
Appeal Decision

Site visit made on 17 September 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019

Appeal Ref: APP/C1570/W/19/3231345

The Old Chalk Pit, Hollow Road, Widdington, Essex, CB11 3SL

- 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 James Placido against the decision of Uttlesford District Council.
 - The application Ref UTT/19/0640/FUL dated 14 March 2019, was refused by notice dated 13 May 2019.
 - The development proposed is the conversion of existing building last used as stables to create a self contained detached dwelling with associated private garden car parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the appeal site is an appropriate location for a new dwelling, including with regard to the character and appearance of the area; and,
 - The effect of the development on highway safety.

Reasons

Location

3. The appeal site comprises an existing timber faced building which lies in an undulating field. Access to the building is taken along a partially surfaced track. The site lies outside the development boundaries defined in the Uttlesford Local Plan 2005 (the Local Plan) and is thus in the countryside for development plan purposes. Taken together, Policies H6 and S7 of the Local Plan seek to restrict inappropriate forms of housing development in rural areas.
4. The appeal site is accessed via Hollow Road which is a narrow rural lane lying on a lower level than the appeal building. Despite the presence of a waste recycling facility located on fields generally on the opposite side of Hollow Road, the site has an eminently rural feel. This is reinforced by the location of the nearest settlement, Widdington, the edge of which lies approximately 800m to the east. Apart from this, there are few other dwellings scattered along Hollow Road and surrounding lanes. Having regard to a recent court judgment

concerning isolated homes in the countryside¹, the appeal building is located in a position which is physically separate and remote from the nearest settlement and I am satisfied that in the particular circumstances of this case, the proposal would constitute an isolated home in the countryside.

5. Furthermore, given the outlying location of the site and the lack of demarcated footpaths and lighting on Hollow Road, the proposed dwelling would not be in a location to maintain or enhance the vitality of rural communities without placing heavy reliance on the private car, contrary to paragraph 78 of the National Planning Policy Framework (the Framework). However, paragraph 79 of the Framework potentially allows for the creation of isolated dwellings where, *inter alia*, the development would reuse redundant or disused buildings and lead to an enhancement of its immediate setting.
6. There is no dispute between the main parties that the appeal building is redundant. There was no evidence on my site visit that it was in use, or had been used for some time, although it appeared robust and capable of conversion. The resultant dwelling would occupy two floors of the appeal building and would utilise much of the existing timber cladding and supplement it with timber framed doors and window frames. Repairs would be made where necessary. A small garden area would be located in between the appeal building and Hollow Road, but its elevated position and the tree cover which exists between the two would limit views of it from the road.
7. I observed on my site visit that whilst much of the site is well screened from the surrounding area by a combination of existing planting and the topography of the surrounding land, there would be some views of the appeal site from a nearby bridleway, particularly from the more elevated part of it which lies in an exposed position looking towards the rear of the appeal building. Despite the neglected nature of the appeal building and the unkempt appearance of the land which surrounds it, the encroachment of vegetation over time has served to assimilate the building and the remnants of the existing access with the verdant surroundings of the area.
8. In contrast, the proposal would result in an urbanising effect through the internal lighting of the dwelling, the likely introduction of an enclosed garden area, and other domestic paraphernalia such as garden furniture, washing lines fencing and parked vehicles. Whilst the access track could be reinstated with the use of low-key surfacing material, and planning conditions could be imposed to restrict external lighting and provide additional landscaping, the totality of the aforementioned works would domesticise the appearance of the appeal site, resulting in significant harmful effects on the character and appearance of the area.
9. I appreciate that the last use of the appeal site was for the stabling and keeping of horses², which could recommence without planning permission. Even if the appellant was to revert the land to this use, the effects of an equestrian use on the character and appearance of the area would be more rustic and in keeping with their rural surroundings, as opposed to the urbanising nature of the proposal.

¹ Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

² Uttlesford District Council planning permission reference – UTT/0504/03/FUL

10. I am mindful of the Uttlesford Local Plan 2005 – National Planning Policy Framework Compatibility Assessment, July 2012, which considers that Policies S7 and H6 of the Local Plan are only partly consistent with the Framework which, in general, is more supportive of the re-use of rural buildings. Whilst I appreciate that both Policies include elements which are inconsistent with the Framework, Policy S7 also includes a requirement that development protects or enhances the particular character of the part of the countryside within which it sits, which is generally consistent with paragraph 170 of the Framework. Policy H6 requires that conversions are not permitted on isolated sites, generally compliant with the requirements set out in paragraphs 78 and 79 of the Framework.
11. Consequently, for the foregoing reasons, I find that the proposal would not be an appropriate location for a new dwelling, having regard to the character and appearance of the area, and I find that the conflict with Policies S7 and H6 of the Local Plan in this case should attract significant weight.

Highway safety

12. The site is accessed via a partially made track off Hollow Road. I observed on my site visit that a stretch of the access track leading up to the site from the road was relatively steep. The Council also contends that the existing access is deficient in terms of its geometric layout, visibility and construction, which is not in accordance with current standards.
13. Even though no traffic count or speed survey information has been provided to clarify the typical traffic characteristics of the road, I observed that Hollow Road was lightly trafficked on my mid-morning site visit. It also appeared to me that visibility when exiting the site, particularly to the east, was obscured by the presence of an earth bund. The gradient of the access when exiting the site and approaching the road, and the oblique angle of it relative to the highway reinforces the importance of ensuring adequate visibility. The appellant has not provided evidence depicting the extent of the visibility splays achievable, and it has therefore not been demonstrated that suitable visibility can be ensured when exiting the site. A lack of adequate visibility would lead to potential conflict for vehicles exiting the site when motorised vehicles, cyclists or horse riders were travelling towards the site access, along Hollow Road, at the same time.
14. At the time of my visit the appeal site was not being used for equestrian purposes. It has been put to me by the appellant that the recommencement of the use would provide four stables within the appeal building which would result in significantly more traffic movements than those associated with a single dwelling. Be that as it may, it was evident on my site visit that works would be required in order to bring the appeal building and site back into equestrian use. Whilst there is no certainty as to whether the stated intention of the appellant is likely, even if I was to afford it significant weight, the reliance on a fall-back position involving a potentially unsafe junction is not justification for it to be used for another purpose. Therefore, in the absence of a demonstrably safe site access, I find that the proposal would be an unacceptable intensification of an existing access.
15. For the foregoing reasons the development would lead to unacceptable highway impacts. As a result, it would conflict with Policy GEN1 of the Local Plan which seeks, amongst other matters, to ensure that road safety would not

be unacceptably compromised. Furthermore, the submitted evidence fails to demonstrate that safe and suitable access could be achieved for all users, contrary to paragraph 108 of the Framework.

Other Matters

16. My attention has been drawn to a number of other cases where planning permission has been granted for new dwellings by the Council on sites that have some similarities with the one before me. However, those examples³ appear to comprise sites located closer to existing buildings or near a differing pattern of development than the appeal proposal. Therefore, I am not satisfied that the circumstances of each case are sufficiently similar to the appeal scheme such that it would warrant me reaching a different conclusion on the main issues. In any event, I have determined the appeal case on its own merits, whilst having regard to the evidence submitted.
17. I am aware that permitted development rights⁴ exist for certain agricultural buildings to be changed to residential uses. However, unlike those proposals where the principle of development has already been established, the S78 appeal before me requires me to consider the proposal against the development plan unless other material considerations indicate otherwise, which I have done here.
18. The appellant has referenced Policy C2 of the 'draft local plan'. I have not been provided with a copy of the Policy or the draft plan and I have no evidence to suggest that the draft plan has been through Examination. Therefore, this Policy carries limited weight. From the Policy extract I have seen in the appellant's evidence, Policy C2 requires that developments enhance the character of the countryside and have regard to road safety. As set out in my reasoning, I find that the proposal would be harmful to character and appearance and highway safety.

Planning Balance and Conclusion

19. The Council accepts that it can demonstrate only a 3.29 year supply of deliverable housing land. Under these circumstances paragraph 11 of the Framework is engaged. Paragraph 11 of the Framework states at '(d) where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the LPA cannot demonstrate a five year supply of deliverable housing sites), 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'.
20. There would be conflict with relevant development plan policies. The Local Plan dates from 2005 but the weight to be attached does not hinge on its age. Rather, paragraph 213 of the Framework makes it clear that weight should be given to existing policies according to their degree of consistency with the Framework. The countryside is not protected for its own sake, but its intrinsic character and beauty is recognised by the Framework. Even taking account of the objective of significantly boosting the supply of homes and the Council's position, the conflict between the proposal and Policies H6 and S7 of the Local

³ Uttlesford District Council planning permission references - UTT/19/0733/FUL and UTT/18/1169/FUL

⁴ Under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Plan, concerning the impact of the proposal on the character and appearance of the area, and the isolated nature the site in open countryside, should be given significant weight in this appeal. There would also be conflict with Policy GEN1 of the Local Plan concerning the impact of the proposal on highway safety.

21. Set against the harm identified there would be limited social and economic benefits. The development would provide a single additional house which would generate employment opportunities during construction, and through the employment of local services for the upkeep and maintenance of the house when it was occupied. However, even considering paragraph 68 of the Framework which identifies the importance of small sites in meeting housing delivery targets, an additional residential unit would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be limited. It would provide limited community enhancement of the nearest settlement of Widdington.
22. Consequently, the adverse impacts on the character and appearance of the area and highway safety would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
23. The proposal would conflict with the development plan as a whole and there are no other material considerations which outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

Matthew Woodward

INSPECTOR