



Appeal Decision

Site visit made on 2 September 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2019

Appeal Ref: APP/C1570/W/19/3231500

Land west of Thaxted Road, Debden CM6 2LP

- 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 Ian Ford against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1708/FUL, dated 15 June 2018, was refused by notice dated 22 February 2019.
 - The development proposed is described as 'mix of 36no new dwellings ranging from 1-bed, 2-person, up to 5-bed, 7-person houses with a mix of tenure. Affordable housing will be provided as part of the dwelling mix in line with local requirements.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the appeal scheme with reference to policies concerned with housing in rural areas;
 - The effect on the character and appearance of the area;
 - Whether the proposal would make adequate provision for affordable housing and the long-term maintenance of the sustainable drainage system; and
 - Whether the application of Paragraph 11 of the National Planning Policy Framework indicates a decision should be taken other than in accordance with the development plan.

Reasons

Whether the appeal scheme would be in a suitable location

3. The appeal site is outside the settlement boundary of Debden and is therefore in the countryside for the purposes of applying the policies of the Uttlesford Local Plan 2005 (LP). Policy S7 of the LP has a broadly restrictive approach to development in the countryside. It states that in order to protect the countryside for its own sake there will be strict control over new development. In particular, only development that needs to be in a countryside location will be permitted to take place there.

4. It has not been demonstrated that the appeal scheme requires a countryside location and there are no special reasons that would make it appropriate, such as an allocation. Therefore, it would be at odds with Policy S7. Moreover, as the appeal site is not a gap between existing buildings the proposal would not amount to infilling in accordance with Paragraph 6.13 of the LP.
5. Accordingly, the proposal would be at odds with, and harmfully undermine, the adopted spatial strategy for the location of housing in the development plan and thus the consistency and relative certainty that should ordinarily flow from a genuinely plan led approach to the location of new development.

The effect on the character and appearance of the area

6. The appeal site encompasses a gently sloping arable field on the edge of Debden located to the south of Highfields, a small cul-de-sac, and Rowney House, within the garden of which two dwellings have recently been approved¹. Being an open arable field, the appeal site has a rural appearance. When viewed from Thaxted Road it is seen in the foreground, and part of, the wider agricultural landscape to the west and south of the village. This wider landscape includes a shallow valley focussed on Rook End Lane and a large area of woodland, including that at Brocton's Plantation. This open and attractive tract of countryside can also be experienced from a network of public footpaths, some of which facilitate views of the appeal site from the west. Notwithstanding the housing to the north and the ribbon development to the east of the appeal site, it is viewed with more visual affinity to the open rural landscape than the village. The settlement boundary is logically drawn.
7. Debden is broadly a linear village with most properties arranged as frontage development to address the main thoroughfares through the village including the High Street, Thaxted Road and The Causeway/Deynes Road. Thus, estate housing is not common place in the village. The most notable departure from this general pattern of development is Highfields. This moderately sized suburban cul-de-sac is set behind frontage development. It has a limited presence in views along Thaxted Road and is screened from the rural landscape to the west of the village by a dense belt of planting. It is not therefore a prominent departure from the grain of the village and has a very limited presence in the landscape. The village is also surrounded by arable fields, such as the appeal site, which gives the settlement a rural setting.
8. The appeal scheme would introduce up to 36 homes into the appeal site and this would significantly alter its character, as it would inevitably result in a marked urbanisation of the field unreflective of the rural landscape. This would harm the open and agricultural appearance of the appeal site and would be a notably harmful landscape effect.
9. The houses would be located close to the western boundary of the appeal site leaving little space for a belt of extensive landscaping similar to that which is present to the west of Highfields. This would result in the development appearing very prominent in views from the public footpath to the west. In these views it would appear as a large and stark body of housing and thus a visually separate and discordant incursion into the rural landscape.

¹ UTT/18/1206/FUL

10. Furthermore, the houses would be prominent above the roadside hedge partially delineating the eastern boundary of the appeal site and thus appear stark from those houses along Thaxted Road that face the appeal site. It would also be prominent in views from Rook End Lane and visible from Sampson Lane, although the position of the public open space could soften this impact over time. The relative prominence and incongruity of the development, which would be a comparatively large housing estate in the wider context of the village, would result in a harmful visual impact on the local landscape and countryside. The appellant's Landscape and Visual Impact Assessment underplays the visual impacts of the proposal and the mitigating effect of existing development, which is not seen as a block of housing.
11. The Landscape and Visual Impact Assessment does not demonstrate the provision of a shallow hedge along the western boundary of the appeal site would be successful at mitigating the harmful impacts I have identified. Moreover, in the short to medium term the landscaping would be immature and would be unlikely to successfully screen the development. As such, I am not satisfied the landscaping would successfully alleviate the impacts of the appeal scheme. Particularly as future residents would likely wish to keep the hedge low to take in the view (it would be in their respective gardens).
12. Most of the houses would not exceed two storeys in height, but some would include accommodation in the roof, which would make them bulkier and taller. The roof scape would include natural tiled roofs and the colour of external materials could be controlled to be subdued in the landscape. However, the dwellings would not be universally detailed to reflect the rural vernacular, providing a rather generic suburban aesthetic, and although planting would be provided on the edge of the development, it would not have a verdant character throughout. The development would therefore have a suburban character and layout which would reinforce the developments appearance as a jarring encroachment into the landscape. It would therefore harmfully dilute the rural setting of the village when approached from the south, which the appeal site, in its current state, contributes positively to.
13. In addition, the development would be arranged in depth. This would jar with the linear character and grain of the village. As a comparatively large residential estate, even when compared to Highfields, the proposal would appear as an unusually large and visually disconnected enclave of housing out of scale with the village. In this respect it would be an odd adjunct to Debden rather than a natural, integrated and harmonious extension of it.
14. The appeal site is located in the Debden Farmland Plateau Landscape Character Area (LCA) in the Council's Landscape Assessment² (LA). This area is identified as being of relatively high sensitivity to change, a conclusion I share given the open gently rolling nature of the landscape. The strategy in the LA is to conserve the landscape by, in part, responding to historic settlement patterns and ensuring new development is well integrated into the landscape. For the reasons given the proposal would not achieve these aims.
15. In conclusion, the appeal scheme would significantly harm the rural character and appearance of the appeal site, the village and the surrounding countryside more generally contrary to saved Policy S7 of the LP, which seeks to secure

² The Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessment

development that protects or enhances the particular character of the part of the countryside within which it is set.

Whether the proposal makes adequate provision for affordable housing and the long-term maintenance of a sustainable drainage system

16. Policy H9 of the LP seeks to secure 40% of the number of homes proposed as affordable housing. I have seen nothing of substance to suggest the aims of this policy are out of date, unviable or inconsistent with the National Planning Policy Framework (the 'Framework'). The appellant has not disputed the need to provide 40% affordable housing as this is necessary to make the development acceptable (by adhering to development plan policy).
17. For affordable housing to be provided effectively, arrangements must be made to transfer it to an affordable housing provider, to ensure that appropriate occupancy criteria are defined and enforced, and to ensure that it remains affordable to first and subsequent occupiers. The legal certainty provided by a planning obligation makes it the best means of ensuring that these arrangements are effective. A planning obligation has not been submitted.
18. A planning condition could not reasonably be imposed to secure the affordable housing as it would in all probability need to require the relevant parties to enter into some form of legally binding obligation. The Planning Practice Guidance advises that in exceptional circumstances a negatively worded planning condition requiring a planning obligation or other agreement to be entered into before development can commence may be appropriate in the case of more complex and strategically important development. The appeal scheme is neither complex nor strategic and therefore a planning condition along these lines cannot be imposed to secure the affordable housing. Consequently, an appropriate mechanism to secure the adequate provision of affordable housing is not before me and therefore the proposal would be contrary to Policy H9 of the LP.
19. Conversely, I am satisfied that a scheme for the maintenance of the drainage infrastructure could be secured through a planning condition. The Council has not explained why a planning obligation is necessary. A drainage condition has been recommended by the Council and this could be supplemented to include maintenance details. Accordingly, a conflict with Policy GEN3 would not occur.

Whether the application of Paragraph 11 of the Framework indicates a decision should be taken other than in accordance with the development plan

20. The Council are currently unable to demonstrate a five-year housing land supply, with the shortfall being around 3.29-3.46 years. In such circumstances Paragraph 11 of the National Planning Policy Framework (the 'Framework') states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole³.
21. As an adverse impact, the proposal would conflict with Policy S7 of the LP. This policy pre dates the Framework but that, in itself, does not render a policy out of date, instead Paragraph 213 states that due weight should be given to a policy according to its degree of consistency with the Framework.

³ In this instance there are no policies in the Framework that give a clear reason for refusing the proposal

22. To this end, the Council have adopted a study by Anne Skippers Associates dating from 2012, which has reviewed the consistency of the policies in the LP with the 2012 Framework. This has concluded that Policy S7 is only partially consistent because it takes a prohibitive approach rather than a protective one. This analysis is also relevant when considering Policy S7 against the wording in Paragraph 170 of the current Framework, which seeks to protect valued landscapes rather than the countryside for its own sake. This inconsistency moderately reduces the weight I afford the conflict with Policy S7, which broadly seeks to recognise the intrinsic character and beauty of the countryside and therefore adheres to another aim of the Framework.
23. More significantly, a rigorous application of Policy S7 of the LP, in so far as it seeks, in principle, to prevent most residential development in the countryside, would frustrate attempts to address the Council's current housing supply deficit. On this point, it is unclear how the Council are seeking to remedy the housing shortfall and its timeframe for doing so. Hence, the conflict with the spatial strategy for the protection of the countryside in Policy S7 carries only moderate weight as an adverse impact of the proposal.
24. The proposal would significantly harm the character and appearance of the area contrary to Policy S7 of the LP. This is at odds with the Framework, which seeks to secure development that is sympathetic to local character and recognises the intrinsic character and beauty of the countryside. The Framework does not state that harm to areas of countryside outside a protected or valued landscape cannot be a matter of note weighing against a proposal.
25. When considering the benefits of the appeal scheme it is apparent that the proposal would not be isolated, being on the edge of the village. Accordingly, future residents of the appeal scheme would be well placed to support local facilities without relying on private motorised transport. The contribution from 36 households would be notable and would help to address the Government's aim to significantly boost housing supply. However, there is no mechanism before me to secure affordable housing. Moreover, I have seen nothing of substance to suggest the contribution from future residents would make a significant difference to the local economy or the vitality of the community and its services. For example, there is nothing to suggest local services are failing for lack of patronage, pupil numbers at the local school are falling or local clubs are struggling to gain members.
26. The proposal would also provide a not insignificant contribution towards the construction industry and provide a boost to the Council's housing land supply and housing choice, with the number and mix of homes being a notable contribution given the Council's inadequate housing land supply. The proposal would provide public open space, albeit including an attenuation basin which could affect its usability, but I have seen nothing to suggest there is a local shortage of public open space (the village benefits from a large recreation ground) and therefore this qualifies the benefit.
27. The cumulative benefits of the proposal would be notable, but the adverse impacts of the appeal scheme would still significantly and demonstrably outweigh them when assessed against the policies in the Framework taken as a whole. This does not indicate a decision should be taken other than in accordance with the development plan.

Other Matters

28. Part of the site is allocated in draft Policy DEB1 of the emerging Local Plan. However, the emerging local plan is not at a stage where it can be given determinative weight. In any event, the draft allocation is for approximately 25 homes on a smaller parcel of land. A scheme coming forward in the context of this allocation, if adopted, would be materially different to what is before me.
29. The appeal site appears to be in the setting of Broctons Farm, Millers Farm House and West View, Grade II listed buildings. In particular, the development would encroach into the rural context of Broctons Farm. The Council have suggested that the proposal would alter the rural backdrop of the listed building, but it is considered the impact would not be enough to warrant refusal. This seems to suggest an adverse impact. However, it is unclear how the Council has come to this view, whether it considers the impact to amount to harm, whether the harm would be less than substantial and whether it has weighed public benefits against any harm. Nevertheless, given my overall conclusion it has not been necessary for me to consider this further.
30. There is a TPO protected tree located towards the north eastern corner of the appeal site which forms part of a discernible row of trees stretching up to The Plough Public House. The tree has a high degree of amenity value individually and as part of the row. It has not been demonstrated how the provision of a pavement along Thaxted Road would be compatible with the retention of this tree. However, given my overall conclusion it has also not been necessary for me to consider this further.
31. I have carefully considered the Officer's committee report which recommended approval of the appeal scheme. However, I have come to my own conclusions for the reasons given based on the evidence before me and what I observed. Various other concerns have been raised by interested parties, which I have noted. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed on the main issues.

Conclusion

32. The proposed development would be contrary to the development plan as a whole and there are no other considerations, including the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR