
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 January 2020

Appeal Ref: APP/C1570/W/19/3233627

Land off Bakers Lane, Felsted CM6 3DU

- 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 Fleur Tedder (Go Planning Ltd) against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3336/FUL, dated 3 December 2018, was refused by notice dated 10 June 2019.
 - The development proposed is erection of detached four bed dwelling and garaging.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, the examination of the Felsted Neighbourhood Plan was concluded and the document, subject to specified modifications, moved to a public referendum. The main parties have had the opportunity to comment on the relevance of this matter to this appeal and I have had regard to all of this in reaching my decision.
3. At application stage the appellant did not provide a heritage report but submitted one as part of the appeal. I am satisfied that the Council has been given the opportunity to comment on this report. I have had regard to it in making my decision.

Main Issues

4. The main issues are (i) whether the proposal would be an acceptable form of development in this location, with regard to its effect on the character and appearance of the area and (ii) whether the proposal would preserve or enhance the significance of nearby designated heritage assets.

Reasons

Character and appearance

5. The appeal site lies outside of any settlement boundary as defined within the Uttlesford Local Plan 2005 (LP). For the purposes of planning policy, it is therefore within the countryside. Policy S7 of the LP sets out that the countryside will be protected for its own sake unless special reasons apply. Whilst this is not a requirement contained in the National Planning Policy Framework (the Framework) Policy S7 also states that development will not be

allowed unless its appearance would protect or enhance the particular character of the countryside. In this respect the Policy is consistent with paragraph 170 (b) of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. I therefore consider Policy S7 should be afforded significant weight when considering matters of character and appearance in the countryside.

6. The site is a roughly square shaped area of agricultural land, situated between a grade II listed dwelling, Jollyboys, and Jollyboys Lane North (JLN). This lane is a narrow track, not accessible by motor vehicles, flanked on each side by mature vegetation and trees and is part of the local Public Rights of Way (PRoW) network. To the other side of JLN is another grade II listed building, Howlands (formerly known as Farnold Croft); a number of its outbuildings lie in close proximity to the track with Howlands itself positioned slightly further to the west along Bakers Lane. Two other neighbouring properties are situated past Howlands.
7. The site frontage also comprises mature natural vegetation and trees which are broken by a field access onto Bakers Lane where it meets Jollyboys Lane South (JLS). These single-track roads are also part of the PRoW network. Opposite the site is an area of land set out as a series of paddocks; to the south of the site and Jollyboys is arable land. The character of the area is distinctly rural.
8. The appellant considers that the appeal proposal represents sensitive infill development that Policy S7 is supportive of, as set out in paragraphs 6.13 and 6.14 of the LP. Paragraph 6.14 states "...if there are opportunities for sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements these will be acceptable...". This is caveated by the rest of that sentence "...if development would be in character with the surroundings and have limited impact on the countryside in the context of existing development."
9. In plan form the site does appear as an infill plot that could be supportive of sensitive development. It is located between existing properties and fronts onto an existing highway, from which vehicular access to the site already exists. However, on the ground, the experience of the site is markedly different to that on plan.
10. In addition to my on-site inspection, I also viewed the site from JLN, JLS, Bakers Lane and from along the PRoW that passes in front of Jollyboys. Contrary to the appearance on plan, because of the verdant nature of the boundaries to the lanes and the gentle curve in Bakers Lane, the site does not appear as an infill plot. It is seen as part of the agricultural field and as part of the wider countryside.
11. When approaching the site from JLS, users of this lane and PRoW are able, through the gap in the boundary vegetation provided by the field entrance, to experience a long-distance view of the agrarian landscape and wider countryside beyond. This contributes to the rural character of this part of the PRoW network. This connection to the openness of the countryside from the enclosed lanes would be eroded by the proposed development. Whilst the retention and improvement of existing boundary treatments and the additional proposed landscaping would minimise the visual impact of the proposal, the development would nonetheless irrevocably interrupt this view and significantly alter the rural character of the area.

12. I do not find that development of the site would be read as a continuation of existing development along Bakers Lane, rather it would be a suburbanisation of a markedly rural section of the PRow network. Consequently, I find that the appeal scheme does not represent 'sensitive infilling' as set out within paragraph 6.14 of the LP. The sensitivity of the site in the landscape and its contribution to the rural character of the area is significant and this character would be harmed by the development.
13. I therefore conclude that the proposal would not be an appropriate form of development in this location and would be harmful to the character and appearance of the area, contrary to Policy S7.

Heritage assets

14. To the south east of the site is Jollyboys, a grade II listed building. This dwelling dates from the 17th century or earlier. It is timber framed and plastered with modern pargetting and has a plain red tiled roof, hipped to its left. The building has been altered over time. The significance of Jollyboys is derived primarily from its physical form and fabric and its location within the landscape.
15. It is a matter of dispute between the parties whether or not the appeal site forms part of the setting of Jollyboys. The appellant's heritage report considers that the setting of this building is restricted to within its curtilage, due to the mature hedgerow and trees that form the majority of its boundaries. However, the Framework defines the setting of a heritage asset as the surroundings in which it is experienced and confirms that its setting may contribute to the significance of a heritage asset. Having regard to the evidence before me together with my observations on site, I consider that in terms of Jollyboys' setting, the main contributors are the immediate curtilage and the surrounding agricultural land, including the appeal site.
16. Whilst I agree that Jollyboys is well screened, with the house being positioned a considerable distance back from the public byway from which it is accessed, its historic secluded nature is appreciated from the surrounding PRow network. This includes from JLN, in both distant views and nearer to Bakers Lane, in conjunction with, and across the appeal site. Views of Jollyboys are also available when approaching from JLS, where the listed building is seen nestled amongst agricultural land. Although the other dwellings situated to the west along Bakers Lane can also be seen from this position, Jollyboys is read in isolation from these properties, within an agricultural landscape.
17. Notwithstanding the central position of the proposed dwelling within the site and the attention given to its boundary treatments, scale, form and materials, the development would visually compete with Jollyboys and distract from it. The proposal would result in the loss of seclusion of this heritage asset, negatively affecting its setting which forms a strong part of its significance.
18. Howlands, a grade II listed building is situated to the north west of the site and separated from it by JLN. The listing record describes this property as a 14th/15th century cottage with later additions and alterations. As with Jollyboys, the significance of this heritage asset derives from its physical form and fabric and its location within the landscape.

19. Howlands sits within quite extensive grounds and has several outbuildings positioned between it and its boundary with JLN. The appeal site and other surrounding agricultural land contributes towards the understanding of Howlands historical isolated location. However, because of the size of its grounds and its position within, I consider that development of the appeal site, albeit within the setting of this listed building, would have a neutral effect on its significance.
20. I therefore conclude that the proposal would preserve the setting of Howlands. However, I further conclude that there would be harm to the significance of Jollyboys from the development of the appeal site which forms part of its wider setting. In terms of paragraphs 195 and 196 of the Framework, the proposals would lead to less than substantial harm to its significance because the physical fabric of the listed building would not be affected. This is contrary to Policy ENV2 of the LP which seeks to ensure the conservation and preservation of historic buildings and their settings. However, paragraph 196 of the Framework requires that this harm should be weighed against the public benefit of the proposal in such circumstances. I return to this below.

Other Considerations

21. The framework indicates that great weight should be given to the conservation of designated heritage assets. Whilst I have not found the harm in this case to reach the level of substantial harm, the proposal would nonetheless result in harm that requires clear and convincing justification.
22. The proposal would make a small contribution to the supply of housing. The limited social and economic benefits to the area that would arise from the construction of one dwelling would be very modest. Accordingly, the conflict with Policy ENV2 of the LP attracts significant weight. Although it is undisputed that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the conflict with the Framework in terms of designated heritage assets provides a clear reason for refusing the development.
23. In addition, the proposal would be harmful to the character and appearance of the area, in conflict with LP Policy S7 and contrary to the environmental objective of planning. I give significant weight to this conflict. The appeal scheme would not therefore comply with the policies of the Framework, which taken as a whole seek to secure the delivery of sustainable development. Consequently, no material considerations justify a decision other than in accordance with the development plan and for the reasons set out, the appeal must fail.
24. The appellant has provided several examples of appeal decisions within the area, including at Frenches Green, Bannister Green, Hatfield Broad Oak and Felsted, which they consider offer support to the acceptability of the appeal scheme. However, whilst acknowledging similar issues exist, from the details provided it is clear that these developments do not represent direct parallels to the appeal proposal. In any case, I have considered this appeal on its own merits.
25. The appellant has submitted an executed planning obligation that makes provision for a financial contribution towards Blackwater Estuary Special Protection Area (SPA). Were I minded to allow the appeal, I would need to be satisfied that any likely significant effects resulting from the proposal were

capable of being adequately mitigated so as to avoid adversely affecting the integrity of this European site. However, as I am dismissing the appeal for other substantive reasons, I do not consider this matter further.

Conclusion

26. For the above reasons the appeal is dismissed.

S Tudhope
Inspector