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## Appeal Decision

Site visit made on 27 June 2017

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

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

**Decision date: 8<sup>th</sup> August 2017**

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**Appeal Ref: APP/C1570/W/17/3172148**

**Langhams, Bakers Lane, Felsted, Essex CM6 3LP**

- 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 Nicholas Kershaw against the decision of Uttlesford District Council.
  - The application Ref UTT/16/3469/FUL, dated 3 December 2016, was refused by notice dated 7 February 2017.
  - The development proposed is change of use from agricultural to domestic garden.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. I noted from my site inspection that the appeal site has been enclosed by a post and rail fence to its northern and western boundaries and that trees have been planted. The Council has implied that these works have resulted in an unauthorised change of use, which is disputed by the appellant. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open for the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
3. I also noted from my site inspection that the neighbouring property at Fairfield House, Bakers Lane, Felsted has erected a post and rail fence on a piece of land that follows the northern boundary of the appeal site proposal. I have not taken this into account in my assessment as it is not known whether these works are lawful and it is not a matter for me to determine in this appeal for the reasons referred to above in paragraph 2.

### Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

5. The proposal would substantially extend the rear garden into the agricultural field to the north-west, the footprint of which has now been enclosed by post and rail fencing to its northern and western boundaries. There is no boundary treatment separating the proposed garden extension from the existing garden

area, which makes it difficult to distinguish between them. The parcel of land now enclosed by post and rail fencing has not infilled an unworkable part of the larger agricultural field or reinforced an existing field boundary.

6. Unlike the adjacent agricultural field, the new boundaries defined by the post and rail fencing do not have any associated hedgerows. Furthermore, the extended garden area, if allowed, could result in a more formal urban style of planting, which would be particularly noticeable when viewed from Chelmsford Road to the west of the appeal site. These matters, when taken cumulatively, would be harmful to the appearance of the countryside and landscape character of the area.
7. Although the appeal site is of broadly the same depth as the rear garden for the neighbouring property at Howlands, this neighbouring garden is very heavily screened by the existing field boundary and therefore not visible when viewed from the west on Chelmsford Road.
8. While it would be possible to require a hedgerow to be planted at the boundary to screen the extended garden area, with the use of indigenous species, this would be likely to take many years to establish. Furthermore, given that Uttlesford is a predominantly rural district with many small settlements that abut the open countryside, I have concerns that if the proposal were deemed acceptable, this may make it difficult for the Council to resist similar proposals, the consequences of which, when taken cumulatively, would be extremely harmful to the appearance of the countryside and landscape character of the area.
9. The appeal scheme would also give rise to the possibility of residential paraphernalia, suburban-style fencing and garden structures being erected under permitted development rights. This would be particularly noticeable when viewed from Chelmsford Road to the west of the appeal site and would be harmful to the appearance of the countryside and landscape character of the area. I would not consider it appropriate to impose a condition restricting permitted development rights from the extended garden area for garden buildings and its use for residential paraphernalia such as play equipment as this would unreasonably restrict its intended use. In any case, even if such a condition were to be imposed, I have concerns about the practicality of being able to monitor and enforce it on an ongoing basis.
10. The appellant has referred to the school playing field granted planning permission as establishing a precedent for the proposal. However, the nature of this use is materially different from that currently proposed and subject to different development plan policies.
11. The existing rear garden is approximately 10 metres in depth from the rear elevation of the appeal dwelling. Although I accept that there would be benefits to the appellant of having a larger garden, I would not consider its existing size to be insufficient for the host property.
12. In view of the above, the proposal would be harmful to the character and appearance of the area. It would therefore conflict with Policies S7 and ENV6 of the Uttlesford Local Plan 2005 which seek to protect the character and appearance of the countryside.

13. Although the Council considers policy S7 to be only partly consistent with the National Planning Policy Framework (NPPF), I am satisfied that the harm arising from the proposal would also be contrary to para 17 of the NPPF which states that planning should take account of the different character of areas and recognise that that the countryside has an intrinsic character and beauty.

**Conclusion**

14. The appeal proposal would conflict with the development plan when taken as a whole and I conclude, having had regard to all other matters raised, that the appeal should be dismissed.

*Robert Fallon*

INSPECTOR