitted in outline with all matters other than access reserved for a subsequent reserved matters application.
3. The appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council has provided a statement explaining the reasons why it would have refused planning permission, had it been able to do so. I have had regard to the Council's statement in framing the main issue.
4. The National Planning Policy Framework (the Framework) was updated in December 2023, after the start of this appeal. The Council's appeal statement and the appellant's final comments were submitted after the revised Framework was published, so I am satisfied both parties have had an opportunity to consider the relevance of the revised Framework to the appeal.
5. I understand the Council has consulted on an emerging Draft Local Plan (DLP) under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. However, I am not aware of the exact stage the DLP has reached, the extent of unresolved objections or whether its policies will be considered as consistent with the Framework. Consequently, in accordance with paragraph 48 of the Framework, I give it little weight.

Main Issue

6. The main issue is whether the proposed development would be in a suitable location with respect to existing settlements, services and facilities.

Reasons

7. The appeal site is located outside of defined settlement boundaries, so is in the countryside for planning policy purposes.
8. The Uttlesford Local Plan 2005 (ULP) includes a spatial strategy that both parties acknowledge requires updating. Saved ULP Policy S7 is part of this strategy and supports development in the countryside only if it needs to take place there or is appropriate to a rural area. This includes sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements.
9. The parties agree ULP Policy S7's overall approach to development in the countryside is not fully consistent with the Framework, and I concur. However, its conditional support for sensitive infilling outside development limits is broadly consistent with the Framework's recognition for the intrinsic character and beauty of the countryside. I therefore give the Policy limited weight.
10. The development plan for the appeal site also includes the Felsted Neighbourhood Plan 2020 (FNP). The appellant states the Council previously considered the FNP out of date but has since changed its position. There is little before me to substantiate this. The Council states the FNP is up to date, and I see no reason on the evidence before me to disagree with this assessment. I will address the effect of the emerging DLP on the weight of relevant FNP Policies under planning balance below.
11. FNP Policies FEL/HN5 and FEL/HN6 support residential development proposals outside development limits in various defined circumstances. There is no suggestion any of these circumstances apply to the appeal proposal.
12. The appeal site is on the edge of a small existing cluster of dwellings. For this reason, the proposal would not result in an isolated home in the countryside for the purposes of paragraph 84 of the Framework. There is also a gypsy and traveller plot to the north of the site. However, there is an undeveloped area covered by trees and vegetation between this, and the location proposed for development. Consequently, this side of the appeal site has the appearance of open countryside rather than a house. Moreover, the site is not close to a settlement. As a result, I am not persuaded the proposed development involves infilling in the sense envisaged under ULP Policy S7, whether or not its effect on the character and appearance of the surrounding area would be acceptable.
13. The villages of Rayne and Felsted are some 2km and 4km away respectively, along an unlit B road with no footpath or cycle path. On the evidence before me, these villages have limited local services and facilities, with the fuller offer in urban Braintree some further distance away. Although cycling could be feasible for some, this is unlikely to be an attractive, safe or realistic prospect for most residents absent dedicated cycle routes. There is also little to substantiate the suggestion that there is a wide range of bus services in the area or that the majority of bus service providers permit cycles to be taken on board. Therefore, even recognising the area is rural, there would be few genuine alternatives to the private car for access to the full range of services and facilities. The fact that this is no different for the existing dwellings nearby does not in itself justify granting permission for an additional house in these circumstances.

14. For the above reasons, I conclude the proposed development would not be in a suitable location with respect to existing settlements, services and facilities. This is contrary to FNP Policies FEL/HN5 and FEL/HN6 and ULP Policy S7. It is also contrary to the Framework, which seeks to focus development on locations that limit the need to travel and offer a genuine choice of transport modes.

Other Matters

15. The parties agree the Council is currently unable to demonstrate the necessary supply of deliverable housing sites, taking account of the requirements in footnote 8 of the revised Framework. The proposal would make a small contribution to the supply of housing in the area. This accords with the Framework where it seeks to boost the supply of homes, including through effective use of previously developed land and on small sites capable of being built out relatively quickly. Nevertheless, as only one dwelling is proposed this benefit has limited weight.
16. There would be a modest benefit to the local economy through construction and future occupiers' use of services and facilities in the area. However, bearing in mind my finding on the accessibility of the site, the proposal's contribution to the vitality of rural communities would be limited.
17. Whilst I acknowledge the intention to provide additional planting, landscaping is a reserved matter so the question of biodiversity gain would be considered through a subsequent reserved matters application. Consequently, this consideration has minimal weight.
18. The Council has raised no concern at outline stage with the effect of the proposal on the living conditions of neighbouring occupiers, access and highway safety, flood risk and the preliminary ecological assessment, subject to conditions and/or further consideration at reserved matters stage were the appeal to be allowed. On the evidence before me, I see no reason to disagree. However, an absence of harm in these respects is a neutral factor.
19. The site is within the Zone of Influence of at least one designated European site. I note the appellant's willingness to provide mitigation if planning permission were granted. However, as I am dismissing this appeal for other reasons it has not been necessary for me to address this matter further.

Planning Balance

20. For the reasons set out above, the proposed development would conflict with FNP Policies FEL/HN5 and FEL/HN6 and ULP Policy S7. The proposal may be supported by other development plan policies. Nevertheless, I conclude the proposal conflicts with the development plan, read as a whole.
21. The shortfall in housing supply noted above means the presumption at paragraph 11d) of the Framework applies.
22. The FNP became part of the development plan less than five years ago. It contains housing policies and allocations based on evidence of local housing need, as the Council did not provide a requirement figure for the neighbourhood area at the time. The approach was generally consistent with paragraph 68 of the Framework. Since the FNP was made, the Council has consulted on DLP Core Policy 19, which identifies a residual housing requirement to be met through additional allocations for the Felsted area. The

Policy states this is to be supported through a master planning process involving the community, local planning authority, developers and other stakeholders.

23. On the evidence before me, the rural area housing requirement figures in the DLP have yet to be tested through examination and there is no suggestion the master planning process has been completed. In these circumstances, the housing Policies in the FNP provide the most up to date basis for determination of relevant planning applications in the Felsted area until such time as the DLP and/or master planning process for identification of additional housing land and/or any review of the FNP are further advanced. I therefore ascribe little weight to the housing requirement figure for Felsted in emerging Core Policy 19 and full weight to the FNP Policies relevant to this decision.
24. As a result, the criteria in paragraph 14 of the Framework are met and that paragraph is engaged. In consequence, I attribute substantial weight to the adverse impact of allowing development that conflicts with the FNP such that it would significantly and demonstrably outweigh the limited benefits of the proposal identified in other matters.

Conclusion

25. I have found the proposal conflicts with the development plan, read as a whole. No other material considerations, including the Framework, have been shown to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal should be dismissed.

C Carpenter

INSPECTOR