
Appeal Decision

Site visit made on 8 October 2019

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/C1570/W/19/3233553

Land East of Cricketfield Lane, Mole Hill Green, Takeley, Bishops Stortford, Herts CM22 6PH

- 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 Mrs A Salmon against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1248/FUL, dated 28 May 2019, was refused by notice dated 18 July 2019.
 - The development proposed is erection of a detached house, with detached double carport/garage, and a pair of semi-detached houses.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached house, with detached double carport/garage, and a pair of semi-detached houses at Land East of Cricketfield Lane, Mole Hill Green, Takeley, Bishops Stortford, Herts CM22 6PH in accordance with the terms of the application Ref UTT/19/1248/FUL, dated 28 May 2019, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mrs A Salmon against Uttlesford District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposal would be an appropriate form of development in this location, with particular regard to its effect on the character and appearance of the area and whether it would provide satisfactory access to services and facilities.

Procedural matters

4. Since the appeal was lodged, another appeal decision (appeal reference APP/C1570/W/19/3229610) relating to this site has been issued. Given that it was issued before the Council submitted its appeal statement, I am satisfied that the Council has had the opportunity to comment on it. Consequently, no party is prejudiced by my taking it into account.
5. The Council's reasons for refusal refer to Policy SP10 of the Regulation 19 Uttlesford Local Plan (eULP). Although the eULP has been submitted for examination, the soundness of the plan has not been established. As it is not

clear the extent to which any objections to its policies are unresolved or the extent to which its policies are consistent with the National Planning Policy Framework (the Framework), I give it limited weight in this appeal.

Reasons

Character and appearance

6. The appeal site is situated within the countryside, at the edge of the small hamlet of Mole Hill Green. The majority of development within the settlement is located along the existing roads. However, the appeal site lies to the rear of a row of dwellings, alongside a track that serves 3 properties (Bellstock, The Roost and Salmon Meadow) and leads to a cricket ground. Rear gardens of other properties back onto the opposite side of the track. The appeal site is overgrown and bounded to the north and east by mature trees and undergrowth. This provides a sense of enclosure to the site, visually and physically setting it apart from the character of the agricultural land beyond.
7. The appeal decision referred to above was for the erection of 3 detached dwellings, each with outbuildings at the frontage of the site. This appeal was dismissed. I am also aware that the site has extant permission for the erection of two dwellings. This was granted at appeal on 21 September 2018 (appeal reference APP/C1570/W/18/3199662). I afford significant weight to these decisions.
8. The appeal site falls within the 'Countryside Protection Zone' (CPZ) surrounding Stansted Airport and is therefore subject to Policy S8 of the adopted Uttlesford Local Plan 2005 (LP). This policy constrains new development, in order to retain the openness of the CPZ and to prevent coalescence between the airport and existing development in the surrounding countryside. In addition, LP Policy S7 states that the countryside should be protected for its own sake; this is more restrictive than the Framework's requirement under paragraph 170, to 'recognise the intrinsic character and beauty of the countryside'. It has been established in the earlier decisions, and I have no reason to disagree, that LP Policy S7 should be afforded limited weight due to its inconsistency with the Framework.
9. The proposal would see the erection of one detached two storey dwelling with outbuilding (a carport/garage) and a pair of semi-detached two storey dwellings. The dwellings would be set back from the site frontage. The principle of development of the site has already been established with the granting of permission for two dwellings. The Inspector in the more recent dismissed appeal considered that the erection of three dwellings rather than two would not cause coalescence of the settlement with Stansted Airport and would not cause significantly greater harm to the openness of the wider countryside than the erection of two dwellings, as the development would be limited to the same plot. I concur with the previous inspector on this point.
10. In that appeal the Inspector considered that the scale, number and prominence of the proposed outbuildings would have an unacceptable effect on the character and appearance of the site and surrounding area. The appeal scheme before me is different from the dismissed appeal proposal in that the overall scale and prominence of the proposed development has been reduced. I find that the proposed built form is of a scale that would sit comfortably within the plot and would be compatible with the neighbouring properties and its

surroundings. The single outbuilding proposed would sit forward of its host dwelling. However, it would be sufficiently set back from the site frontage to allow a sense of openness to endure, particularly when considered in conjunction with the proposed open frontage layout for plots two and three. The outbuilding would not dominate or be at odds with its surroundings. In this respect the proposed development complies with LP Policy GEN2 which seeks to ensure that, amongst other things, development is compatible with the scale, form, layout and appearance of surrounding buildings.

11. The Council considers that the improvement works required by the Highway Authority in respect of widening of the access to the site would cause significant harm to the character and appearance of the area. However, the extant permission is subject to the same conditions relating to the improvement of the access as the Highway Authority has requested in relation to the proposal before me. I do not therefore find that the schemes differ in this respect. The appeal site would still be accessed using the narrow unsurfaced single-track lane. The Highway Authority advise it would provide adequate inter-visibility between vehicles and the ability for opposing vehicles to pass because of the open driveways' arrangement. The improvements required to the proposed access would be at its junction with the road. Whilst some alteration to the appearance of the area would result, given the access already exists, I do not consider this to be so harmful as to justify refusal of the appeal scheme.
12. I therefore conclude, that whilst the proposal would reduce the openness of the site and would extend the built form into the designated countryside in conflict with LP Policies S7 and S8, the harm that would result would be limited.

Suitability of location

13. As referred to above, the appeal site has extant permission for the erection of two dwellings. The Inspectors in the earlier appeals found, as a matter of principle, that any conflict with the aims of LP Policies S7 and S8 did not cause harm that should prevent development of two or three dwellings at this site. I see no reason to disagree. Notwithstanding the likely reliance on a motor vehicle, similar to existing residents of the hamlet, future occupiers would be able to access services and facilities local to the site and within nearby settlements such as Takeley and Elsenham. I have also taken into account the Framework which sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
14. Consequently, I find in this case, that the appeal site would provide satisfactory access to services and facilities and is therefore a suitable location for the proposed development. I do not find any overall conflict with LP Policies S7 and S8.

Other Matters

15. I have considered other matters raised by the Parish Council including flood risk, noise disturbance, proximity to Molehill Green Cricket Club and loss of trees. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds, the concerns raised do not override or affect my conclusions on the main issues.

Planning Balance

16. The evidence provided indicating that the Council cannot demonstrate a 5-year housing land supply is not disputed; consequently, the provisions of paragraph 11(d) of the Framework are triggered and the presumption in favour of sustainable development applies.
17. The harm to the character and appearance of the area is limited. Accordingly, the identified conflict with the development plan and LP Policy S7 is limited in relation to this matter.
18. The appeal scheme would provide a modest contribution of three dwellings to the shortfall in supply of homes in the area. There would be temporary economic benefits during the construction phase and new occupiers are likely to provide support to local services and the community as well as to nearby villages. These benefits are limited, reflected in the small amount of development, but nevertheless carry moderate weight in favour of the proposal. I therefore find that 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. Consequently, the proposal benefits from the presumption in favour of sustainable development.

Conditions

19. The Council has suggested seven conditions which I have considered against the advice in the Framework and the Planning Practice Guidance. I have made minor amendments to the suggested conditions in the interests of clarity and precision. In addition to the standard conditions setting the timescale for commencement of development and specifying the relevant plans in interests of certainty, a condition is required to secure the ecological enhancement measures contained within the Preliminary Ecological Appraisal that supported the application. Conditions are also necessary, in the interests of highway safety, to secure the widening and surfacing of the first 6 metres of Cricketfield Lane. To encourage sustainable transport, I have included a condition requiring installation of an electric vehicle charging point.
20. However, I am not attaching the condition suggested by the Council requiring that the new dwelling is built in accordance with M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010. This condition would not meet the necessity test as compliance with the Building Regulations is compulsory by law and thus covered by other legislation

Conclusion

21. For the reasons given above the appeal is allowed.

S Tudhope

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: Location Plan / Proposed Site Plan Drawing No 001/B; Proposed Plans Drawing No 002/B; Proposed Elevations Drawing No 003/B; Proposed Plans Drawing No 004/B; Proposed Elevations Drawing No 005/B; Proposed Roof Plans Drawing No 011/B; Proposed Plans and Elevations Drawing No 008/B.
- 3) All ecological measures and/or works shall be carried out in accordance with the details contained in the 'Preliminary Ecological Appraisal' (T4 Ecology December 2018) including the recommendations under section 5.2 relating to a bat-friendly lighting scheme, construction phase precautions, enhanced boundary planting with native species, provision of bird/bat nest boxes and hedgehog permeable boundaries.
- 4) Prior to the occupation of any of the proposed dwellings, the vehicular access shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of the carriageway and provided with an appropriate dropped kerb crossing of the footway/verge.
- 5) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 6) The development shall not be occupied until an electric vehicle charging point has been installed in accordance with details that shall have first been submitted to and approved by the local planning authority. Development shall be carried out as approved.