



Appeal Decision

Site visit made on 4 September 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2024

Appeal Ref: APP/C1570/W/23/3334475

Homefield, Holders Green Road, Lindsell, Essex CM6 3QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jason Hunter against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/0306/OP.
 - The development proposed is described as 'Outline planning application with all matters reserved except access for residential development comprising 5 no. units with associated amenity space and parking'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development is taken from the decision notice and the appeal form, since this reflects amendments made during the application process to the number of houses proposed.
3. The proposal seeks outline permission, with details of access submitted for consideration. I have considered the appeal on this basis and have treated any plans in relation to matters of layout, appearance, landscaping and scale as illustrative.
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.

Main Issues

5. The main issues are:
 - Whether the site is suitably located for new housing having regard to the Council's spatial strategy together with effects on the character and appearance of the area;
 - Whether the proposal would make an appropriate contribution to affordable housing, and;
 - The accessibility of the site to services and facilities, and to sustainable means of transport.

Reasons

Location for Housing

6. The Uttlesford Local Plan 2005 (the ULP) sets out where new development will take place. This lists areas which will be the focus of development including urban areas and the A120 corridor, and lists other areas including listed Key Rural Settlements and Other Villages which have a lesser potential for development. The appeal site is in the countryside for the purposes of assessment against the ULP, and as such Policy S7 applies.
7. Policy S7 of the ULP relates to development in the countryside, being those areas beyond the Green Belt that are not within a settlement or other site boundaries. It states that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area, and including infilling. It goes on to add that there will be strict control on new building and development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside in which it is set, or there are special reasons why the development in the form proposed needs to be there.
8. It is not apparent, based on the evidence, that the development needs to take place in this location, or is appropriate to a rural location. While the appeal site sits close to other homes, it could not reasonably be described as infilling, given the absence of a continuous building line. It would therefore conflict with the first part of Policy S7. I return to the matter of the weight to be given to this conflict below.
9. In terms of assessment against the second part of Policy S7, the appeal site sits centrally among other ribbon development which loosely surrounds Holders Green Road. This includes larger houses within more generous plots to the north as well as new houses set around two cul-de-sacs opposite the appeal site to the east. While the wider area comprises predominantly open countryside, the proposal would be set among this existing cluster of buildings, which vary in their size, age and appearance.
10. Details of layout, scale, appearance and landscaping, would be considered at a later date under reserved matters applications. However, it is very likely that a solution could be achieved which would sit comfortably within this context and protect the character of the immediate area. In addition, the site is well contained by verdant and mature boundaries, which limit surrounding visibility and limit the perception of the proposal encroaching into the open countryside beyond. Even if some visibility of the proposed houses were to occur from the road and from the public footpath to the west, this would not necessarily amount to harm to the character and appearance of the area, given its proximity to other houses.
11. For these reasons together, the proposal would not cause harm to the character and appearance of the area, and would comply with the second part of Policy S7. Nonetheless, for the reasons set out, conflict would occur with the first part of the policy.

Affordable Housing

12. Policy H9 of the ULP states that the Council will seek to negotiate on a site to site basis an element of affordable housing of 40% of the total provision of

housing on appropriate allocated and windfall sites, having regard to the up to date Housing Needs Survey, market and site considerations. The supporting text states that outside Great Dunmow, Saffron Walden and Stansted Mounfitchet, 40% affordable housing will be sought on sites of 0.5 hectares or of 15 dwellings or more. Based on the application form, the site has an area of 0.83 hectares and would therefore trigger the requirement for affordable housing under Policy H9.

13. The Framework advises that existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Neither do I consider Policy H9 to be inconsistent with the Framework and I have no strong reason to give that policy reduced weight, based on the evidence before me.
14. The appellant refers instead to the provisions of the Framework. This states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless specified circumstances exist. The Glossary at Annex 2 of the Framework provides a definition of Major development as 'for housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more'. The proposed development would therefore also fall under this definition and would be expected to make a contribution to affordable housing under the provisions of the Framework.
15. Consequently, both the development plan policy and the Framework set out that the proposed development should contribute to affordable housing. The proposal may not be major development when considered under the definition of the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, neither the development plan nor the Framework refer to that definition.
16. The supporting text to Policy H9 acknowledges that the affordable housing contribution will be subject to negotiation, and suggests some flexibility will be applied. I also note the Council's officer report considered a financial contribution may be more suitable based on the size of the scheme. However, the appeal scheme before me would not make any such contribution to affordable housing if the appeal were to be allowed and there is not evidence to suggest why a lesser contribution should be provided here. Neither would it be appropriate to secure such a contribution by condition given the dispute on the issue and uncertainty surrounding what such a contribution would be here.
17. In conclusion on this main issue, the proposal would fail to make an appropriate contribution to affordable housing and would conflict with Policy H9 of the ULP as well as the Framework.

Accessibility

18. Policy GEN1e) of the ULP states that development should encourage movements by means other than driving a car. The site is in a rural location and, while there are some specialist shops scattered across the area, the site is some distance from any shops or facilities which would be likely to serve the day to day needs of future occupants of the development. In addition, this part of Holders Green Road is relatively narrow and lacks any pedestrian environment, resulting in the need for pedestrians to walk in the road. There

are some grass verges although these are limited in width and do not provide a reliable walking route. While vehicle speeds would be likely to be relatively slow due to the bends in the road, together with the absence of lighting, these conditions are not conducive to a safe or attractive route for pedestrians. The routes to services and facilities could be accessed by bicycle, however this is unlikely to be a reliable means of transport throughout the year, given the distances involved.

19. Nonetheless, based on the evidence, there is a bus service which operates through Lindsell, albeit limited, as well as a school bus service. There are, therefore, some alternatives to private car use available and the Highways Authority have recommended a condition requiring the distribution of travel packs to new residents to encourage use of sustainable transport. For these reasons together, I am satisfied that the proposal could encourage movement by means other than cars, as required by GEN1.
20. In addition, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It goes on to state that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, which would be the case here.
21. For the reasons given, the site would be suitably located having regard to its accessibility to services and facilities and sustainable transport. It would comply with Policy GEN1 of the ULP as well as the Framework.

Planning Balance

22. The Council accept that Policy S7 is only partially consistent with the Framework as it has a more protective approach to development in rural areas. As a consequence, I attach little weight to the conflict with the first part of the policy.
23. The Council accept that it is unable to demonstrate a five year land supply for housing. As such, the provisions of paragraph 11d) of the Framework are relevant to the appeal. At point ii) this requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The adverse impact of granting planning permission has been found to be the lack of any affordable housing contribution, or suitable justification for its absence. This would undermine the national objective to address the need for different types of housing. The effects of this lack of provision would be significant and long lasting, and would be in conflict with the Framework. As such I ascribe this harm substantial weight.
25. In terms of benefits, the proposal would contribute four net additional homes to the housing stock. This is particularly important given the under supply of land for housing in the District and the proposal would contribute to the national objective to boost the supply of homes. The extent of this contribution would, however, be limited given the amount of housing proposed. In addition, there would be economic benefits arising from the construction process and by ongoing expenditure into the local economy by future occupants. There could also be some ecological benefit to the site, as set out in the appellant's

Preliminary Ecological Appraisal, although there is not substantive evidence of the extent of this benefit. Overall, the weight of the benefits arising from the appeal scheme would be modest, given the scale of the proposal.

26. The adverse impacts of granting permission would therefore significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development set out in the Framework.

Other Matters

27. I appreciate the appellant's concerns that matters of affordable housing and sustainable transport were not raised under an earlier application for the same site. However, these concerns do not alter the need to assess the proposal in light of the development plan and other considerations, and would not outweigh the conflicts found.

Conclusion

28. The proposal would conflict with the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Shearing

INSPECTOR