
Appeal Decision

Site visit made on 9 October 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 17th October 2017

Appeal Ref: APP/C1570/W/17/3180473

Land rear of Holly Hedge, Woodmans Lane, Duddenhoe End, Elmdon, Essex CB11 4UU

- 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 Mr Michael Heseltine of MKT Developments against the decision of Uttlesford District Council.
 - The application Ref UTT/17/0763/OP, dated 14 March 2017, was refused by notice dated 16 May 2017.
 - The development proposed is a new single storey dwelling, garage and access.
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Decision

1. The appeal is allowed and planning permission is granted for a new single storey dwelling, garage and access at Land rear of Holly Hedge, Woodmans Lane, Duddenhoe End, Elmdon, Essex CB11 4UU, in accordance with the terms of the application, Ref: UTT/17/0763/OP, dated 14 March 2017, subject to the conditions in the attached schedule.

Preliminary Matters

2. The application was submitted in outline with all matters of detail reserved for future consideration save for access. The submitted drawings are not marked as indicative. Nevertheless, from a consideration of the submissions as a whole it is apparent that the drawings do not show firm proposals. I have considered the appeal on this basis and have treated the appeal drawings as being an illustration of how the development could proceed in the event planning permission was granted.

Main Issues

3. The main issues in this appeal are whether the appeal site is a suitable location for housing with particular reference to local planning policies for rural housing and the effect on the character and appearance of the countryside.

Reasons

Local planning policies for rural housing

4. The appeal site is located in the countryside being outside the development limits of a settlement defined in the development plan. Saved Policy S7 of the Uttlesford Local Plan 2005 (LP) has a broadly restrictive approach to development in the countryside. This approach is primarily in order to protect

the countryside for its own sake by only permitting there if it needs to take place there or is appropriate in a rural area.

5. The appeal scheme is the erection of a new house that would be situated in the countryside with no apparent need to be there. Consequently, it would harmfully undermine the broad strategy for housing supply and the protection of the countryside contained in Policy S7 of the LP. The weight I afford to this conflict is a matter I return to in my planning balance.

The effect on the character and appearance of the countryside

6. The proposal is for the erection of a dwelling in the countryside in a position which is currently devoid of structures and built form. Thus, in a modest way, the proposal would inherently urbanise the appeal site and this would result in some harm to the open and undeveloped character of the appeal site and thus its contribution to the countryside and rural setting of the hamlet.
7. However, this inherent impact is significantly tempered by a number of factors. The first of these being that the appeal site is located behind Steeping Stones and Holly Hedge. It therefore abuts the built form of the hamlet and consequently the proposed dwelling would not appear physically isolated. Moreover, to the immediate west of the appeal site there is a building that has planning permission¹ to be demolished and a single storey dwelling erected in its place and to the immediate east of the appeal site there is the long garden of Sebring, which stretches past the appeal site.
8. As such, the proposed dwelling and its curtilage would not incongruously jut out into the countryside as a discordant extension of the built form of the hamlet. This is particularly so as the land to the immediate south of the appeal site is extensively landscaped and domestic in character. This provides a physical and visual buffer with the more open arable landscape beyond the hamlet.
9. The Council have suggested that the proposed dwelling would be visible from far reaching views but these views have not been identified. The appellant has suggested the building would be single storey in height and if this were the case it would have a similar impact on surrounding views to the adjoining stable. The stable building is not prominent in views from Woodmans Lane as it is screened by the dwellings to the north and intervening landscaping. There is nothing before me to suggest the stables are unduly prominent from neighbouring gardens or the countryside to the south, east and west. As such, it is reasonable to assume the appeal scheme would have a comparable impact on the wider countryside if it had a similar height and visual character to the existing stables. The height and design of the proposed dwelling is a matter that can be controlled through the submission of reserved matters.
10. The implementation of the appeal scheme would require the felling of a number of trees. This has the potential to harmfully affect the verdant backdrop to Steeping Stones and Holly Hedge that is currently evident from Woodmans Road. Nevertheless, the appeal site is large enough to construct the proposed dwelling and retain some of the existing trees and/or plant new ones. As such this is not an inherent failing of the appeal scheme. Suitable landscaping can be secured through the reserved matters submission.

¹ Council reference UTT/16/299/OP

11. In addition to concerns relating to the impact on the countryside, it has been suggested the proposal would be inappropriate backland development. I do not share this view as the hamlet has a varied grain of development, the proposed dwelling would not be prominent and the appeal site is located next to a site where a new dwelling has been approved. As such, the proposal would not be discordant backland development and consequently I find no conflict with Policy H4 of the LP.
12. I therefore conclude that there would be some inherent harm to the countryside from erecting a new structure in the appeal site. Nevertheless, this impact would be minor given the specific context of the site and the disposition of structures and landscaping around it. As such, any conflict with Policy S7, which seeks to protect the character and appearance of the countryside, would be limited.

Other Matters

13. Concerns have been raised that occupants of the proposed dwelling would have poor accessibility to services and facilities, such as schooling, shops and employment and infrastructure, such as broadband. The appellant has listed these as being a village hall that offers a limited programme of events, a post box, a church and an egg stall. There is a milk delivery service and mobile library that visits the hamlet and major supermarkets provide home deliveries. In addition, there is a school bus service to a local primary school. This analysis would support the conclusion that there are few facilities in the hamlet and nearby villages.
14. However, a new dwelling was approved at the Forge following an appeal². This is a site in Duddenhoe End close to the appeal site. The Inspector, in allowing the appeal, was aware of the limited array of services in the hamlet but considered the proposed house would assist in the retention of those services that remain. This is a material consideration of some force as like applications should be considered in a like manner unless circumstances have changed or new evidence is presented that suggests a different outcome.
15. Interested parties have provided evidence that demonstrates the site is not well connected to everyday services and facilities but there is little to suggest that matters have changed significantly since the previous appeal decision in local or national policy, the context of the site or the provision of services that would suggest I should take a contradictory view. It is also noteworthy that the Council have recently approved two houses in the village at land west of Cedar Cottage and the adjoining stable has planning permission to be replaced by a dwelling. It would be inconsistent decision making for me to now find Duddenhoe End unsuitable for further residential development because of its limited accessibility to services and facilities when it has previously been found to be a 'sustainable' location.
16. Concerns have been expressed that the proposal would have adverse impacts upon the living conditions of neighbours. This is a matter that would need further careful consideration at the reserved matters stage. However, I share the Council's view that there would be no inherent harm from the appeal scheme and a low level single storey building would not result in a harmful loss of light, outlook or privacy for the occupants of neighbouring properties subject

² APP/C1570/A/14/12218212

to an acceptable detailed design. Any noise effects arising from the occupation of the appeal property would be similar to that currently found between existing neighbouring properties and therefore this would not be harmful and any disturbance from construction would be short lived.

17. The Council's Ecologist did not object to the proposal and has not required further details. I am content to rely on this expert view. There have been representations made as to whether the appeal site is previously developed land. This has not proven to be determinative and therefore a conclusion on this matter is unnecessary. The implementation of the appeal scheme would have some implications for the approved replacement of Holly Hedge³ but this is not a reason to dismiss the appeal. Instead, it would be the decision of the appellant which planning permission he implements. Any subsequent applications for housing at the hamlet would need to be considered on its own merits and therefore my decision sets no generalised harmful precedent.

Planning Balance

18. It is common ground between the appellant and the Council that the Council cannot currently demonstrate a five year housing land supply as required to by the Framework⁴. As a consequence, the Council's policies for the supply of housing are out of date. In such circumstances Paragraph 14 of the Framework is engaged and this indicates that planning permission should be granted unless any adverse impacts of doing so 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. The Council have not suggested that the latter point applies and have instead applied the tilted planning balance, as shall I.
19. An adverse impact of the appeal scheme is that it would be contrary to the planned strategy for the location of housing and the protection of the countryside set out in Policy S7 of the LP. However, this policy is only partially consistent with the Framework, which has a more nuanced and balanced approach to development in rural areas, as it seeks to encourage development that supports the vitality of rural areas whilst also recognising the intrinsic character and beauty of the countryside. Additionally, the restrictive approach in Policy S7, if applied rigorously, would frustrate the Council's ability to remedy its housing land supply deficit. As such, I afford the conflict with the strategy for the protection of the countryside in Policy S7 limited weight.
20. In addition to this, the appeal scheme would only result in limited harm to the character and appearance of the countryside. The harm that would arise would be through an inherent urbanisation of the appeal site but the physical impact of this would have little impact beyond the immediate confines of the site. As a consequence, the adverse impacts of the appeal scheme, taken together, are matters of limited weight against it.
21. The proposal would provide a single family dwelling that would increase the rural housing stock and assist the Council in meeting its housing land supply. There would be inherent social benefits from this. A single dwelling could provide some limited assistance towards the vitality of rural communities and

³ The access would cut through the approved garage and off road parking area.

⁴ The supply is around 4.5 years

services through the patronage of future occupants and economic benefits would be derived through the construction of the dwelling. However, given the modest scale of the appeal scheme its benefits would be limited.

22. Consequently, I do not consider the limited adverse impacts of the appeal scheme would significantly and demonstrably outweigh its limited benefits. I therefore find the proposal to be sustainable development for which the Framework carries a presumption in favour.

Conditions

23. I have had regard to the Planning Practice Guide and the Council's list of suggested conditions. In the interests of safeguarding the character and appearance of the area and the living conditions of neighbours it is necessary to secure the submission and approval of reserved matters. To ensure the appeal scheme adheres to the development plan, and in the interest of securing appropriate drainage and access, it is necessary to impose the fourth and fifth conditions suggested by the Council.
24. Vehicular access to the appeal site would be from the existing highway access serving Holly Hedge, which is reasonably well constructed with adequate visibility. The intensification in the use of the highway access arising from the appeal scheme would not be so great as to require the imposition of any planning conditions relating to its design and construction. Parking would be considered as part of the layout considerations at the reserved matters stage.

Conclusion

25. The appeal scheme would be contrary to the development plan taken as a whole but material considerations, namely the policies of the Framework and my conclusion that the proposal would be sustainable development, indicate planning permission should be forthcoming in spite of this. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) Approval of the details of layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") must be obtained from the local planning authority in writing before development commences and the development must be carried out as approved.
- 2) Application for approval of the Reserved Matters must be made to the local planning authority not later than the expiration of three years from the date of this permission.
- 3) The development hereby permitted must be begun no later than the expiration of two years from the date of approval of the last of the Reserved Matters to be approved.
- 4) Prior to the commencement of development a scheme to provide satisfactory foul and surface water drainage, and to avoid adverse impacts on the drainage of existing properties, shall be submitted to and approved in writing by the local planning authority; all works which form part of the approved scheme shall be completed before any part of the development is occupied.
- 5) The dwelling hereby permitted must be built in accordance with Requirement M4(2) (Accessible and Adaptable Dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.