
Appeal Decision

Inquiry held on 10-13 and 17-18 November 2015

Site visit made on 18 November 2015

by **P N Jarratt BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 December 2015

Appeal Ref: APP/C1570/W/15/3010055

Land North of Pelham Road, Clavering, Essex, CB11 4PQ.

- 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 Gladman Developments Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/14/2458/OP, dated 15 August 2014, was refused by notice dated 28 November 2014.
 - The development proposed is for residential development for up to 42 dwellings, provision of open space, site access, associated highway and infrastructure works.
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Procedural Matters

1. 'Hands off Clavering' is a local residents group opposed to the development which has been granted Rule 6 status.
2. The application is in outline with all matters reserved except access.
3. The original application was for up to 51 dwellings but this was amended through the submission of a reduced scheme of up to 42 dwellings prior to the determination of the application. The appellant submitted an outline planning application for a 35 unit scheme on the same site following the decision on the 42 dwellings and this was refused in June 2015 but no appeal was lodged. The difference between the two schemes is indicated on the development framework plans¹ and relates essentially to the deletion of a number of dwellings towards the northern end of the site.
4. The appellant has requested that the scheme subject to this appeal be amended further to reflect the 35 unit scheme. However, both the Council and the Rule 6 party are of the view that the appeal should deal with the 42 dwelling scheme as consideration of a 35 unit scheme would only add to confusion. The Council points out that the appellant has had the opportunity for appealing the application for 35 dwellings and for seeking an inquiry into both schemes, or withdrawing the current appeal. However the Council does not consider that it would be prejudiced by consideration being given to the 35 unit scheme. The Rule 6 party are of the view that to consider a lesser scheme could cause unfairness to the public.

¹ Drawing Nos G.0229-02G 1 and G.0229-02G 2

5. Having had regard to the Wheatcroft Principles², I am satisfied that as the appeal is for an outline application which refers to 'up to 42 dwellings', that 35 dwellings would be within its scope. It raises no additional issues and no party would be prejudiced if I concluded that any adverse effect that the 42 unit scheme might have could be overcome by limiting the outline scheme by way of a condition to 35 units. I note also that the Council witnesses have addressed the 35 unit scheme in their evidence.
6. In the first reason for refusal the Council makes reference to Policy H7 of the adopted Local Plan. This should have referred to Policy S7.
7. A number of reasons for refusal make reference to policies in the Uttlesford Local Plan – Pre Submission Consultation, April 2014. Following the Examination of the plan, the Inspector had concerns over its soundness, resulting in the withdrawal of the plan by the Council. Consequently, references to such policies in the reasons for refusal are not considered in this appeal although the evidence base of the emerging Local Plan remains relevant.
8. The fourth reason for refusal refers to the impact of the development on education, health facilities and the provision of affordable housing and that in the absence of any legal agreement to address this, the Council considers that the proposed development would be contrary to GEN6 of the Uttlesford Local Plan 2005. However a Unilateral Undertaking has been submitted by the appellant dealing with such matters and the Council has therefore not pursued this reason for refusal.

Decision

9. The appeal is dismissed.

The Site

10. The site is a 2.1 ha arable field in open countryside bounded on three sides by the B1038 Pelham Road, Waterystones Lane (a non designated locally protected heritage asset), and the River Stort. The dog-leg eastern boundary is defined by existing residential property and Clavering Castle, which is a scheduled ancient monument. The boundary of Clavering Conservation Area abuts the site on its north-east side and the Grade I listed Parish Church of St Mary and St Clement is nearby. The Grade II listed Pond's Manor is located on Cock Lane to the north of the river and that lane is also a protected lane.

Main Issues

11. The main issues are:
 - i) Whether there is a 5 year housing land supply;
 - ii) The effect of the proposed development on the character of the landscape and open countryside;
 - iii) The effect of the proposed development on designated heritage assets, including the nearby scheduled ancient monument, nearby listed

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

buildings and the conservation area; and on non-designated local heritage assets; and

- iv) Whether the development represents sustainable development in the context of the National Planning Policy Framework (the Framework).

Housing Land Supply

12. The Framework seeks to boost significantly the supply of housing. It requires that local planning authorities should have a five year supply of specific deliverable housing sites against their requirements with a 5% buffer to ensure choice and competition in the market for land and, where there has been a persistent under-delivery of housing, a 20% buffer should be applied. At paragraph 47 of the Framework, relevant policies for the supply of housing should not be considered up to date if there is not a five year supply of deliverable housing sites.

Objectively Assessed Need

13. The Council has raised its OAN from 523 dwellings per annum (dpa) to 580 dpa on the basis of the conclusion of the inspector following the examination of the withdrawn Local Plan³. He considered such an increase would be reasonable and proportionate to reflect market signals, notwithstanding similar arguments put to him by Nathaniel Lichfield and Partners (NLP) for a higher modelled household projection which has also been advanced by NLP in this appeal on behalf of the appellant. The appellant pursued a higher OAN at the Thaxted appeal⁴ but failed to convince that inspector that a higher figure should be accepted. The inspector recognised that the figure from the Local Plan Inspector could not be fully relied on as being an OAN and that it may change with any new evidence, but nevertheless gave it substantial weight and that it was reasonable and best information to be used as a starting point for an OAN assessment.
14. The inspector in another recent local appeal at Thaxted Road, Saffron Walden⁵ considered that the 580 dpa figure was an appropriate yardstick against which to measure land supply.
15. The OAN is reached from a demographic starting point that is uplifted to reflect that trends in the past may have been suppressed by under-supply (the market signals) and, where appropriate, to provide assistance with affordability. There is no requirement to meet the affordable housing needs in full as this moves into the province of plan making. The Kings Lynn case⁶ makes it clear that all that is required for the OAN is the identification of the likely affordable housing needs and consideration of whether an uplift to the OAN would go some way to addressing those needs by helping affordability. Uplifts are a matter of judgement and not cumulative.
16. The appellant has been critical that the Council did not have an up to-date Strategic Housing Market Assessment (SHMA). However a new SHMA⁷ by Opinion Research Services (ORS) was prepared jointly with East Hertfordshire, Epping Forest and Harlow Councils and published in September 2015. The

³ CD 8.2 paragraph 1.10.

⁴ CD 13.3 APP/C/1570/A/14/222958

⁵ APP/C1570/A/14/2221494, paragraph 13; Appendix 1 to PoE of Ms Hutchinson

⁶ CD 14.3 BC of Kings Lynn and West Norfolk v SSSCLG and Elm Park Holdings Ltd [2015] EWHC 2464 (Admin)

⁷ CD 9.9

SHMA is compliant with the Framework and Planning Practice Guidance. It established that the functional housing market area (HMA) should be based on Harlow, with most of East Hertfordshire, Epping Forest and Uttlesford. It concluded that the Fully Objectively Assessed Need (FOAN) in the housing area to be 46,100 dwellings between 2011-33, and this figure includes an affordable housing need of 13,600 dwellings. For Uttlesford, it concluded that the OAN for the 22 year period is 12,500 dwellings, this being 568 dpa. The Council regards this figure as indicating that the Council's figure of 580 dpa used in assessing the five year supply is robust.

17. NLP on behalf of the appellant is critical of the current SHMA approach on a number of grounds. Firstly, the demographic starting point reached uses a 10 year period to predict future trends rather than the latest household projections use of short term 5-year past migration trends. However this is not precluded by the PPG so long as the approach is justified, which the SHMA does, and is an approach supported by the PAS⁸.
18. Secondly, the SHMA addresses need on a housing market area basis as indicated in paragraph 159 of the Framework, yet NLP in key areas such as market signals assesses impacts in Uttlesford alone, although both parties arrive at a 20% uplift from their respective demographic starting points. NLP also criticises the employment growth in the SHMA being calculated at the HMA level. Whilst ORS conclude that the 20% uplift more than addresses the employment situation, NLP suggests a far greater uplift of 33% to 733 dpa to take this into account
19. Thirdly, there is disagreement on how affordable housing is addressed. ORS consider that affordable housing needs will not be met in full under the current policy environment. Both parties agree that the need is substantial although they disagree about levels. However NLP argue for a further uplift to an OAN of 800dpa but such a level is seen to be unrealistic by the Council. The Local Plan Inspector expressed the opinion that he could not find any convincing evidence put to him to support an increase to about 700 dpa and pointed out that improving affordability within the confines of one local authority area would be difficult to achieve and that affordability is affected by many more factors than land supply.
20. Fourthly, NLP raised the issue of need arising in other areas, including London. However, such arguments would be better addressed through the Local Plan process as this is a 'requirement' question, rather than calculating the housing land supply that is required in the context of this appeal.
21. The appellant has clearly examined OAN matters in great detail and approached the matter on a different basis to that of the Council's specialist advisors. There is disagreement between them on how to establish the OAN and on the methodologies employed leading to a 38% higher estimate by the appellant. It may well be the case that some of the assumptions of the appellant's are sound but the arguments put forward do not convince me that the Council's figure should be disregarded particularly in the light of the Local Plan Inspector's findings, the views of s78 inspectors and the recently published SHMA. I therefore will use the 580 dpa as the OAN figure in assessing the five year housing supply.

⁸ Planning Advisory Service : Objectively Assessed Need and Housing Targets July 2015 – part of Document 17 bundle

The five year housing supply

22. The appellant considers that there has been persistent under delivery and that a 20% buffer should be applied in accordance with paragraph 47 of the Framework.
23. There is no single approach to considering whether there has been a persistent under delivery of housing. However, the matter was addressed by the Local Plan Inspector who concluded⁹ that the housing delivery performance over the past 13 years has not fallen significantly below appropriate targets for the years in question and that the buffer did not need to be increased beyond the standard 5%. The targets were derived from the former East of England Plan, published in 2008, which provided the appropriate benchmark against which to judge supply. This target was set at 430 dpa until 2010/11; it increased to 523 dpa for 3 years thereafter and has now been raised to 580 dpa. Over the 10 year period, delivery has been missed in 5 years but cumulatively targets have been missed only in the last two years, and overall this represented some 28 dwellings out of 4619.
24. I note that both the inspectors in the Thaxted and Thaxted Road, Saffron Walden appeals took the view that the Council had not persistently under delivered against the appropriate targets although in two other cases, the inspectors considered there should be a 20% buffer. The first case, in Bannister Green¹⁰, was determined prior to the Local Plan Inspector's Full Conclusions report. The second, in Great Dunmow¹¹, is where the inspector held the view that as the Council had failed to meet its target in 4 of the last 5 years, this represented persistent under delivery. The Council points out that it seems illogical to judge whether there was persistent under delivery by assessing the supply against a figure, which was not, at the relevant time, an appropriate target.
25. Clearly, there have been different judgments on this issue but there is no requirement that the delivery of dwellings should always match the annual average provision. In my view it is more realistic to look at the complete cycle of delivery so that there is smoothing out of the peaks and troughs of delivery. Consequently, on the basis of the performance against cumulative targets and in line with the Local Plan Inspector, and the Thaxted and Saffron Walden inspectors, I am satisfied that when supply is looked at cumulatively, this does not represent persistent under delivery of dwellings that justifies a 20% buffer.
26. The Council's housing trajectory¹² shows a total supply of 3530 dwellings but the appellant has challenged the supply figures in respect of the inclusion of C2 sites. It is acknowledged that the dividing line between C2 and C3 is not always easy to distinguish. The appellant originally considered that 245 units should be deleted from the five year supply as they relate to bedspaces rather than independent dwellings¹³ although this was amended to 175 units to delete a scheme in Great Dunmow from the calculation.

⁹ CD 8.2, paragraph 3.7

¹⁰ APP/C1570/A/14/2226257

¹¹ APP/C1570/A/14/2223280; CD 13.

¹² CD 9.5

¹³ Appendix NP5 to Ms Parsons PoE (after deleting 70 units at Great Dunmow from the calculation.)

27. The Council states that some 55 units at Elsenham are not C2 units but flats for independent living and they are dwellinghouses formed of single households¹⁴. (Document 34) and, although this part of the scheme does not form part of the reserved matters application, outline permission is extant.
28. The appellant also raises doubts about a site at the former Willis and Gambier site, Radwinter Road, Saffron Walden, identified for 60 units in the trajectory but for which there is a resolution to grant planning permission for 73 'extra care apartments' described as being C3 independent dwellings and not a residential institution. The resolution to grant permission is subject to a s106 agreement being completed by 27 February 2015. Although this has not been signed, neither has the scheme been refused and the Council considers that the units remain deliverable and meet the test at footnote 11 of paragraph 47 of the Framework.
29. It is accepted that some 60 units of a care home forming part of an outline planning permission, also at Radwinter Road, should be removed from the supply, with the net change to the calculation being 47 units after allowing for additional units on the Willis and Gambier site.
30. In accepting the Council's case in respect of the appropriate identification of these units in the five year supply, there are other considerations that influence the supply that were raised by the Thaxted inspector. Firstly, some occupants of a C2 bedspace will have vacated a unit of general needs housing meaning that not all the C2 supply should be discounted. Secondly, in calculating the supply, provision has been made for a windfall allowance of 50 dwellings per year which could be an under estimate because it excludes any windfall permissions granted on appeal. I am satisfied that taking account of these further factors would balance up any minor over calculation of supply.
31. Taking into account my conclusions on the appropriate buffer and the approach to C2/C3 housing issue, I am satisfied with the approach taken by the Council in identifying the five year housing land supply at 5.1 years based on the local Plan Inspector's suggested figure of 580 dpa and 5.3 years based on the 2015 OAN contained in the SHMA, is justified and supported by the evidence. This contrasts with the appellant's estimate of 3.2 years based on an annual requirement of 1051 dwellings and the removal of C2 bedspaces.
32. Accordingly, policies for the supply of housing are not out of date. Although the Uttlesford Local Plan 2005 pre-dates the Framework, a compatibility assessment of the local plan policies and the Framework has been undertaken¹⁵ and this indicates that many of the policies are compliant with the Framework. Accordingly I am able to attach considerable weight to Local Plan Policy S7 which restricts development beyond settlement limits.

Landscape and countryside

33. The site has a low earth mound on its Pelham Road boundary and is clearly visible from nearby viewpoints. It is also open to view from the ancient monument which has a post and rail fence on the common boundary. There is a mature hedgerow on the Waterystones Lane boundary which contains the site to some extent from the west and a more densely planted tree screen on the River Stort boundary to the north.

¹⁴ Document 34

¹⁵ CD 7.3 Compatibility Assessment of the Local Plan and the Framework

34. The landscape witnesses for the Council and the appellant agree on the methodology used to assess the landscape impact of the proposal but differ in their judgements on the visibility of the proposed development and the extent of any harm.
35. The site falls within Landscape Character Area H3 which has been assessed within the landscape character of Uttlesford District as having high sensitivity¹⁶. Clavering is set within the lower fold of a gentle undulating landscape where much of the village is screened from view and is well treed. In this respect it is contained by the landscape. The landscape does not benefit from any special designation but its character and appearance are attractive. The developed site would not appear prominent in the wider landscape even though part of the development would be visible in some longer distance views. Nor would the buildings breach the skyline or appear any more apparent than buildings in other parts of the village. I therefore consider that the development would not be harmful to the wider landscape character of the area.
36. The character of the countryside in closer proximity of the site is pleasant and intimate, notwithstanding the openness of the appeal site and the two existing dwellings on Waterystones Lane. This arises in part from the gentle contours of the land, the ford and footbridge over the river, the partial sense of enclosure provided by the narrow lanes and the tree cover and hedgerows. The development would appear more prominent from closer viewpoints, particularly from Pelham Road when travelling to the village from the east, and to some extent, also from the south end of Waterystones Lane which is set below the level of the site and slopes gently towards the river. The site is less visible from Cock Lane due to the more extensive screening but in general terms the development would be more visible in the winter months when vegetation has lost its leaf cover.
37. Development of the site would affect the appreciation and perception of the countryside and wider landscape particularly from those using Waterystones Lane or Cock Lane or the footpath crossing the Dam Meadow part of the scheduled monument, which is a popular local path over the 'humps and bumps' of the castle. The existence of housing and the introduction of residential features such as the play area and the attenuation basin would introduce urban features into the open countryside. A degree of tranquillity that currently exists would be lost as a result of the scheme. Whilst the visual impact of the development would be mitigated to some extent over the years when new landscaping becomes established, it would not be appropriate to create a landscape buffer where the site abuts the scheduled monument for reasons relating to the setting of heritage assets, and consequently, the potential for landscape impact mitigation for a sensitive part of the site would be limited.
38. The impact would be harmful to the open countryside and landscape setting of the appeal site, contrary to the intentions of Local Plan Policy S7 which indicates that land outside settlement boundaries is part of the countryside where there will be strict control on new building and the countryside will be protected for its own sake.

¹⁶ Braintree, Brentwood, Chelmsford, Malden and Uttlesford Landscape Character Assessments 2006, Chris Blandford and Associates: CD11.3

39. The appellant considers that Local Plan Policy S7 is inconsistent with the Framework, is out of date, and, as the settlement boundary clearly restricts housing development, the policy should be treated as a housing policy in the context of the Framework. In my view Policy S7 controls the distribution of development, which includes housing not satisfying the limitations set elsewhere in the Local Plan, and could be treated as a housing policy in addition to its countryside protection role. However I have concluded already that a 5 year supply of housing land exists and therefore paragraph 49 of the Framework is not triggered.
40. The Council accepts that Policy S7 is not wholly consistent with the Framework in respect of the policy reference to protecting the countryside for its own sake¹⁷ but, nevertheless, the aim to protect the landscape is clearly consistent with the core planning principle of the Framework in paragraph 17. This indicates that the intrinsic character and beauty of the countryside should be recognised while supporting thriving rural communities within it. This approach accords with that of the inspectors of the Thaxted¹⁸, Saffron Walden¹⁹ and Great Dunmow²⁰ appeals. I agree that the Framework does not seek to protect the countryside for its own sake but it nevertheless embraces an approach that recognised its intrinsic character and beauty and sought to protect valued landscapes. To that extent the policy is consistent with the Framework to which I can attach weight and I also attach weight to the Framework's approach to development in the countryside.
41. I conclude on this issue that although the proposed development would not be harmful to the wider landscape, it would cause harm to the more intimate setting of the landscape and countryside in the vicinity of the site to which I attach substantial weight. There would be no significant difference in the extent of the harm if the development were to be restricted to 35 units.
42. I note that the Council has not pursued any arguments in respect of Local Plan Policy ENV8.

Heritage Assets

43. One of the core principles at paragraph 17 of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. The setting of an asset is important and Appendix 2 of the Framework defines this as '*The surroundings in which the heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*' The Framework indicates that '*significance derives not only from a heritage asset's physical presence, but also from its setting*'.
44. Clavering Castle is scheduled as a well preserved ringwork monument and its significance lies in its importance and rarity as a ringwork and its association with historical figures. The complexity of the earthworks may represent a number of different phases of activity and they extend for about 200m west of

¹⁷ CD 7.3 Compatibility Assessment of the Local Plan and the Framework

¹⁸ APP/C1570/A/14/2222958; CD 13.3

¹⁹ APP/C1570/A/14/2221494; Appendix 1 to PoE of Ms Hutchinson

²⁰ APP/C1570/A/14/2223280; CD 13.13

the castle enclosure along the banks of the River Stort in an area known as Dam Meadow in which there are a number of water management earthworks. Currently the castle enclosure and deep moat are heavily wooded but the area of Dam Meadow is open pasture between the church, river and the north east boundary of the appeal site.

45. As a prominent and unusual feature that defines the historic heart of Clavering, the castle makes a very positive contribution to the public realm and has long been the source of social, communal and aesthetic value for the people of the village. Its setting is extensive and includes the village core, the parish church, the historic route of Cock Lane, the tree-lined banks of the river, and the 14th century manor house of The Bury. The northern part of the appeal site is also within the setting of the ancient monument. It abuts the site and there is inter-visibility between the two. It is possible that the appeal site also formed part of the historic Dam Meadow and contained the dam. There is a clear relationship between the appeal site and the ancient monument, with the appeal site providing views from the castle into open countryside and, as has been suggested, it could have provided views of advancing armies approaching from the west. I acknowledge that the two existing dwellings on Waterystones Lane can be seen from Dam Meadow, but these are outside the setting of the ancient monument and further away than the proposed development would be.
46. The Church of St Mary and St Clement is prominently sited on relatively high ground making a considerable contribution to the public realm and to the identity of the local community. Its significance is architectural, historical and communal. It has an extensive setting, extending well beyond the graveyard and its setting is intertwined with that of the castle. The church is also visible from the appeal site as I was able to witness at my site inspection, albeit that the church would largely disappear from view when the intervening trees are in leaf.
47. The conservation area abuts the appeal site where it shares a boundary with the ancient monument. I note that the appellant draws attention to the fact that neither the appeal site nor the surrounding countryside and referred to in the 2007 Conservation Area Appraisal²¹. Because the appeal site is not included as an important open space is not significant in my view as it is an arable field outside the built up area of Clavering whereas the open spaces within the designated area are more contained within the village. The relevance of the northern part of the appeal site to the significance of the conservation area and the other heritage assets is not diminished as a result.
48. Modern development within the village has largely been along Pelham Road and Stortford Road, whereas along the north and west sides, the setting of the conservation area remains little changed, with direct proximity of the historic core to the open countryside, including the tree-lined River Stort, the historic route-ways of Cock Lane and Waterystones Lane²² and farmland beyond.
49. Despite the legislation not referring to the setting of conservation areas, I share the Council's view that if elements of a conservation area's setting contribute to the appreciation of its significance as a designated heritage asset, and those elements are harmed, the conservation area itself is harmed.

²¹ CD 11.1

²² Waterystones Lane is currently a non-designated locally protected heritage asset and is subject to Local Plan Policy ENV9. However, I note that it is the intention to remove this designation in the emerging Local Plan.

- Consequently, the introduction of the proposed housing development would not preserve or enhance the character or appearance of the Conservation Area.
50. Although the northern part of the appeal site would remain as open space and contain the attenuation pond, new dwellings in either the 42 or 35 unit scheme would be visible from within the site of the ancient monument, which is crossed by a popular footpath between Cock Lane and the church. New dwellings would appear intrusive by introducing built development and residential activity in a sensitive location. The proposed development would distance and visually dislocate the Castle, the church and the conservation area from their open rural, agricultural setting to the west, and would have a negative effect on the rural character of the western side of the conservation area, altering people's perceptions of the village.
51. Views of Pond's Manor from Pelham Road would change as a result of the scheme, but its position is such that any views would be heavily filtered by existing tree cover. Its set back from the river behind a detached garden on Cock Lane limits the extent of its setting. Any harm caused to the significance of the asset would be minimal.
52. Historic England has maintained its objection to the residential development of the site, whether relating to 51, 42 or 35 dwellings. They conclude that the proposal would result in harm to a number of designated heritage assets including the castle, the parish church and the conservation area. In respect of the 35 unit scheme, whilst the harm would be less than with 51 dwellings it would still result in harm to a number of designated heritage assets and would require an equally significant level of public benefits to justify the harm against the wider public benefits arising from the application.
53. I conclude on this issue that the proposed development would cause harm to the significance of designated heritage assets, including the scheduled ancient monument, nearby listed buildings and to the Clavering Conservation Area. Additionally it would harm protected lanes. It is common ground that the level of harm to designated heritage assets would be less than substantial in the context of paragraph 134 of the Framework. I consider that the level of harm in either the 35 or 42 unit schemes would be towards the upper end of this category of harm and I attach considerable importance and great weight to this harm, setting up a 'strong presumption' against the grant of planning permission.²³
54. The proposal would be contrary to Local Plan Policies ENV1, ENV2, ENV4 and ENV9 which seek to protect heritage assets from harmful development.

Sustainable Development

The location of the site

55. It is common ground that Clavering is a sustainable settlement with a range of services and that it was identified as a Category A Village in the spatial strategy of the withdrawn local plan. Its function is to act as a local service centre for the surrounding area.
56. However, there are objections to the site due to its location at the western end of a long linear poly-focal village where many of the facilities are a considerable

²³ R(Forge Field Society) v Sevenoaks DC[2014] EWHC 1895 (Admin): CD15.11

distance from the site, such as the supermarket, village hall, school and public houses. Walking distances for some could be as much as 20 minutes. Whilst this may deter some people from walking and favour use of the car, I do not consider that, overall, the site is so remote from facilities in the village to weigh against the proposed development. The village has bus services although these are infrequent and subject to change, and the bus stop is some distance from the site which may deter some people but services nevertheless exist and are available to those who wish to use them.

57. The Rule 6 Party considers that the proposed development would exacerbate flooding, and that there are existing foul drainage problems²⁴. However, no objections in principle were raised by the County Council or the Environment Agency. Thames Water has expressed concern over the inability of existing waste water infrastructure to accommodate the development. In response the appellant has indicated that the sewerage undertaker would have adequate notice to implement any necessary improvement measures to the public sewerage network pursuant to the statutory framework that applies to the water industry. Alternatively, foul drainage could be controlled through the imposition of an appropriate condition.
58. Submissions have been made about the road safety implications of the proposed development. In particular, the Rule 6 Party states that the junction would be sited after a sweeping bend where the speed limit is 60mph, the footway proposals to the centre of the village would be dangerous²⁵ and there would be potential dangers to children walking to the primary school²⁶. The highway authority has not raised objection to the proposed access arrangements and junction design, nor to the proposed introduction of a reduced speed limit of 40 mph on part of Pelham Road incorporating the sweeping bend. The highway authority also supports the provision of a footway from the site access to link with other footways into the village centre. It is not unusual in rural areas and villages for footways to be below standard widths or for there not being any footways at all. In this case, the proposed footway is far from ideal due to its constrained width and there is a need for two crossings of Pelham Road to link with existing footways. Although this would not meet current standards it would nevertheless provide a betterment for existing pedestrians as well as being available for residents of the proposed housing. Accordingly the deficiencies are balanced by the benefit that the footway would provide.
59. There is concern about the educational²⁷ and health service²⁸ aspects of the proposals. It is accepted that the planning obligation would contribute to the expansion of the capacity at the primary school and local health services but the Rule 6 Party are concerned about the capacity of the Joyce Frankland Academy. The education authority has expressed mixed views on the capacity of the school but they have concluded that the school will be expanding and that no contribution towards this would be required from the appeal proposal.
60. Concern has been expressed that the ecology of the Stort Valley and riverside pastures either side of the appeal site would be seriously affected by the

²⁴ Statement No 5 submitted by J Skinner on behalf of the Rule 6 Party

²⁵ Statement No 8 submitted by J Skinner on behalf of the Rule 6 Party

²⁶ Section 4 of PoE of Ms Laing on behalf of the Rule 6 Party

²⁷ Sections 2 and 3 of PoE of Ms Laing on behalf of the Rule 6 Party

²⁸ PoE of D Curtis on behalf of the Rule 6 Party

development of the appeal site²⁹. I am satisfied from the Ecological Appraisal submitted with the application³⁰ and further observations from the appellant's ecological advisors³¹ that there are no significant ecological issues arising from this scheme and that adequate measures have been proposed to maintain natural habitats.

61. The Rule 6 Party considers that the development would have an adverse effect on social cohesion or assimilation of newcomers in village life. No evidence was presented to support such claims and I see no reason why prospective residents of the housing development would not be able to integrate into village life or to access the many social, sports and other groups that are established in the village.
62. The parties refer to the demographic effects of the development. The community appears well balanced in terms of age ranges and the development of the site would have no significant effects on age structure or enhance vitality, as suggested by the appellant, for such considerations to weigh in favour of the proposal. Whilst new residents may add to the trade of local businesses and join local groups, there is no evidence before me to suggest that such facilities are under threat.
63. Although the site is on the western edge of the village and is some distance from village services and facilities I conclude that site is reasonably located with satisfactory accessibility and is therefore sustainably located.

The three dimensions of sustainable development

64. Paragraph 7 of the Framework indicates that there are three dimensions to sustainable development: economic, social and environmental and paragraph 14 sets out a presumption in favour of sustainable development. For decision-taking this means that proposals according with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or, specific policies in the Framework indicate development should be restricted (which at footnote 9 includes reference to heritage assets).
65. The proposed development would provide both open market and affordable housing which would address housing needs and which would be clear social benefits. I attach considerable weight to the provision of affordable housing. The appellant considers that there would be economic benefits through the jobs created through construction and through the future expenditure of the residents helping the local economy. It is also argued that Council Tax and the New Homes Bonus will be economic benefits to the Council. Whilst this may well be the case these benefits are not particularly substantial or sustaining.
66. There would be the provision of a footway, which although it would not meet current standards, it would have benefit beyond the residents of the proposed development. There would be provision of open space on the site but as this would largely be for the benefit of the future occupants of the housing rather than a benefit to the wider community.

²⁹ PoE of M Rowley on behalf of the Rule 6 Party and the Clavering Countryside Group

³⁰ CD 1.10

³¹ Document 5: FPCR Environment and Design Ltd

67. The proposal would conflict with the core planning principle of the Framework regarding the recognition of the intrinsic nature and beauty of the countryside. I attach substantial weight to the harm to the landscape and countryside that the development would have in the vicinity of the site.
68. Turning to heritage impact, the proposal would lead to less than substantial harm to the significance of the designated heritage assets of the ancient monument, the parish church and the conservation area. Although less than substantial, the degree of harm would be significant and would not be outweighed by the public benefits of the proposal. The visual intrusion that would be caused by the development would affect the setting of the castle in particular and this would be further affected by the introduction of activities associated with the proposed use of the site for housing, changing this tranquil and sensitive part of the village. I attach great weight to the harm caused.
69. I conclude that the proposed development fails to represent sustainable development in the context of the Framework as to allow the development would significantly and demonstrably outweigh the benefits.

Planning Obligations

70. The appellant's executed unilateral undertaking makes provision for 40% of the proposed dwellings to be affordable units and how they will be managed. It also makes provision to address the implications of the development for some local infrastructure by way of financial contributions. This includes a primary education contribution; a school transport contribution and a healthcare contribution, all of which are necessary and proportionate based on the needs of the development. Provision is also made for managing open space provided as part of the development and for a Traffic Regulation Order contribution.
71. The Council does not have an adopted Community Infrastructure Levy (CIL) and there is a limit to the pooling of contributions from planning obligations. However I am satisfied that the pooling limit of five projects would not be breached. I am also satisfied that the obligations are necessary to make the development acceptable in planning terms and are fairly and reasonably related in scale and kind and that they would meet the tests set out in paragraph 204 of the Framework and CIL Regulation 122.

Conclusions

72. The Council is able to demonstrate that it has a five year supply of housing sites which means that I am able to have regard to relevant housing policies. The proposal would be contrary to Local Plan Policies ENV1, ENV2, ENV4 and ENV9 which seek to protect heritage assets from harmful development. It would also conflict with the intentions of the Framework in respect of the countryside. It would fail to represent sustainable development.
73. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

P N Jarratt

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|-------------------------|---|
| Josef Cannon of Counsel | instructed by M J Perry, Asst CEx |
| He called | |
| Ms A Hutchinson MRTPI | Hutchinsons Planning & Development Consultants |
| A Gascoyne FSA MCIfA | Historic & Built Environment Manager, Essex County Council |
| C Downs BA MPhil | Associate Landscape Architect Essex County Council |

FOR THE APPELLANT:

| | |
|--|---|
| Satnam Choongh | Instructed by Gladman Developments Ltd |
| He called | |
| J Clemons BA (Hons) MA MSc MRTPI IHBC | Director and Head of Historic Buildings, CgMs Consulting |
| J Ingham BA (Hons) DipLA CMLI AIEMA | Associate Landscape Architect & Environmental Planner, Pegasus Planning Group |
| J Powell | Operations Director, EPDS Consultants Ltd |
| R Hindle BSc (Hons) MRICS | Director, Rural Solutions |
| M Spry BSc DipTP MRTPI | Senior Director, Nathaniel Lichfield and Partners |
| Ms N Parsons BA (Hons) DipUP MRTPI | Regional Director, Pegasus Planning Group |

FOR THE RULE 6 PARTY

| | |
|---------------------------------------|---|
| P Kratz, Solicitor | Instructed by Hands off Clavering (Rule 6) |
| He called | |
| E J R Stanford BA (Hons) | Local resident on Demographics |
| M Rowley | Local resident, on behalf of the Clavering Countryside Group |
| Ms L Williams | Local resident on Employment |
| Ms J E Laing | Local resident on Education |
| D R Curtis MA (Oxon) | Local resident on Healthcare |
| Ms J Cooper | Local resident on Heritage |
| J Hosford | Local resident on Landscape |
| M H Robson BA (Hons), DipTP, MRTPI | Director, Cerda Planning |

INTERESTED PERSONS:

| | |
|------------|--|
| Ms S Gill | Chairman, Clavering Parish Council |
| P Gadd | Speaking on behalf of a local resident |
| E Oliver | District Councillor |
| Ms L Sivyr | Local resident |

DOCUMENTS

- 1 Corrections to the PoE of Ms N Parsons (appellant)
- 2 Statement of Common Ground
- 3 Bundle from Rule 6 Party: i) APP/J1915/W/15/ 3004594; ii) APP/C1570/W/15/3031306; iii) APP/C1570/W/15/3032528; iv) email of 27 October 2015 on school places data; v) email to PINS 4 November 2015; vi) Local bus service consultation Sept 2015, Essex County Council
- 4 Appellant's response to Rule 6 Party by Hydrock on surface water drainage
- 5 Appellant's response to Rule 6 Party by FPCR Environment and Design Ltd on ecology
- 6 Appellant's response to Rule 6 Party by Utility Response Solutions on foul drainage
- 7 Appeal decision APP/F1040/A/14/2214428 Swadlingcote (appellant)
- 8 Appeal decision APP/G1630/A/14/2223858 Stoke Orchard (appellant)
- 9 Appeal decision APP/C1570/A/13/2169515 Rear of Oxleys Close, Clavering (appellant)
- 10 Appeal decision APP/C1570/A/13/2198770 South of Oxleys Close, Clavering (appellant)
- 11 Appeal decision APP/C1570/A/13/2202177 Middle St, Clavering (appellant)
- 12 Appeal decision APP/C1570/A/12/2175071, Jubilee Works, Clavering (appellant)
- 13 Uttlesford Local Plan Spatial Strategy and Key Diagram (appellant)
- 14 ONS Statistical Bulletin 29 October 2015 (appellant)
- 15 Opening submissions on behalf of the LPA
- 16 Opening submissions on behalf of the appellant
- 17 Bundle from Council: i) written statement in rebuttal from ORS; ii) House of Commons PASC Migration Statistics 16 July 2013; iii) PoE of M Spry for NLP in respect of APP/J1915/W/15/3004594; iv) PAS OAN & Housing Targets Tech Advice Note July 2015; v) Inspector's Report on the examination into Bath and North East Somerset Council's Core Strategy; vi) draft Interim Housing SPG Mayor of London May 2015; vii) Inspector's preliminary findings into the Cornwall Local Plan Strategic Policies – Examination 5 June 2015; viii) Office for Budget Responsibility; ix) Economic and Fiscal Outlook March 2014; x) Uttlesford Table 1, key indicators.
- 18 Clavering Primary School Capacity (Council)
- 19 Joyce Frankland Academy (Council)
- 20 Email dated 30 October 2015 regarding attenuation pond (appellant)
- 21 Letter dated 3 July 2015 from ECC regarding education (Council)
- 22 Written statement by A Storah, local resident submitted by Mr Gadd
- 23 Appellant's response to Rule 6 Party by Icen Projects on highways and transport including appendix
- 24 Site visit itinerary
- 25 ECC Suitability Survey Report and Joyce Frankland Academy Admissions Policy (appellant)
- 26 Appeal decision APP/F1610/A/14/2228762 Mickleton (appellant)
- 27 Draft unilateral undertaking (appellant)
- 28 S106 contributions since 6 April 2010 (Council)
- 29 Bundle from appellant: (i) ONS Information Paper 10 September 2015; (ii) Components of difference underlying revised mid 2002 to mid 2010 population estimates; (iii) Comparison of Cheshire East and Uttlesford migration and build rates; (iv) Strategic Housing Market Assessments Practice Guidance V2; (v) Building new social rent homes – economic appraisal SHOUT June 2015

- 30 Cheshire East BC v SSCLG and Richborough Estates [2015] EWHC 410 (Admin) (appellant)
- 31 The Cotswold Case [2013] EWHC 3719 (Admin)
- 32 Extract from the inspector's report on the examination into further alterations to the London Plan (Council)
- 33 Planning Application UTT/14/3182/FUL at Radwinter Road, Saffron Walden
- 34 Planning Application UTT/0142/12/OP at Stanstead Road, Elsenham (Crown Estate)
- 35 Planning Application UTT/13/1684/OP at Smiths Farm, Dunmow (Crest Nicholson) (appellant)
- 36 Planning Application UTT/14/3279/DFO at Stanstead Road, Elsenham (David Wilson Homes) (appellant)
- 37 Executed unilateral undertaking signed 18 November 2015
- 38 Closing submissions on behalf of the Rule 6 Party
- 39 Closing submissions on behalf of the local planning authority
- 40 Closing submissions on behalf of the appellant

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