
Appeal Decision

Site visit made on 15 October 2019

by Rajeevan Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/C1570/W/19/3234277

Land North of Lavenhams, Canfield Road, Takeley CM22 6SU

- 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 & Mrs P Roberts against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1067/OP, dated 04 May 2019, was refused by notice dated 28 June 2019.
 - The development proposed is the erection of four dwellinghouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was in outline with all matters reserved except for access. I have had regard to the site/location plan (drawing no 262/SP/003C) but have regarded all elements of this drawing as indicative apart from the details of the access.
3. The Regulation 19 (22) Uttlesford Local Plan has been submitted but has yet to be examined and found sound. Therefore, it attracts limited weight as a material consideration.

Main Issues

4. The main issues are:
 - whether the proposed development would provide a suitable location for housing, having regard to the character and appearance of the area and the accessibility of services and facilities; and
 - the effect of the proposed development on the setting of the Grade II listed building known as Lavenhams.

Reasons

Suitability of the location

5. The appeal site comprises part of a large grass field bounded by mature hedgerows. The site lies adjacent to Lavenhams, a Grade II listed building, and is within a cluster of buildings known as Hope End. The site, laid to grass

- bounded by mature hedgerow on the road frontage, together with the open fields to the rear of the site, forms part of the open countryside.
6. The appeal site is considered to be within the countryside where Policy S7 of the Uttlesford Local Plan 2005 ('the Local Plan') applies. The policy seeks to protect the countryside for its own sake by restricting development to that which needs to take place there or is appropriate to a rural area. Paragraph 6.14 of the Local Plan notes that sensitive infilling of small gaps within small groups of houses outside development limits but close to settlements will be acceptable subject to the development being compatible with the character of the surroundings and having a limited impact on the countryside in the context of existing development.
 7. The proposed development would be located adjacent to the Lavenhams, on one side, however it would also form part of a large open field fronting the Great Canfield Road. In this respect, it would not fall within the definition of infilling referred to by Policy S7. The site, along with the adjacent open field acts as a break in built development next to the residential property of the Lavenhams and Canfield Park Cottage. The undeveloped nature of the site, and existing vegetation provides a rural character with open views across the countryside. Whilst the appellants contend that the existing mature hedgerow and proposed landscaping would limit views into the site and reduces the impact the proposal has on the surrounding area, hedges/trees are natural features and, as such, would not provide permanent screening during the autumn/winter months of the year.
 8. The construction of four dwellings, regardless of scale, appearance, layout and landscaping would be visible over the remaining hedgerow and would reduce the largely open and undeveloped qualities of this side of the Road. As a consequence, the proposal would introduce a large proportion of hard surfacing to a currently natural and green frontage, which would harm the rural and open character and appearance of the countryside. Therefore, there would be a degree of urbanisation and countryside encroachment through the addition of the proposed development. Whilst the submitted drawings are indicative only, no evidence has been submitted which allows me to consider an alternative layout would satisfactorily overcome the harm identified.
 9. My attention has been drawn to a number of recent appeal decisions in the vicinity of the site, which include the site at the Land south of Canfield Park Cottage, Great Canfield Road, Takeley¹ and the site at Sandhurst, Canfield Road, Takeley, Bishops Stortford². Firstly, with regards to the Decision at Land south of Canfield Park Cottage and Paragraph 170 of the Framework, the Inspector stated "The proposal would be readily apparent from Great Canfield Road and there would be no mistaking the extension of built development into a currently undeveloped area. However, as stated above the proposal would be seen in the context of Canfield Park Cottage and the existing dwellings on the opposite side of the road. In addition, a large proportion of the undeveloped land adjacent to Great Canfield Road between Canfield Park Cottage and Lavenhams would be retained".
 10. It is clear from the above, that the Inspector was concerned regarding the existing gap. If the current proposal were also allowed, a smaller proportion of

¹ Appeal Decision Appeal Ref APP/C1570/W/18/3210211 allowed on 27th March 2019.

² Appeal Decision Ref: APP/C1570/W/19/3222613 dismissed on 21 June 2019.

the undeveloped land adjacent to Great Canfield Road between Canfield Park Cottage and Lavenhams would be retained. As such the gap would be further eroded to an unacceptable degree as a result of this development. Given the scale of that development, and that the Framework considers that small to medium sized sites could be built out relatively quickly³ I have no reason to consider that the approved scheme of this neighbouring site would not be able to be implemented.

11. Furthermore, the site at Sandhurst, on the opposite side of Canfield Road, is materially different than the appeal site. In particular, there is an almost continuous form of development fronting the street on the opposite side of the road. This is not the case with the current appeal proposal before me, which forms part of a substantial break in the built form which contributes to the character and appearance of the countryside. I also observed that the shape of the Sandhurst Plot is materially different than the current site before me.
12. Turning to the accessibility of the site with regards to services and facilities, Paragraph 103 of the Framework highlights that the planning system should actively manage patterns of growth in support of promoting sustainable transport. It further states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The nearest bus stop to the site can be found along the Stortford Road (B1256), which is approximately 770m away from the site⁴. The site is approximately 1.3 km from the centre of Takeley⁵, where local shops and services can be found, including day to day shopping, primary education, public houses, a community hall and regular bus services.
13. However, I note that the route to the B1256 and Takeley, along Great Canfield Road contains no pavements and is unlit, and therefore would not be convenient or pleasant walk for future occupiers in hours of darkness. Notwithstanding this I note that in two recent nearby Appeal Decisions⁶ on Great Canfield Road, both Inspectors considered that the site was in a relatively accessible location, and in this respect future occupiers would not be solely reliant on the use of the private car to satisfy their transport needs. On balance given the relatively small scale nature of the development and its proximity to Takeley, I consider that future occupiers would have reasonable accessibility to shops, services and facilities. Furthermore, prospective occupiers would provide some support for and would help maintain the vitality of the services and facilities in the nearby settlements, in accordance with Paragraph 78 of the Framework.
14. Concluding on the first main issue, the proposed development would have reasonable accessibility to services and facilities in accordance with Policies paragraphs 78 and 103 of the Framework. Notwithstanding this, the proposed development would not provide a suitable location for housing, having regard to the character and appearance of the area. Therefore, it would not accord with Policy S7 of the Local Plan, which seeks to protect or enhance the character of the countryside. The proposal would also be contrary to Policy SP 10 of the Regulation 19 Uttlesford Local Plan which states that the Countryside

³ Paragraph 68 of the Framework.

⁴ Taken from the Officer's Report.

⁵ Taken from the appellants appeals statement.

⁶ Appeal Decision ref: APP/C1570/W/19/3222613 dated 21 June 2019 and APP/C1570/W/18/3210211 dated 27 March 2019.

will be protected for its intrinsic character and beauty. However, for reasons set out earlier in this decision, I attach limited weight to this emerging policy. It would also not meet the aims of paragraph 170 of the Framework, which recognises the intrinsic character and beauty of the countryside.

15. Reference has also been made to Policy GEN2 the Local Plan. However, as these refer to design of new developments, and important environmental features, I do not consider that these policies are relevant to this outline proposal.

Setting of listed building

16. With regards to the effect on designated heritage assets, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
17. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states 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. Paragraph 194 of the Framework states that 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. The Framework defines the setting of a heritage asset in terms of the surroundings in which it is experienced.
18. Paragraph 196 of the Framework confirms that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
19. The heritage asset relates to Lavenhams, which is a C15 detached two storey Grade II Listed property, now a single dwellinghouse. The appeal site is located adjacent to Lavenhams. The significance of the building in heritage terms mainly stems from its architectural and historic interest which was originally built as a Hall House. The listing description explains that the building is timber framed and plastered, with a red tiled roof. The building contains a prominent front gable and a hipped roof on the southern end of the building. A chimney has been inserted at the southern end of the hall in the Late C16, and the walls of the hall have been raised to two storeys in height with an external chimney stack installed to the northern end of the building in the early C17. The main part of the building contains three C20 casement windows at ground and first floor level in the front elevation. The building has also been extended with a C20 single storey side extension.
20. The appellants' Heritage Statement⁷ states that Lavenhams, sits within its own reasonably sized garden, and that the listed building had no association with the land around it and the pasture on its agrarian boundaries was in the ownership and use of Gt Canfield Park. The Heritage Statement also states that

⁷ Prepared by Architectural Management.

it is the garden of Lavenhams itself which contributes to the significance of the listed building in that it retains the historic boundaries of its own grounds, and beyond which the setting does not contribute any notable significance. There are no established views into or out of the property and it is surrounded by mature hedgerows. In this respect, the Heritage Statement considers that the wider setting, which includes the appeal site, is considered to be of low significance due to the lack of any relationship of Lavenhams. Notwithstanding this, during the site visit I observed that the open fields of the appeal site, adjacent to the listed building, contributes positively to the rural setting of the listed building. Consequently, I consider that the open countryside forms part of the setting of the listed building and makes an important contribution to its significance. In this respect it is important that any new development would not detract from this ambience, nor overcrowd or undermine the prominence of the listed building, within its rural setting.

21. The indicative site layout plan illustrates that the appeal site, would accommodate a new access driveway into the field together with four new dwellings with associated garages and off-street parking spaces. Irrespective of the design, scale, layout and landscaping, the proposed development would erode the openness of the appeal site which forms part of the open countryside surrounding the listed building. This would have an increased urbanising effect on the appeal site which would have an adverse effect on the listed building's open and rural setting. As such, there would be harmful effect on the setting of the listed building and harm to its significance.
22. Whilst I note that the boundary of the site with the listed building is screened by existing hedgerow, I observed that much of this vegetation is deciduous, and therefore this would not provide a permanent screen throughout the year. Furthermore, there is no evidence before me to allow me to consider that the harm identified could be overcome at the reserved matters stage.
23. In the terms of the Framework and paragraph 196, the harm that the proposal would cause to the significance of the Grade II listed building, would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the proposal. The proposed development would provide benefits in terms of up to four new dwellings, which would make a modest contribution towards boosting the supply of housing, in a district where the Council accepts it cannot demonstrate a five year housing land supply. It would also help to support local services and facilities and provide investment in terms of its construction. However, given the limited number of houses proposed, these public benefits only carry modest weight overall. They would not be sufficient to outweigh the harm to the significance of Lavenhams as a listed building.
24. Concluding on this main issue, the proposed development would not preserve the setting of Lavenhams and would result in harm to the significance of this listed building. Therefore, it would not accord with Policy ENV2 of the Local Plan, which amongst other things states that development affecting a listed building should be in keeping with its scale, character and surroundings. Whilst this policy is of some age, it is broadly consistent with the Framework policies on the conservation of heritage assets, including listed buildings, and therefore I attach significant weight to it. The proposal would also be contrary to Policies EN 1 and EN 4 of the Regulation 19 Uttlesford Local Plan which amongst other things states that development will be supported where it preserves or

enhances the significance of the historic environment. However, for reasons set out earlier in this decision, I attach limited weight to these emerging policies.

25. It would also conflict with the relevant requirement of the Framework which seeks to conserve and enhance the historic environment. Finally, it would not preserve the setting of the listed building as required by Section 66(1) of the Act, but instead would be harmful. This carries considerable weight and importance to my decision.
26. Reference has also been made to Policy GEN2 the Local Plan, and Policy D1 of the Regulation 19 Uttlesford Local Plan. However, as these refer to design of new developments, I do not consider that these policies are relevant to this outline proposal.

Other matters

27. I have had regard to the appeal decisions at Land south of Canfield Park Cottage⁸ and at Sandhurst, Canfield Road⁹. However, neither decision found harm to the significance and setting of a listed building, while the effects on the character and appearance of the area were not identical to this appeal proposal. Therefore, these appeal decisions have had little bearing on my findings. In addition, the appellants refer to a number of new large houses which have been developed on the former Greenhouse site off Bullocks Lane, known as Nursery Grove. However, I do not have the full details of all of these developments, nor the circumstances which led to these approvals. As such I cannot be sure that they represent a direct comparison to the appeal scheme before me. In any case, I have determined the appeal on its own merits.
28. The appellants state that the site is of no nature conservation value and no landscape significance. However, these are neutral factors which do not outweigh the harms identified above.
29. There is a complex of grade II listed buildings at Great Canfield Park, some 250m to the north of the site¹⁰. I note that the Council raised no objection to the proposal with regards to the setting of these listed building. From the evidence before me and from what I saw on site, and the location of the appeal site, I find no reason to disagree with the Council and conclude that the setting of the listed buildings at Great Canfield Park would not be harmed.

Planning balance and conclusion

30. Applications for planning permission must be determined in accordance with the development plan, unless material considerations, which include the Framework, indicate otherwise. I recognise that there are policies in the development plan that are supportive of the provision of additional housing. However, the development would not provide a suitable location for housing with regard to the character and appearance of the area and would result in harm to the setting of a listed building and, contrary to Policies S7 and ENV2 of the Local Plan. The proposal would therefore be contrary to the relevant policies, and the development plan as a whole.

⁸ Appeal Reference: APP/C1570/W/18/3210211

⁹ Appeal Reference: APP/C1570/W/19/3222613

¹⁰ Distance and compass points taken from the appellants Heritage Statement.

31. The Council accepts in its Officer's Report that it not possible to demonstrate a five year housing land supply at present. However, the 'tilted' balance within the Framework at Paragraph 11d)ii would not apply because the application of policies within the Framework that protect heritage assets, as set out within Paragraph 11d)i and Footnote 6 of the Framework, provide clear reasons for refusing the proposal. A presumption in favour of sustainable development does not apply.
32. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise than in accordance with the development plan and therefore planning permission should be refused. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

R Satheesan

INSPECTOR