
Appeal Decision

Site visit made on 4 November 2019 by Elizabeth Davies BSc (Hons) PIEMA

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal Ref: APP/C1570/W/19/3234837

Brook Cottage, Gransmore Green, Gransmore Green Lane, Felsted CM6 3LA

- 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 Unique Construction against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3408/FUL, dated 30 November 2018 was refused by notice dated 14 June 2019.
 - The development proposed is construction of 4 new dwellings and associated works including access.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 4 new dwellings and associated works including access, at Brook Cottage, Gransmore Green, Gransmore Green Lane, Felsted CM6 3LA in accordance with application, Ref UTT/18/3408/FUL, dated 30 November 2018 subject to the conditions in the attached schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. During the planning application process the description of the development was revised from that stated on the application form (originally 5 dwellings were proposed). Updated plans and documents were submitted and accepted by the Council to reflect this change. The appeal decision has therefore been based on the revised description of development, plans and documents.
4. At the time the site visit was undertaken, the site had been cleared ready for development.

Main Issues

5. The main issues in the appeal are:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on the setting of Brook Cottage (Grade II listed building); and

- whether the adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

Reasons for the Recommendation

Character and Appearance

6. Gransmore Green is a small hamlet located along the B1417 and Gransmore Green Lane. The appeal site incorporates Brook Cottage, a Grade II listed building, and an area of cleared land located to the south of Brook Cottage. There is a high, timber fence, separating the garden of Brook Cottage from the area of cleared land.
7. The character of the area is generally open and semi-rural in nature. There are a handful of residential dwellings to the north and east of the appeal site along Gransmore Green Lane. To the immediate south and west is agricultural land. The appeal site is generally well screened and visually contained, with trees and hedges on all boundaries.
8. The layout of the new dwellings within the site would broadly reflect the linear pattern of existing development along Gransmore Green Lane. The new dwellings would be well spaced with good sized gardens and would not appear out of keeping with the spatial pattern and design of existing residential properties nearby. Moreover, the vegetation on the front boundary would help to soften the effect the proposal would have on the rural character and appearance of the area.
9. Nonetheless, the development results in the introduction of built development in the countryside. This would constitute an urbanisation of the area and on that basis the proposed development does not protect or enhance the character of the countryside. It would therefore be contrary to Policy S7 of the Uttlesford Local Plan (2005) which says that the countryside will be protected for its own sake, and planning permission will only be given for development that needs to take place there or is appropriate to a rural area.
10. However, the Council acknowledges that it is unable to demonstrate that it has a five year supply of housing land (suggesting a figure of around 3.3 years) and considers that, even though policy S7 should be given some weight, the tilted balance in paragraph 11 d) of the National Planning Policy Framework (the 'Framework') needs to be applied. I agree the policy can be given weight in as far as it seeks to protect the character of the countryside, but seeking to protect the countryside for its own sake would represent an overly restrictive approach, contrary to the Framework. I therefore give the proposal's conflict with the policy only moderate weight.
11. Also, the Council have already granted planning permission¹ for three residential dwellings on the appeal site. This is an extant permission and indeed the site has been cleared in readiness. Whilst it has been found that some harm to character and appearance of the countryside would occur as a result of the proposed development, it is my view that there would be no significant difference between the approved and proposed development insofar as the effect on the character and appearance of the area is concerned.

¹ Application reference: UTT/17/1123/FUL

Setting of the Listed Building

12. Brook Cottage is a two storey Grade II listed building, dating from the seventeenth-century, which also features some later additions and extensions. The cottage is accessed via a driveway off Gransmore Lane. The proposed new dwellings would be located beyond the property's garden, to the south and south east. The area of cleared land where the new dwellings would be built is currently separated from Brook Cottage and its garden by a timber fence.
13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
14. The Council's Conservation Officer considers the proposed development would be harmful to the setting of the heritage asset as the land where the dwellings would be constructed, forms part of the open setting of the listed building. However, the Heritage Appeal Statement submitted in support of the appeal by the appellant provides historic mapping that indicates a demarcation between Brook Cottage and the land to the south. I also understand, from the evidence before me, that trees and hedging were present until recently along this boundary which would have screened Brook Cottage from the rest of the appeal site and created a more enclosed setting.
15. I agree with the Council's findings that the current timber fence detracts from the setting of the listed buildings. However, the proposal includes a new landscaped buffer between the garden of Brook Cottage and the new dwellings. I am satisfied that this new buffer, which can be secured by a planning condition, will be sufficient to separate Brook Cottage from the development and screen views of the new dwellings, and this softer, more natural form of separation, would not detract from the setting of the listed building.
16. In addition, no harm was found on the setting of Brook Cottage from the previously approved scheme, and the proposed development positions the new dwellings slightly further away from the listed building. Also whilst previously a shared access with Brook Cottage for one of the dwellings was proposed, now a separate independent access further south is proposed.
17. On this basis I am satisfied that the proposal would preserve the setting of the Grade II listed building and is in accordance with Policy ENV2 which seeks to protect listed buildings from development proposals that would adversely affect their setting.

Planning balance

18. There would be economic benefits in terms of the investment in the construction of the four dwellings and local employment during the construction process. In addition, economic benefits would arise via the proposal increasing local spend from residents of the new dwellings. The proposal would also add a further four dwellings to the housing stock in the area. These are distinct benefits of the development, though I recognise these benefits are only marginally greater than those which would result from the implementation of the extant permission. Nonetheless, overall these benefits attract moderate weight in favour of the development. In addition, the site is located in close

proximity to a bus stop and the parties agree it is in a relatively sustainable location.

19. I have taken into account concerns from local residents including highway safety concerns in relation to Gransmore Green Lane, the size of the site, drainage and school capacity. The Highways Authority had no objections to the proposal, and the vehicle movements from four residential dwellings, compared to that of three new homes, would be minimal. I am therefore satisfied that harm to highway safety along Gransmore Green Lane would not occur. With regard to the size of the site, I am satisfied the density of development proposed is suitable for the location and context. In terms of drainage and school capacity, there is no substantive evidence before me to demonstrate that harm would occur in these respects.
20. The Parish Council has suggested that the proposal would be contrary to emerging policy HN5 in the Neighbourhood Plan as it is outside the village development limit. However as that Plan has yet to be adopted I give the policy little weight.
21. Overall, the adverse effect of the proposal, resulting from its moderate conflict with policy S7, would not significantly or demonstrably outweigh the moderate benefits identified above. The presumption in favour of sustainable development therefore applies.

Other matters

22. The site is within the Zone of Influence of the Blackwater Estuary Special Protection Area (SPA) and Ramsar site. This habitat site comprises an extensive complex of estuaries and intertidal sand and silt flats, shingle and shell beaches and extensive areas of saltmarsh. In summer, they support important breeding populations of Little Tern, and in the winter the site hosts nationally important concentrations of water birds, especially geese, ducks and waders. These species are the qualifying features for the site. The protection of these species and their habitats, is the conservation objective for the site.
23. The provision of four additional dwellings in this zone is likely to have significant effects on the SPA and Ramsar site as a result of the recreational use of them by future occupants. As such it is necessary to undertake an Appropriate Assessment to consider whether the proposal would adversely affect the integrity of the habitat site.
24. It is considered that regular recreational use of the habitat site by future occupants of the development could damage the habitats outlined above and could be disturbing for the species identified. Therefore the proposal would adversely affect the integrity of the site and its conservation objective.
25. However Natural England are of the view that this adverse impact can be mitigated by a financial contribution to the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy, which would go towards visitor management measures. A planning obligation has been provided which seeks to ensure that funds for this purpose, of a scale required by Natural England, would be provided to the Council prior to the commencement of the development. The Council do not raise concerns with the obligation and I consider that it would meet the tests in paragraph 56 of the Framework and so

would enable the delivery of mitigation sufficient to address the harm likely to be caused by the development.

26. I therefore find that, subject to the proposed mitigation, the proposal would not result in an adverse effect on the integrity of the SPA and Ramsar site.

Conditions

27. I have considered the conditions suggested by the Council. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to better reflect the advice in the Framework and the Planning Practice Guidance.
28. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty. The condition requiring approval of materials is necessary to ensure the character and appearance of the area is protected.
29. In respect of landscaping, conditions are necessary to ensure appropriate landscaping is in place to protect the setting of Brook Cottage and the character and appearance of the area.
30. Two conditions have been suggested by the Council to control the construction of extensions, roof alterations and outbuildings at the dwellings under rights conveyed by the Town and Country (General Permitted Development) Order. Such conditions can only be imposed in exceptional circumstances and where there are clear reasons for imposing them. I have no evidence before me to demonstrate that such conditions would be necessary. Also the suggested condition requiring the development to meet a particular standard in the Building Regulations is unnecessary and, I consider, not relevant to planning.
31. In the interests of conserving and enhancing biodiversity, I have imposed the condition suggested by the Council's ecological consultant requiring a Biodiversity Enhancement Strategy for the site to be prepared and approved.
32. The Highways authority suggest a number of conditions. I do not consider it necessary to provide a 2.4m clear verge along the whole of the site frontage, as suggested, as traffic speeds on the road would most likely be very slow, and traffic numbers very low. Moreover, there is already a natural verge providing visibility for vehicles leaving from the site. However, the conditions requiring the access to be provided before the occupation of the development and built to certain dimensions, with certain surfacing materials and to remain ungated, are necessary in the interests of highway safety and to prevent the prospect of cars blocking the main carriageway. A condition to provide each dwelling with a Residential Travel Information Pack has also been imposed to promote sustainable travel.

Conclusion and Recommendation

33. For the reasons given above, and having had regard to all other matters raised, I recommend that the appeal is allowed.

Elizabeth Davies

APPEAL PLANNING OFFICER

Inspector's Decision

34. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 001 (Revision 01), 002 (Revision 00), 200 (Revision 06), 201 (Revision 00), 202 (Revision 01) and 203 (Revision 00)
- 3) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No dwelling shall be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include boundary treatments, vehicle parking layouts, hard surfacing materials, new planting and indications of all existing trees and hedgerows on the land, identifying those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No dwelling shall be occupied until a Biodiversity Enhancement Strategy for Protected and Priority species has been first submitted and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a. Purpose and conservation objectives for the proposed enhancement measures;
 - b. Detailed designs to achieve stated objectives;
 - c. Locations of proposed enhancement measures by appropriate maps and plans;
 - d. Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development.
 - e. Persons responsible for implementing the enhancement measures; and
 - f. Details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 7) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the back edge of the carriageway.
- 8) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 9) No dwelling shall be occupied until the proposed private drive has been constructed to a width of 5.5metres for at least the first 6 metres from the back edge of the carriageway.
- 10) No dwelling shall be occupied until the parking and turning head space has been laid out within the site in accordance with drawing No. 200 (Revision 06) and that space shall thereafter be kept available at all times for parking and turning.
- 11) Prior to occupation of the proposed development a Residential Travel Information Pack, for sustainable transport, for each dwelling, shall be submitted to and approved in writing by the Council.