



Appeal Decision

Site visit made on 19 November 2019

by Michael Boniface MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/C1570/W/19/3235402

Land to the South of Smith's Green, Dunmow Road, Takeley, Essex

- 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 Douglas and Barbara Burton against the decision of Uttlesford District Council.
 - The application Ref UTT/19/0051/FUL, dated 4 January 2019, was refused by notice dated 15 May 2019.
 - The development proposed is 37 dwellings with associated garden and parking provision, dedicated new vehicular and pedestrian access on to Dunmow Road and associated development.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) The effect on the character and appearance of the area;
 - (b) The effect on ecological interests, including the adjacent County Wildlife Site, Flich Way;
 - (c) Whether the development would provide suitable provision of affordable housing;
 - (d) Whether suitable sustainable drainage provisions would be made for the development.

Reasons

Character and appearance

3. The site is located on a busy road between the settlements of Takeley and Little Canfield. It is located outside of the defined settlement boundary for both settlements, forming an intervening area of scrub and woodland. Beyond the site is a County Wildlife Site and glimpsed views of the more open countryside. Smith's Green opposes the site, a small low-density collection of residential properties beyond an extensive open green, accessed via narrow roads without pavements.
4. The combination of the appeal site and Smith's Green creates a distinctly rural undeveloped appearance that provides a clear and recognisable gap between the settlements of Takeley and Little Canfield despite the presence of some low-density housing on Dunmow Road, either side of Smith's Green. It is a

- welcome relief from the more urban appearance of the settlements either side of the site, particularly given the extensive new development that is evident in the area.
5. The proposed development would close the gap between the two settlements and have a significantly urbanising effect, to the detriment of the existing open and verdant character. This is notwithstanding the screening that would be maintained by retention of the frontage hedgerow. This would be contrary to the objectives of the National Planning Policy Framework (the Framework), which seeks to create well designed places and ensure good design that is appropriate to its context. It would also be harmful to the objectives of the Countryside Protection Zone, within which the site falls, eroding the open character of land close to Stansted Airport. In this respect, there would be a clear conflict with Policy S8 of the Uttlesford Local Plan (2005) (ULP), as well as Policy S7 which seeks to restrict development in the countryside.
 6. These development plan policies are not entirely consistent with the Framework, failing to reflect its more nuanced approach to countryside protection. Furthermore, they must be considered out of date, as the most important policies for determining this appeal, given the Council's extremely poor housing land supply position, said to be around 2.68 years by the appellant. Such restrictive policies would appear to be impacting negatively on the supply of housing in the area and I therefore attach only limited weight to the conflict with these policies. That said, there remains importance in maintaining a requirement for good design and protection of character and appearance, as required by the Framework. I have found harm in these respects and I attach significant weight to that harm.
 7. I have had regard to the numerous appeal decisions referenced by the appellant, where consideration has been given to Policies S7 and S8. I have found nothing substantive between them and my own conclusions but for the specific character and appearance issues that I have identified in the circumstances of this case, which are not comparable to any other example put before me given the scale and location of the site. The other decisions identified do not alter my conclusions.

Ecology

8. The site is located adjacent to a County Wildlife Site and, it is accepted by the appellant, provides a habitat to Common Lizards requiring mitigation/harm avoidance measures involving their relocation. Progress has been made in identifying an alternative habitat, having regard to the letter provided by the land owner in question. The Council's Ecologist is now satisfied that ecology matters could be adequately dealt with by condition, if planning permission were to be granted. Subject to appropriate conditions, there would be no conflict with Policies GEN7, ENV7 and ENV8 of the ULP, which seek to protect wildlife and biodiversity, requiring suitable mitigation and enhancement where development proposals are otherwise acceptable.

Affordable housing

9. Policy H9 of the ULP requires the provision of affordable housing, usually 40% of the overall residential development. The appellant accepts the need to secure affordable housing and has undertaken to enter into a Planning

Obligation to secure it. No Planning Obligation had been received by the time of my decision and so the development is in conflict with Policy H9.

Sustainable drainage

10. The appellant has been in discussions with the Lead Local Flood Authority (LLFA) in an attempt to overcome its objection through the provision of drainage details. The LLFA is now satisfied with the flood risk assessment and information provided by the appellant, subject to suitable conditions requiring, amongst other things, full details of a sustainable drainage scheme for the site. I have no reason to reach a different conclusion. Subject to conditions, there would be no conflict with Policies GEN3 and GEN6, which require suitable drainage facilities and infrastructure to prevent flooding.

Other Matters

11. The appellant has identified a range of benefits that would arise from the development, including the provision of a mix of both market and affordable housing where there is a significant identified need; an economic boost to local businesses, the Council, local services and facilities; net enhancements to biodiversity and the creation of new public open space. These benefits attract significant weight.
12. The fact that the development would be located in an accessible location, close to services and facilities, is not a benefit in itself, rather an expectation of the planning system. This is a neutral matter in my considerations.

Planning Balance

13. The development would have a significant adverse impact on the character and appearance of the area and would fail to make provision for necessary affordable housing. This would be in conflict with Policies S7, S8 and H9 of the ULP as well as important objectives contained within the Framework.
14. Notwithstanding that I have found Policies S7 and S8 to be out of date, there is nonetheless a conflict with the development plan which weighs against the proposal. In this case, the adverse impacts that I have identified significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

Conclusion

15. In light of the above, the appeal is dismissed.

Michael Boniface

INSPECTOR