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## Appeal Decision

Site visit made on 12 November 2019

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> November 2019**

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**Appeal Ref: APP/C1570/W/19/3235577**

**Crouches Farmhouse, The Broadway, Great Dunmow CM6 3BQ**

- 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 D Beedle against the decision of Uttlesford District Council.
  - The application Ref UTT/18/2485/FUL, dated 4 September 2018, was refused by notice dated 5 July 2019.
  - The development proposed is replacement of an existing garage with a new self-contained dwelling and associated development.
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### Decision

1. The appeal is allowed and planning permission is granted for the replacement of an existing garage with a new self-contained dwelling and associated development at Crouches Farmhouse, The Broadway, Great Dunmow CM6 3BQ in accordance with the terms of the application ref UTT/18/2485/FUL, dated 4 September 2018 subject to the conditions set out in the attached schedule.

### Main Issue

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

### Reasons

3. The appeal site is located on the Broadway outside of the development limits of Church End as identified within the Uttlesford Local Plan 2005 (ULP) and the Town Development Area identified by Policy DS1:TDA of the Great Dunmow Neighbourhood Plan 2016 (GDNP). As a consequence, the site is within the countryside for the purposes of planning policy.
4. As The Broadway runs between Church End towards Bran End, there are some dispersed individual buildings and small loose groups of buildings which are set back from the road to varying degrees. Buildings are of diverse scales but typically traditional styles within generous plots and appear predominantly to be in residential or agricultural use. The surrounding landscape is wide and open, generally comprising large but often irregular fields marked by belts of vegetation, and blocks of woodland. Together with the scattered arrangement of diverse buildings, this gives the area an open and rural character.
5. The appeal site is part of a small group of buildings together with Crouches, a Grade II listed dwelling, and a number of single storey agricultural buildings in varying states of repair which are set well back from the road. The site is broadly triangular and currently accommodates a two-storey detached dwelling

- known as 'Crouches Farmhouse' which is set back from the road. To the side of the dwelling is a detached double garage which it is proposed to replace with a two-storey dwelling together with additional parking at the front of the site.
6. Paragraph 79 of the National Planning Policy Framework (the Framework) seeks to avoid the development of isolated homes in the countryside unless one or more of several listed circumstances apply.
  7. In this case, the appeal site accommodates an existing dwelling set close to neighbouring Crouches, as well as some farm buildings which form a small group. Between the site and dwellings within Church End is an open field. However, Church End Villas along The Broadway are visible close at hand from the front of the site, and dwellings backing onto St Edmunds Lane are visible from the rear. While there is no footway along The Broadway connecting the site to these neighbours, the distance is not so far so as to make the route unwalkable or to offer a notable deterrent to travel on foot or by cycle to reach facilities within Church End or Great Dunmow beyond, and the modest scale of the intervening open land is not so great as to offer significant separation to the site.
  8. The word 'isolated' is not defined within the Framework, but the main parties have referred to the 'Braintree' judgement<sup>1</sup> where this was considered. Having regard to this judgement and given the relationship of the site with the adjacent buildings and built form in Church End and my conclusions above, in my view the appeal site would not be remote or far away from other buildings or people. The proposal would not therefore result in the creation of an isolated home in the countryside as referred to at paragraph 79 of the Framework.
  9. Notwithstanding this, Saved Policy S7 of the ULP seeks protection of the countryside by only permitting proposals that need to be within it or which are appropriate in a rural area. It further advises that development will only be permitted if its appearance protects or enhances the character of the part of the countryside within which it is set or there are special reasons why the development needs to be there. More generally, saved Policy GEN2 of the ULP includes requirements that development is compatible with the scale, form layout, appearance and materials of surrounding buildings, that important environmental features in its setting are safeguarded, and that the visual impact of new buildings is reduced. While GDNP Policy DS1:TDA highlights that areas outside the Town Development Area will be treated as countryside, it does not include further provisions relevant to development here.
  10. The height, footprint and overall scale of the proposed dwelling would all be greater than the garage currently on the site and there would be additional hardstanding and associated paraphernalia such as boundary treatment and bike/tool sheds on the site. The development would therefore have a greater visual impact, reducing some of the openness of the site which is characteristic of its location within the countryside and the development.
  11. Although there is some screening of the site by boundary vegetation, the development would be visible from the surrounding area. The appellant suggests that a scheme of landscaping enhancements could provide further

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<sup>1</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin), [2018] EWCA Civ 610

- screening. However, no firm details of any such enhancements are before me and in any event, it is unlikely that the development would be wholly screened.
12. Even so, the boundary vegetation does serve to clearly delimit the appeal site which is already in residential use and would obscure some views of the development. The dwelling would replace an existing structure on the site and would be set between Crouches Farmhouse and adjacent buildings including Crouches and its attendant outbuildings which are already visible in the surrounding area and appear as a small cluster.
  13. Moreover, spacing around the dwelling to its boundaries would provide for separation to neighbouring buildings and would maintain views through the site in keeping with surrounding development. As a consequence, the proposal would not result in the incursion of built form beyond existing defined boundaries or surrounding buildings so as to cause encroachment to open countryside. The visual impact of the development on the wider countryside surrounding the site and the rural setting of Great Dunmow would therefore be limited, and would be focused on the appeal site itself.
  14. The size and height of the proposed dwelling would be comparable to Crouches Farmhouse and its traditional appearance would be in keeping with the character and appearance of the existing dwelling on the site and the street scene, reducing its prominence. Furthermore, the arrangement would reflect the existing pattern of small loose groups of buildings along The Broadway set within open countryside and the development would not appear as an alien or incongruous feature. Accordingly, I find that the proposed development would be compatible with the existing pattern and designs of buildings along The Broadway. The general form and context of the proposal would reduce its visual impact, and there is no indication that any important environmental features would be harmed. I therefore find no conflict with ULP Policy GEN2.
  15. However, the increase in built form would result in some reduction in the openness of the site which would be detrimental to the character and appearance of the countryside. While the aforementioned harm would be localised and limited, there is no evidence to suggest there is a special reason why the development needs to be on this site. I therefore conclude on this main issue that the proposal would be contrary to Policy S7 of the ULP.

### **Planning Balance**

16. The main parties agree that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. The lack of housing land supply triggers the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework. This states that where the policies which are most important for determining the proposal are out of date, permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or (ii) 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. In the absence of any applicable policies in 11(d)(i), I have assessed the proposal against 11(d)(ii) only.
17. In relation to the main issue, I have found that the increased scale of development would result in some reduction in the openness of the site which would be detrimental to the character and appearance of the countryside.

While the harm would be localised and limited, in this regard the development would conflict with saved Policy S7 of the ULP. Accordingly I find that this policy is 'most important' for determining the proposal.

18. There is disagreement between the parties over the consistency of saved Policy S7 with the Framework and therefore the weight that should be given to it and I have been referred to appeal decisions where Inspectors have reached differing conclusions on this point. However, I do not have full details of the evidence and circumstances which informed those decisions and in any case I have made my own assessment.
19. While the Council refer to paragraph 170 of the Framework, this seeks to protect valued landscapes rather than the countryside itself. The protective approach taken by Policy S7 and requirement that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set go beyond the recognition of the intrinsic character and beauty of the countryside sought by paragraph 170.
20. I also note that Policy S7 relates to settlements and development limits which do not reflect the current housing requirement. In the absence of a 5 year supply, housing requirements are not being met and a rigid application of Policy S7 which seeks in principle to prevent most residential development in the countryside would frustrate attempts to address the deficit in housing supply. I therefore find that the more restrictive approach of saved Policy S7 to development within the countryside is inconsistent with the Framework and accordingly I afford conflict with this policy limited weight.
21. Nevertheless, the Framework advises that the protection and enhancement of the natural environment is a key aspect of sustainable development and the reduction in the openness of the site would cause some harm to the character and appearance of the countryside which weighs against the proposal.
22. In terms of benefits, the proposal would make effective use of the previously developed site to provide one additional dwelling. With regard to the supply of housing, the Council refer to a housing land supply position of around 3.29 years although the appellant's final comments refer to a supply of 2.68 years. While I have not been provided with evidence to consider the scale of the shortfall in more detail, in either case the development would contribute positively to the under-supply position.
23. I have no detailed evidence before me to underpin the appellant's suggestion that the 3-bedroom dwelling would reflect the needs and aspirations of the local community specifically. Nevertheless, the development would advance the Government's objective outlined within the Framework to boost significantly the supply of homes from a variety of sites as well as helping to meet local needs generally. I further acknowledge advice within the Framework that small and medium sized sites such as this can make an important contribution to meeting housing requirements and are often built out relatively quickly. In this regard, the appellant advises that the site will be built out promptly.
24. The development would additionally result in some short-term economic benefits during the construction period, both direct and indirect. Expenditure in the area by future occupiers would also offer some ongoing support for the local economy, help to maintain the viability of existing services within the

- surrounding rural area and offer encouragement for new enterprises; matters which are supported by the Framework and which would be a social benefit.
25. Additionally, the appeal site is located within walking distance of Church End which offers some local services, and there are a wider range of services and facilities in Great Dunmow beyond which would help to meet day to day needs of future occupiers. There are therefore opportunities to promote walking and cycling, as well as access to public transport within the surrounding area. Some biodiversity enhancements and additional planting are proposed as part of development which would offer a benefit, albeit that this is qualified by the absence of firm details on the scope of enhancements.
26. The extent of the above benefits is tempered by the small amount of development, they nevertheless carry moderate weight in the planning balance. Insofar as council tax receipts and the new homes bonus is concerned, I am mindful that paragraph 21b-011 of the Planning Practice Guidance advises that it would not be appropriate to make a decision based on the potential for a development to make money for a local authority. The absence of any identified harm to the landscape, biodiversity, or heritage assets and the retention of existing boundary vegetation are also neutral considerations in the planning balance.
27. Bringing matters together, the proposal would result in some environmental harm through the impact on the openness of the site and thus the character and appearance of the countryside, although this would be limited, and would conflict with saved Policy S7 of the ULP. However, there is no 5 year supply of housing, and this policy is not fully consistent with the Framework which limits the weight afforded to the conflict. The cumulative benefits would be appreciable and in the context of paragraph 11(d) of the Framework, even if the shortfall in the 5 year housing land supply were only of the scale suggested by the Council, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
28. The presumption in favour of sustainable development therefore applies and is a material consideration that weighs in favour of the proposal. While the development would not fully accord with saved Policy S7 of the ULP, I conclude that there are thus material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

### **Other Matters**

29. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to preserving the setting of the listed building 'Crouches'. However, given the sympathetic scale and design of the development, together with its location within the existing site of Crouches Farmhouse and the relationship with Crouches, I see no reason to disagree with the Council that there would be no harm to this heritage asset.

### **Conditions**

30. I have considered the conditions suggested within the Council's report on the application and submissions as part of the appeal, and those of Essex County Council as the Highway Authority against the relevant tests at paragraph 55 of

the Framework. I have made minor amendments where necessary for clarity, to ensure compliance with the relevant tests and to avoid duplication.

31. In addition to the standard time limit condition (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty. Conditions requiring details of materials (3) and provision for landscaping including surfacing of the access and any boundary treatment (4) are necessary to ensure a satisfactory appearance. However, the Council's suggestion that landscaping works should be in accordance with guidance contained in British Standards unless otherwise agreed is insufficiently precise, and in the absence of justification for such a requirement I see no reason this would be necessary. Conditions to require that the permitted dwelling is accessible and adaptable (5), use of obscure glazing to the first floor flank window facing Crouches Farmhouse (6) and the provision of parking (7) are also necessary in the interests of safeguarding the living conditions of future and neighbouring occupiers and highway safety.
32. I am mindful that paragraph 53 of the Framework states planning conditions should only restrict national permitted development rights where there is clear justification to do so. In this case, I am not satisfied that the Council's suggested conditions to remove many householder rights is necessary as no detailed explanation has been given for them, and I am not persuaded that any such restrictions are necessary in this case given the nature of the appeal site. Finally, while the Highway Authority suggest a condition relating to standards for the access driveway, no changes are proposed to the existing arrangement and no detail has been provided to show why this would be necessary. I have not therefore imposed this condition.

### **Conclusion**

33. For the reasons given above, I conclude that the appeal should be allowed.

*J Bowyer*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 00, 01, 02, 03, 04 and 05.
- 3) Notwithstanding the details shown on the approved plans, no development above ground level shall take place until details, including samples and/or photographs as appropriate, of the external finishes for the walls, roof, windows and doors of the dwelling hereby permitted have been submitted to and approved by the Local Planning Authority in writing. The development shall be carried out in accordance with the approved details.
- 4) Prior to first occupation of the dwelling hereby permitted, details of the following hard and soft landscaping works must be submitted to and approved in writing by the Local Planning Authority:
  - i) retained features;
  - ii) new planting;
  - iii) hard surfaces; and
  - iv) boundary treatment.

All hard and soft landscape works must be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the approved details of landscaping must be carried out in the first planting and seeding seasons following the occupation of the dwelling hereby permitted, the completion of the development, or in agreed phases whichever is the sooner. Any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased must be replaced in the next planting season with others of similar size and species.

- 5) The dwelling hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings' and shall be retained as such thereafter.
- 6) The dwelling hereby permitted shall not be occupied until the first floor window in the flank elevation facing Crouches Farmhouse has been fitted with obscured glazing and no part of the window that is less than 1.7m above the floor level of the room in which it is installed shall be capable of being opened. The window shall be permanently retained in that condition thereafter.
- 7) The dwelling hereby permitted shall not be occupied until the vehicle parking area shown on plan no. 05 has been provided. The vehicle parking and associated turning area shall thereafter be retained in this form.