



Appeal Decision

Site visit made on 26 July 2021

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2021.

Appeal Ref: APP/C1570/W/21/3267624

Land to the north of Eldridge Close, Clavering, Essex CB11 4FZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Richstone Procurement Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1628/OP, dated 2 July 2020, was refused by notice dated 15 September 2020.
 - The development proposed is up to 9 dwellings (Class C3) including, public open space, sustainable drainage systems, landscaping and all associated infrastructure and development.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the character and appearance of the area; and whether the proposal would represent sustainable development.

Reasons

3. The application seeks outline permission for up to nine dwellings with all matters reserved except for access. The plans show an indicative layout with access from the head of Eldridge Close. The application was refused for two reasons with one relating to the access. The appellant has submitted an Access Road Strategy Plan which has been considered by the highway authority who have indicated that this satisfies their concerns subject to the imposition of seven conditions. The conditions appear to meet the tests of the National Planning Policy Framework 2021 and on this basis, the second refusal reason does not require further consideration.
 4. The remaining reason for refusal relates to the site being in the countryside and the likely impact on the character and appearance of the area. The land is currently in agricultural use and located adjacent to the settlement edge, being bounded to the south by the relatively high density housing area of Eldridge Close and to the east by the detached houses along Clatterbury Lane which are set in large gardens. The site is not allocated for housing in the Uttlesford Local Plan 2005 (LP) and lies just outside the designated development limits of Clavering (Hill Green). It is therefore considered by LP policy S7 to be in the
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countryside. Part of the policy requires that, in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there or is appropriate to a rural area. The development is clearly contrary to this element of the policy.

5. The second element of the policy sets out that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set. The proposal would result in new development intruding into the countryside and it would also significantly alter the form of the settlement. This is a rural settlement made up of distinct parts but it is characterised by often loose knit linear development along the roads through the village. Eldridge Close is an exception to this character having been more recently developed, on previously developed land, predominantly within the development limits boundary. Although the site is relatively well contained, it is experienced from the adjoining houses and from the public footpath which runs through it, into further countryside beyond. The proposal would detract from the open character of the countryside which forms the setting for the settlement; and it would be at odds with both the traditional development that contributes to the overall character of the village and with the more modern higher density development that would provide access to it. It would detract from the currently open experience of the footpath through this countryside area. It would therefore conflict with the second element of policy S7
6. Policy GEN2 is directed at ensuring that the design of development is compatible with the surrounding area rather than considering the principle of what, in this instance, would be a significant extension to the form of the village. Criteria (a) includes a requirement that development is compatible with the form and layout of the surrounding buildings. Whilst the proposal would be at odds with the form of the village, it would reflect, to some extent, the existing form and layout of the neighbouring properties to the east. I am not satisfied that this design policy seeks to address the impact on the countryside which is covered by the second part of policy S7. As such, the detailed reserved matters would be able to generally satisfy the requirements of policy GEN2.
7. Overall, the proposal conflicts with policy S7 which is the main policy for considering such development. The appellant refers to a recent appeal decision in the district, reference APP/C1570/W/19/3242550. In that case, the inspector found that the council could not demonstrate a five year supply of housing land and advised that the council's witness accepted that development of greenfield sites in the countryside would be necessary for the council to meet its housing targets. The housing supply position was considered to strictly limit the weight that could be afforded to policy S7 and engaged the default position identified in paragraph 11(d) of the Framework. Those conclusions remain relevant to this appeal. As the council are unable to demonstrate a five year supply of available housing sites, the element of policy S7 that refers to restricting housing development in the countryside can be afforded little weight. However, the second element, which relates to the character and appearance of the countryside, is consistent with the Framework and can be afforded considerable weight.

8. The Framework is clear at paragraph 11(d)(ii) that in circumstances such as this, where housing supply cannot be demonstrated, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. It is necessary therefore to assess the proposal against the Framework as a whole and to identify whether adverse impacts would result.
9. The Framework is clear that achieving sustainable development means that the planning system has three overarching objectives, economic, social and environmental. The social objective seeks to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraph 79 sets out to promote sustainable development in rural areas advising that housing should be located where it will enhance or maintain the vitality of rural communities and provide opportunities for villages to grow and thrive, especially where this will support local services. The proposed site lies adjacent to the settlement boundary and the residents of new houses would be likely to contribute to the social life of the settlement and help support its services and facilities. Residents would contribute financially to local shops and services in the long term and the investment required to build the houses would provide benefits in the short term. This is a location where development in one village is also likely to support services in villages nearby. In this respect, the Framework offers support for the proposal as it would help to support the vitality of local communities, although being for only nine houses, these benefits would be limited.
10. Many, probably most, journeys by future residents, are likely to be by private vehicle. Trips to access higher order settlements, jobs, transport links and a full range of services are likely to require significant journeys on country roads. However, journeys to local facilities and services would be relatively short and provision can be made to encourage the use of more sustainable vehicles, walking and cycling. Within the local area there is a good range of such facilities and services. However, this is not a highly accessible location for new housing. Despite this, given the range of services available locally and the benefits to these services that would accrue, the likelihood of a high reliance on private vehicles is not a matter that would weigh against the proposal in this case.
11. The application is in outline and the houses could be designed to high environmental standards and given the lack of flood risk concerns, these matters would provide weight in favour of the proposal. As the access has now been considered by the highway officer to be acceptable subject to conditions, there would be no conflict with paragraph 111 which seeks to avoid highway safety impacts. As the existing footpath through the field would be retained, this would offer benefits with regard to the permeability of the site and offer improved walking routes for residents in accordance with paragraph 100 of the Framework.
12. The illustrative layout indicates that existing boundary trees would be retained and there is clear potential for sustainable drainage provision and ecological enhancements. These matters gain support from the environmental objectives of the Framework, particularly paragraph 174(b & d) with regard to maintaining trees and woodland; and minimising impacts on and providing net

gains for biodiversity. The houses proposed could also offer high living standards for future residents. These matters gain support from the social and environmental objectives of the Framework.

13. The Framework requires that a sufficient number and range of homes can be provided to meet the needs of present and future generations to satisfy its social objectives. This proposal, being for only nine houses, would offer only limited benefits in this respect. Paragraph 119 requires that decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Whilst this proposal would provide safe and healthy living conditions, it would not be an effective or efficient use of land. It would represent less than seven houses per hectare. It would be at odds with paragraph 124(b)(a) which requires that decisions should support development that makes efficient use of land, taking into account the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.
14. There is a lack of identified land suitable for housing in the district. The Design and Access Statement sets out that the site extends to 1.347 hectares. Paragraph 125 of the Framework is clear that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities; and seeks to ensure that developments make optimal use of the potential of each site. Paragraph 125(c) is clear that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the Framework.
15. Whilst it is acknowledged that the retention of boundary trees would be important to the character of the area, this does not impose onerous constraints on development. Although the site is not well located with regard to access to higher level services, this does not justify such a low density or such a profligate use of land. If there was a reason for limiting new development to nine houses, these could be accommodated on much less land, having a much reduced impact on the countryside and the footpath to the north of the site.
16. The Framework at paragraph 174(b) requires developments to protect and enhance the natural, built and historic environment by recognising the intrinsic character and beauty of the countryside. This proposal would detract from the setting of this settlement and the character of the countryside. This would be the case for any scheme which extended across the full extent of this field. However, when considering the planning balance, this proposal for only nine houses offers limited benefits in comparison to the scale of land that would be lost.
17. Despite the number of houses proposed, as the site is more than a hectare in size, it falls within the Framework's definition of major development which for housing development is where 10 or more homes will be provided or the site has an area of 0.5 hectares or more. Paragraph 65 is clear 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. I am unclear why this matter has not

been raised as a concern by the council as LP policy H9 seeks 40% affordable housing on sites of 0.5 hectares or of 15 dwellings or more.

18. As the proposal is in outline, the housing mix is not being determined at this stage although the application form suggests that five of the houses would have four or more bedrooms. The illustrative layout demonstrates nine large, detached houses in substantial gardens. It is unrealistic to anticipate that the reserved matters submissions would include houses of sizes, types and tenures that would meet the needs of different groups in the community. The provision of smaller houses would more acutely demonstrate the inefficient use of this land. LP policy H10 relating to housing mix advises that all developments on sites of 0.1 hectares and above or of 3 or more dwellings will be required to include a significant proportion of market housing comprising small properties. The supporting text explains that small 2 and 3 bed homes must represent a significant proportion of the total, for those households who are able to meet their needs in the market and would like to live in a new home. The indicative layout and the application form details clearly conflict with the social objectives of the Framework which seeks sufficient numbers and ranges of homes to meet the needs of present and future generations. It also conflicts with the development plan policy.
19. Overall, the development of this land for housing, although not well linked to higher level services and employment opportunities, would support the vitality of this and surrounding settlements. The protection of trees around the boundaries and the potential for environmental enhancements would support the environmental objectives of the Framework. This however needs to be weighed against the loss of open countryside and the harm to the character and appearance of the area. The proposal would however bring social and economic benefits commensurate with this small number of houses.
20. The density of housing proposed represents an entirely inefficient use of this resource which would be more harmful given the council's housing supply position. The Framework is clear that permission should be refused. Even if I disregard my concerns with regard to affordable housing provision and housing mix, this matter on its own is sufficient to outweigh the benefits that would result from the provision of just nine new houses. I find therefore that when taking the policies of the Framework as a whole, the proposal would be at odds with its overall objectives and would not represent sustainable development.
21. The inefficient use of land would make the achievement of an appropriate supply of housing in the district much harder to achieve. It would compromise the ability of future generations to meet their needs. Furthermore, in order to meet housing need, accepting this density of housing would result in demonstrably greater demand for land which, as reported in the appeal mentioned in paragraph 7 above, would be likely to increase harm to the countryside.
22. The Framework is clear at paragraph 125(c) that local planning authorities should refuse applications which they consider fail to make efficient use of land. This paragraph is equally relevant to this appeal. I conclude that the proposal would result in harm to the countryside and substantial harm to the objectives of the Framework and would be harmful to the achievement of an

appropriate level of housing supply. When considered as a whole, the policies of the Framework weigh against the proposal.

23. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Despite the weight that can be afforded to part of the countryside protection policy being very limited, the proposal does conflict with the development plan. When considered as a whole, the Framework also weighs significantly against the proposal and I afford it considerable weight. I am not satisfied that the Framework and other material considerations, including the benefits of providing nine additional homes, when taken together, indicate that a decision contrary to the development plan should be reached.
24. The harm to the social objective of achieving a sufficient number and range of homes would be substantial as would the harm to the environmental objectives given the inefficient use of land which would result in greater harm to the countryside overall. In conclusion, the adverse impacts of this proposal would significantly and demonstrably outweigh the benefits of these nine houses when assessed against the policies of the Framework taken as a whole. The Framework is clear that permission should be refused and there are no matters that suggest an alternative decision should be made. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR