
Appeal Decision

Site visit made on 13 September 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 6 October 2016

Appeal Ref: APP/C1570/W/16/3149219

Land south of 1 Carters Hill, Manuden, Bishop's Stortford CM23 1DA

- 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 Thomas Colvill Holmes Lyons and Gwendolin Frances Lyons, Lucy Annora Murphy CVO, Sophia Rose Blaker, and West Whittle Properties Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/15/1859/FUL, dated 10 June 2015, was refused by notice dated 28 October 2015.
 - The development proposed is 4no. new build low cost residential units and 8no. new build residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants are stated differently in the application form, decision notice and appeal documents, including reference to The Battlement Trust. For certainty and completeness, I have referred to the appellants as listed in full in the document attached to the application form.
 3. The address on the application form refers to 1 Carters Hill, but the appeal form and decision notice refer to land south of 1 Carters Hill. It is clear from my site visit that the latter is correct and so I have referred to this address.
 4. Two amended drawings were submitted as part of the appeal documents. Drawing 336MAN/02D shows amendments to the first floor windows on the master bedrooms for Plots 1 to 4. Drawing 336MAN/02B includes other land in the appellants' ownership outlined in blue. The Council has been given the opportunity to comment on these amended drawings as part of the appeal process. Given the limited nature of the amendments, it has not been necessary to re-consult with interested parties. For the avoidance of doubt, I have taken the amended plans into consideration as part of my decision.
 5. The second reason for refusal in the decision notice refers to modern houses to the north of the appeal site and the historic core of the village to the south. From my site visit, it is clear that these directions are the wrong way around, with the modern houses to the south and the historic core of village to the north. I have assessed the proposed development on this basis.
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Main Issues

6. The main issues are the effect of development on (a) the character and appearance of the landscape and Manuden Conservation Area and (b) the living conditions of future occupiers of the dwellings shown for Plots 2 and 3 with regards to privacy.

Reasons

Character and appearance of the landscape and conservation area

7. The appeal site is located towards the southern end of Manuden, a small historic village on the western side of the River Stort valley. The site forms a gap in built development between Cock Farm and 19 Carters Hill and incorporates a field used for grazing animals. The large horse chestnut tree within the field provides a pleasant parkland element, but even without this tree in the longer term, noting its apparent poor health, the site has an attractive rural and agricultural feel. To the east of the site is open countryside sloping gently down to the river. This backdrop provides fine panoramic views from the site across the valley, including historic buildings and strip lynchets at The Downs. The sewage works which also lies within these views is not particularly prominent due to the low scale of structures and the provision of vegetation screening around the works.
8. Carters Hill is the main road into the village from the south and runs past the south-west boundary of the site along with a pavement. Due to existing vegetation and buildings along both sides of Carters Hill and the road's slightly sunken nature, the site is largely hidden in approaches from either direction. However, the site is much more visible closer up and along the road frontage. The bank between the pavement and the site boundary is shallow, while there are sizeable gaps between the trees that line the bank. As a consequence, the site and the panoramic views can be experienced from a public location along the road frontage without having to climb up the bank or cross the site boundary. Even in summer months, the foliage on the trees does not hamper views. The site therefore makes an important contribution to the landscape character and setting of the village.
9. The appeal site adjoins Manuden Conservation Area on the south-west and north-west boundaries. The significance of the conservation area can be derived from the rural character and appearance of the village surrounded by countryside, with a number of historic buildings clustered along the principal road through the settlement. The part of the conservation area nearest to the appeal site is characterised by open fields and farm buildings, reinforcing the rural surroundings. While the appeal site does not form part of the conservation area, it clearly forms part of its setting as the surroundings in which the conservation area is experienced. The road forms the focus of one's arrival into the conservation area from the south, but the site and its panoramic views can be easily experienced and enjoyed from the road and pavement. The importance of an easterly view across the site is specifically identified in the Manuden Conservation Area Appraisal and Management Proposals document (adopted 2013). Thus, the site makes a positive contribution to the significance of the conservation area.
10. The proposed development would retain the tree-lined bank and would be set back from Carters Hill by a considerable distance. The design of the buildings

would not be out of keeping with the conservation area in terms of scale, layout or materials. However, the development would occupy a large proportion of the site in terms of buildings, access road, hard surfacing and car parking.

As a consequence, the open, rural and agricultural nature of the existing site would be greatly eroded, while views across the site from the road frontage to the countryside beyond would be much impeded.

11. There would be a sizeable gap between the Plot 4 and Plot 5 buildings which attempts to accommodate the important view identified in the Conservation Area Appraisal. However, the view from the road and pavement would be framed by built development and would not be the open and rural panorama currently experienced. A proposed pedestrian footpath to the gap and a bench would allow public access into the site to look across the valley, but this view would similarly be hampered by car parking and the buildings on Plots 9 to 12. Proposed planting between the site and sewage works suggested by the appellants on land within their control would improve the screening of the works, but would do little to mitigate the harm that would be caused to views from the road frontage and within the site itself.
12. The development would therefore have a harmful effect on the character and appearance of the landscape and conservation area. In terms of the conservation area, the harm to its significance would be less than substantial, but would still be considerable given the erosion of an open space and important view that make a positive contribution to the significance of the conservation area. Paragraph 134 of the National Planning Policy Framework (NPPF) requires such harm to be weighed against the public benefits of the proposal.
13. It is evident that the proposed development would provide a reasonable number of new houses, including some at low cost. The development would be within walking distance of village services including the school and could help to maintain the vitality of such services, notwithstanding arguments about the capacity of the school. However, the range of services is limited and while there is an 'on-demand' public transport service, there would likely be an increase in vehicle movements arising from this development. It is also evident that the proposal would seek to provide a high level of sustainable construction techniques, which is important but could equally be applied to a development scheme in a less sensitive location. Therefore, the public benefits cited in favour of this development can only be described as moderate overall and do not outweigh the considerable harm to the conservation area.
14. The appellants highlight the recently completed development on the north side of the village at David Collins Drive as comparable to the proposed development. Having visited the completed development as part of my site visit, I concur with the appellants that the buildings are of high quality architectural design and there is a good chance that the architectural quality of the proposed development could be similarly high given the same developer. However, I have not been provided with any details relating to the planning application for the completed development and do not know what the site looked like beforehand. Nevertheless, it is apparent that the two sites are not identical in size, topography or views. For instance, the road past the completed development is more sunken and bounded by steeper banks with thicker vegetation than the road past the appeal site and does not have a

pavement. As such, there are not the same panoramic views over the valley. Therefore, the completed development has had little bearing on my findings.

15. Concluding on this main issue, the proposed development would have a considerable harmful effect on the character and appearance of the landscape and Manuden Conservation Area. Therefore, it would not accord with Policies ENV1 and ENV3 of the Uttlesford Local Plan 2005 (ULP) as it would not preserve or enhance the conservation area including the arrangement of open areas and would result in the loss of visually important space where the need for development does not outweigh its amenity value. I do not consider either policy to be out of date simply because of the relative age of the ULP and thus afford them considerable weight in line with their consistency with the NPPF. The development would also not meet the aims of the NPPF as it would fail to protect a valued landscape or sustain the significance of the conservation area where the public benefits would not outweigh the harm.

Living conditions

16. The dwellings on Plots 2 and 3 would be 5 metres apart at the narrowest point. On drawing 336MAN/02C which formed part of the refused planning application, there are three first floor windows on the flank elevation of both dwellings facing each other. On drawing 336MAN/02D submitted with the appeal, the master bedroom window on each dwelling from Plot 1 to 4 switches to the rear elevation. This amendment would address the Council's concerns regarding overlooking from the master bedroom window of Plot 2 and 3 to the private external space of Plot 3 and 2 respectively.
17. However, the windows serving Bed 2 and 3 on the flank elevation of Plot 2 and Plot 3 remain unchanged with a 5 metre gap between windows. The Council does not have specific guidance on distances between first floor windows on flank elevations, but 5 metres would be very close for windows serving bedrooms and would result in direct overlooking. As a consequence, there would be a harmful effect on the living conditions of future occupiers of these dwellings in terms of privacy. Therefore, the proposed development would not accord with Policy GEN2 of the ULP which, amongst other things, seeks to avoid materially adverse effects on the reasonable occupation and enjoyment of a residential property as a result of loss of privacy.

Other Matters

18. The appellants contend that the Council cannot demonstrate a 5 year supply of deliverable housing sites, citing a verbal report from the Planning Policy Working Group meeting of 9 June 2016 and approvals of housing between 1 June and 1 September 2016. The evidence before me is limited and not conclusive on this matter. It should be noted that planning permission was refused on the basis of effects on landscape, conservation area and living conditions, and that the Council has not relied on any policies for the supply of housing to withhold permission. Nevertheless, even if were to accept that the Council cannot demonstrate a 5 year supply and that relevant policies were not up to date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. Thus, the proposal would not represent sustainable development.
19. The appellants also highlight the different conclusions reached by the Council on the appeal site from the 2008 & 2009 Strategic Housing Land Availability

Assessment and the 2015 Strategic Land Availability Assessment. It is not clear from the evidence before me why the Council changed its position between the two assessments. However, the 2015 assessment that the site is not suitable based on the sensitivity of the landscape and conservation area is consistent with the Council's decision notice for this proposal. Therefore, this changed position has had no bearing on my overall conclusion.

20. Interested parties have raised a large number of other concerns including flooding, ecology and highway safety. Given my findings on the main issues, it has not been necessary to address these matters in any detail. I also note the support from some interested parties for this development in terms of its design, limited visual impact and boost to local services, but this does not alter my overall conclusion.

Conclusion

21. The proposed development would deliver moderate public benefits including additional market and low cost housing and a high level of sustainable construction. However, these benefits would not outweigh the considerable harm to the character and appearance of the landscape and Manuden Conservation Area and the harm to living conditions for future occupiers of the development. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR