



Appeal Decisions

Site visit made on 14 May 2019

by C Beeby BA (Hons)

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 July 2019

Appeal A Ref: APP/C1570/W/19/3223395

Site opposite The Drove, Lower Green Lane, Wimbish Lower Green, Saffron Walden CB10 2XH

- 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 Martin Best against the decision of Uttlesford District Council.
 - The application Ref UTT/18/2285/OP, dated 14 August 2018, was refused by notice dated 20 February 2019.
 - The development proposed is a new dwelling with a detached cart-lodge garage.
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Appeal B Ref: APP/C1570/W/19/3220995

Site opposite The Drove, Lower Green Lane, Wimbish Lower Green, Saffron Walden CB10 2XH

- 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 Martin Best against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1506/OP, dated 31 May 2018, was refused by notice dated 30 July 2018.
 - The development proposed is a new dwelling with a detached cart-lodge garage.
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Decisions

Appeal A Ref: APP/C1570/W/19/3223395

1. The appeal is allowed and planning permission is granted for a new dwelling with a detached cart-lodge garage at Site opposite The Drove, Lower Green Lane, Wimbish Lower Green, Saffron Walden CB10 2XH, in accordance with the terms of the application Ref UTT/18/2285/OP dated 14 August 2018, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

Appeal B Ref: APP/C1570/W/19/3220995

2. The appeal is allowed and planning permission is granted for a new dwelling with a detached cart-lodge garage at Site opposite The Drove, Lower Green Lane, Wimbish Lower Green, Saffron Walden CB10 2XH, in accordance with the terms of the application Ref UTT/18/1506/OP dated 31 May 2018, subject to the conditions set out in the Schedule of Conditions at the end of this decision.

Preliminary Matters

3. As set out above there are two appeals on this site. They relate to identical schemes. I have considered each appeal on its individual merits. However, to

avoid duplication, I have dealt with the two schemes together, except where otherwise indicated. Locational concerns were the reason for refusal of the application to which Appeal B relates, however the Council states that this does not accurately represent its position. The Council instead relies on its reason for refusal of Appeal A in refusing permission.

4. Whilst the Council no longer has a concern about the proposal's location and consequently does not seek to defend it, an interested party has raised concern on the matter. As a result, I consider that the issue of location still falls for consideration as part of the appeals, and I shall therefore proceed on this basis.
5. The proposals seek outline planning permission, with all matters reserved except access. I have considered the appeals on this basis and have treated any plans in relation to the reserved matters as illustrative.
6. The evidence makes reference to policies from the emerging Local Plan (eLP). The eLP has not yet been formally adopted by the Council. Therefore in accordance with paragraph 48 of the National Planning Policy Framework 2019 ("the Framework"), whilst I have had regard to those policies I have not attached full weight to them in my consideration of this appeal.

Main Issues

7. The main issue in respect of Appeal A is the effect of the proposed development on the character and appearance of the area and on the setting of a nearby listed building. The main issue in respect of Appeal B is whether the proposed development would provide a suitable location for housing, having regard to the rural housing aims of the Framework.

Reasons

Appeal A: Character and appearance

8. The appeal site is a grass paddock enclosed by mature trees and hedgerow. It lies off Lower Green Lane and adjacent to a small settlement of dwellings and other buildings which lie around a central green. The pattern of development in the wider area is generally one of sporadic dwellings within well-sized plots interspersed with open countryside, and trees, hedgerow and generous verges line much of the surrounding lanes.
9. The verge forms a wide strip between the appeal site and the lane and is thickly vegetated with mature trees and undergrowth. The main view of the site is consequently that which is available through its access; the site is otherwise only visible in glimpses through the vegetation. Nevertheless, the undeveloped and rural nature of the site contributes to the verdant and spacious setting of the settlement.
10. Dwellings in the vicinity are detached and of a generous scale and plot size, with a good level of set back from the lane. The settlement's spacious and rural appearance derives from the surrounding open countryside, the central green area and the generally well spaced built form interspersed with trees, hedgerow, verges and paths.
11. Whilst the applications are in outline only with all matters reserved except access, the indicative plans suggest a potential scheme which the site could

accommodate and no other detailed scheme has been suggested. They show the use of the existing site access and a large detached dwelling which is set behind the verge trees but which does not extend further east than built form on the other side of the lane. The detached dwelling shown lies in a generously sized plot with good separation from neighbouring properties. As a result, the proposal would be in keeping with the pattern of development in the vicinity.

12. The proposal would introduce built form and domestic garden paraphernalia on a site which currently contributes to the natural surroundings of the settlement. As such, the proposal would cause a level of harm to the character and appearance of the area. However, this harm would be limited because of the low density of the proposed development and because the proposal is capable of preserving a significant proportion of the trees and hedgerow which contribute much of the site's rural appearance. Furthermore, a good proportion of the natural form which provides substantial screening to the site boundaries lies outside it, and consequently would not be altered by the development.
13. Whilst I acknowledge that development on the southern side of the lane generally has a looser pattern than that on the northern side, the proposed dwelling could be sited within its plot to form part of the cluster of buildings around the central green area. As a result, its position within the settlement would not be unduly prominent.
14. Stocks Cottage ("the cottage") is a Grade II listed dwelling which lies adjacent to the appeal site and the green. Its list description states that it is a C17-C18 timber-framed and plastered building with a tiled, half hipped roof with 2 gabled dormers and a central chimney stack. The well treed setting and surrounding open space contributes a sense of seclusion and tranquillity to its significance. The cottage is one of a scattering of barns and dwellings which lie around the green. These include "Lower House Farm", which is a substantial dwelling of some age which has a prominent position across the green from the cottage, and lies adjacent to the complex of barns. The farmhouse suggests the likely agricultural history of the secluded settlement and consequently contributes a functional context to the setting of the cottage.
15. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed building.
16. Paragraphs 193 and 194 of the Framework advise that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
17. The majority of the barns and other dwellings in the settlement appear to be of a more recent date than the farmhouse and cottage, and include two detached properties which are recently constructed and which lie across the lane from Stocks Cottage. As a result, the setting of the cottage is not one of exclusively historic built form. Rather, the rural surroundings and the loose pattern of development contribute seclusion, spaciousness and tranquillity to the cottage's significance.

18. The cottage is well set back from the road and is screened behind mature trees and vegetation. As such, only glimpses of it are available from the lane and from the track which runs past the green and which carries a public right of way. An area of the cottage's side garden separates it from the appeal site and the boundary between the two contains mature trees and vegetation. The appeal site is generally set forward of the cottage. As a linear plot which lies parallel with and closer to the lane the development would have a different layout and character from the secluded and set back cottage.
19. The considerable areas of trees and vegetation which lie to the front of both the cottage and the appeal site have the effect of creating two separate views of the two from the highway. The new dwelling would be visible only in glimpses through the natural form when outside the cottage, and vice versa. Whilst the screening effect is likely to be reduced in winter due to leaf loss, this would only be by a limited degree given the height and density of the wooded areas concerned.
20. Views towards the side and rear elevations of the cottage from the track which passes south from the green are limited by intervening built and natural form. Whilst elements of the new dwelling may be glimpsed behind the cottage in oblique views from the track, the distance between the two and the intervening natural form would limit any significantly harmful visual effect on the cottage's setting in such views. The settlement currently comprises a combination of older and more modern development, such that the modern appearance of the new dwelling would not appear incongruous within the asset's setting.
21. The new dwelling and garage would not lie significantly closer to the cottage than other surrounding residential development and the barns. The good level of spacing between the new dwelling and the cottage, and the small size of the proposal at one dwelling, would preserve the settlement's small scale and loose pattern of development, and would limit any additional noise.
22. I conclude that the appeal scheme would cause limited harm to the character and appearance of the area by the partial loss of an area of open space, and consequently would result in less than substantial harm to the setting of the heritage asset, although its secluded and tranquil character would be preserved. The proposal therefore conflicts with Policy S7 of the Uttlesford Local Plan (2005) ("the ULP"), which requires development to protect or enhance the particular character of the part of the countryside within which it is set. Limited conflict with the design aims of the Framework also exists.

Appeal B: location of development

23. The village of Wimbish lies a short distance from the site along rural lanes. It has a primary school, recreation ground and village hall. The village of Radwinter lies a little further away and has a primary school, public house and church. A convenience store, garden centre and café additionally lie within 2-3 miles of the site. Residents of the development would reasonably be expected to use, and thereby to support such local services. Whilst the lanes in the area are generally unlit, carry a national speed limit and lack a footway, they have a relatively quiet rural character and reasonably generous verges are often evident. These factors are likely to render them reasonably attractive to cyclists and pedestrians. A limited range of journeys from the development could, therefore, be undertaken by means other than the private car.

24. Wimbish offers bus services to local towns, and the DART2 bus service offers collection from dwellings, and may be used by anyone. Bus services are therefore available from locations at a short distance from the appeal site, increasing the potential for the use of sustainable forms of transport by occupiers of the proposed development. Furthermore, the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and that this should be taken into account in decision-making.
25. The Framework sets out that planning policies and decisions should avoid the development of isolated homes in the countryside except in certain circumstances. Case law¹ has found that the word "isolated" in this context connotes a dwelling that is physically separate or remote from a settlement. The cluster of dwellings and buildings around the green forms a small settlement. The appeal site adjoins the edge of this, and as such it is closely related to the settlement. Thus, there is no conflict with the Framework in this area.
26. As a result of these factors, the proposal would provide a suitable location for housing. The development would provide support for nearby services and would be located where it would enhance and maintain the vitality of rural communities in the area. Thus, it complies with the rural housing aims of the Framework.

Other Matters

27. Concern has been raised regarding the potential for the proposal to cause harm to the living conditions of the occupiers of the adjacent Stocks Cottage with regard to levels of privacy within their dwelling and garden. The indicative plans demonstrate that the site is able to accommodate built form of a sufficient distance from Stocks Cottage to safeguard the privacy of the occupiers, taking into account the level of screening offered by intervening landscaping. Furthermore, there is nothing before me to suggest that appearance, layout and landscaping arrangements sufficient to protect the living conditions of neighbouring occupiers could not be secured at the reserved matters stage.
28. Representation is additionally made that the proposal is not infill development for the purposes of Policy S7 of the ULP. Infilling is the development of a relatively small gap between existing buildings. I acknowledge that the proposal does not appear to form infill development as the distance between the proposed dwelling and adjacent development in the Wimbish Green direction could not be characterised as a small gap. However, whilst infilling is one of the types of development which Policy S7 sets out to be appropriate in a rural area, the policy does not suggest that this is the only appropriate type. As a result, a failure to comprise infill development does not render the proposal inconsistent with Policy S7. Compliance can exist on additional grounds, as I have found above.
29. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, no directly comparable sites to which this might apply are referred to. Each application

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.

30. The evidence before me does not suggest that the proposal would have an unacceptable effect on biodiversity, that there is a lack of need for the development, that the proposal would result in an unacceptable extension of Lower Green by the loss of a historic paddock or that approval would be inconsistent with advice received in respect of other proposals in the area. I therefore attach limited weight to these matters in determining the appeal.
31. In refusing permission for Appeal B the Council relies on Policy S7 of the ULP. However, this policy concerns the effect of development proposals on the character of the countryside, and whether there is a need for development in the countryside. I therefore consider that the policy has limited relevance to the question of the accessibility of the site to services and facilities, which is cited in the Council's decision notice for Appeal B. As a result, I attach limited weight to the relevance of Policy S7 of the ULP in determining Appeal B.
32. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined afresh and on its planning merits.

Planning Balance

33. The Council accepts that it cannot currently demonstrate a 5 year housing land supply (5Y HLS). Therefore, in accordance with paragraph 11 d) of the Framework, as these are applications for the provision of housing, the development policies which are most important for determining the applications are considered out-of-date. I am consequently required to consider, as set out in Framework paragraph 11 d), whether the application of Framework policies that protect the heritage asset provide a clear reason for refusing the proposed development, or whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. There would be some economic uplift during construction through short-term employment and the purchase of building materials. Future occupiers of the development would contribute to the local economy. Socially, the development would add to the supply of housing. That would be in accordance with the Government's objective of significantly boosting the supply of homes, especially in a context where there is no 5-year HLS. The proposals provide housing in an area where there is a significant shortfall in HLS, at a figure of 3.29 years, a benefit to which I attach significant weight. Whilst the proposals would cause less than substantial harm to the setting of the heritage asset, I have not found environmental harm to result from any other aspect of them.
35. I have weighed the benefits against the less than substantial harm to the heritage asset, as required by paragraph 196 of the Framework. I am satisfied that the relatively limited degree of harm caused would be outweighed by the benefits of development in this case. As such, there would be no conflict with paragraph 196 of the Framework. In the context of paragraph 11, policies within the Framework do not provide a clear reason for refusing the development proposed.

Conditions

- 36. I have imposed a condition specifying the relevant drawings as this provides certainty.
- 37. Conditions 5 and 6 are imposed because the evidence suggests that the appeal site area has the potential to contain archaeological remains.
- 38. Conditions 7 and 8 are imposed in order to conserve and enhance biodiversity in view of the rural and well treed nature of the site and its location adjacent to a designated Local Wildlife Site, and in accordance with the biodiversity aims of the development plan and the Framework.
- 39. I have imposed Conditions 9 and 10 in the interests of highway safety.
- 40. Condition 11 is imposed in the interests of accessible design, which would help to deliver development plan policy on design.

Conclusion: Appeal A and Appeal B

- 41. For the reasons given above, I conclude that the appeals should be allowed.

C Beeby

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 1812.01, 1812.02 and 1812.06, but only in respect of those matters not reserved for later approval.
5. No development shall take place within the area shown within the red line on approved plan No. 1812.02 until an archaeological Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions.
6. No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
7. No development shall take place, including any works of demolition, until a Construction Method Statement: Biodiversity ("CMS") has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - A risk assessment of potentially damaging construction activities.
 - The identification of "biodiversity protection zones".
 - Practical measures (both physical measures and sensitive working practices) to avoid or reduce effects on biodiversity during construction, which may be provided as a set of method statements.
 - The location and timing of sensitive works to avoid harm to biodiversity features.
 - The times during construction when qualified ecologists shall be present on site to oversee works.
 - The responsible persons and lines of communication.
 - The role and responsibilities on site of an ecological clerk of works or similarly competent person.
 - The use of protective fences, exclusion barriers and warning signs.

The approved CMS shall be adhered to throughout the construction period for the development.

8. The development shall be carried out in accordance with the ecological measures and/or works recommended in the submitted Preliminary Ecological Appraisal Report (T4 Ecology Ltd., June 2018). This includes

measures such as retaining hedgerows on site, using bat sensitive lighting, covering trenches overnight, keeping grass short prior to construction, gapping up the western boundary hedge, installing bat/bird boxes and retaining hedgehog permeable boundaries.

9. The building shall not be occupied until a vehicular access shall have been constructed at right angles to the highway boundary. The width of the access at its junction with the highway shall be no less than 3 metres and an appropriate vehicular crossover shall be provided. The access shall be retained thereafter.
10. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
11. The dwelling hereby permitted shall be built in accordance with Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.