



Appeal Decision

Hearing Held on 21 January 2020

Site visit carried out on the same day

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/H0520/W/19/3236346

Land Adjacent to 21 High Green, Abbotsley PE19 6UL

- 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 Simon Jefferies against the decision of Huntingdonshire District Council.
 - The application, No 19/00129/FUL, dated 23 January 2019, was refused by notice dated 21 March 2019.
 - The development proposed is erection of a detached dwelling with outbuildings and a new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In May 2019, after the planning application was refused, the Huntingdonshire Local Plan to 2036 was formally adopted. For the purposes of this Decision, and to avoid confusion, I will refer to this as "the new Plan", as it replaces an earlier Local Plan and the Core Strategy.
3. As a result, the Policies of earlier Plans as cited on the decision notice are replaced. In addition, the Policies referred to on the Decision Notice as LP11b, LP12, LP13, and LP36 of Huntingdonshire's Local Plan to 2036: Proposed Submission 2017 (as amended March 2018 for submission) have different Policy numbers in the now adopted version. However, the wording of these Policies has not significantly changed for the purposes of this appeal. Planning applications and appeals should be assessed against the most up-to date planning Policies and so I have used the Policy numbers from the new Plan in this Decision.
4. A signed and dated Unilateral Undertaking was provided at the appeal in respect of an obligation to pay a contribution for the provision of wheeled bins. The issue of this contribution is not contested, but as the appeal is being dismissed for other reasons, I have not given it further consideration in this Decision as the provision does not go to the heart of the determinative issues.
5. With the agreement of the Parties I carried out an unaccompanied site visit following the close of the Hearing.

Main Issues

6. The main issues are: whether the site is a suitable location for a dwelling taking into account the development strategy in local and national planning policies; and the effect of the development on the character and appearance of the area, including the effect on the character and appearance of the Abbotsley Conservation Area (the CA).

Reasons

Development Strategy

7. The new Plan aims to meet objectively assessed needs for development up to 2036 and to achieve a balance between social, economic and environmental priorities by concentrating growth in areas accessible to services, facilities and employment opportunities. The amount of development needed for the District is set out in Policy LP1. Policy LP2 explains that most development will be concentrated in the four spatial planning areas centred on the District's traditional market towns as the most sustainable centres. The seven key service centres and "Small Settlements" will have some development to support the vitality of these communities and provide flexibility and diversity in the housing supply.
8. Abbotsley is defined as a Small Settlement for the purposes of the development strategy. It has some facilities such as the church, public house, village hall and recreational facilities. Policy LP9 supports development proposals within the Built-up Area of Small Settlements subject to meeting specified criteria, including the effect on the character of the immediate locality and the settlement as a whole. Policy LP10 seeks to protect the countryside outside Built-up Areas unless allowed for by other Policies in the new Plan.
9. The definition of 'Built-up Area' in the new Plan is a distinct group of 30 or more homes, with land which relates more to the group of buildings rather than to the surrounding countryside considered to form part of the built-up area. The appeal site comprises part of a roughly triangular piece of grassland to the south of No 21 High Green. The village has a clear developed edge at this point, formed by No 21 High Green and No 14 Hardwicke Lane to the north, and Nos 4 and 6 Pitsdean Road on the other side of the road to the appeal site. Further away to the south, separated from the main village grouping and screened by mature hedges and trees, sits a small group of buildings known as Manor Farm, now converted to a care home. In terms of appearance, functionality and layout, I consider that the appeal site (and the adjoining open land) relates more to the surrounding countryside rather than the buildings referred to. Given that context, the development proposed does not gain support from Policy LP9 in this respect.
10. The appellant suggested that the appeal site was originally part of the settlement, having previously contained one or more residential properties. An old map of Abbotsley, surveyed in 1886, shows two buildings within land parcels 79 and 80. Even if these were buildings that were occupied as dwellings, rather than outlying rural buildings, they appear to have been demolished around 1940 and so do not create any precedent for the appeal scheme. In any event, the historic buildings appear to be outside the red line of the appeal site identified on Plan Ref 21646_100.

11. The appellant has excavated old foundations and a dump pile which revealed a large amount of broken crockery and other household items. Whether or not this demonstrates that there was some residential occupation on the site at some time in the past, the remains of any permanent structure or fixed surface structure have long since blended into the landscape. Accordingly today the land does not satisfy the definition of previously developed land set out in the Glossary to the National Planning Policy Framework (the Framework) and the Glossary to the new Plan for the purposes of planning policies.
12. The site has a post-and-rail fence along the roadside boundary, with limited vegetation except for a number of individual trees. It slopes down away from the road, affording views of the open countryside beyond. It is undeveloped land that forms part of the CA and affords views to and from it that are important in appreciating the historical rural context. Such land is specifically excluded from the definition of Built-up Area as explained in the Table at Paragraph 4.85 of the new Plan.
13. The above Table also explains that individual plots and minor scale developments which would provide infilling and rounding off on land physically, functionally and visually related to existing buildings, subject to the stated exclusions, are included in the definition of the Built-up Area. Whilst there is no formal definition of "infill" in the new Plan, the appeal site does not functionally or visually relate to adjoining dwellings and is part of a much larger plot of land that is too extensive to reasonably be described as an individual plot. As such it differs from other recent examples for houses quoted by the appellant¹.
14. The appeal site itself adjoins other built development on one boundary only, rather than being a relatively small single plot surrounded by other buildings. Moreover, the exclusion described above would also serve to exclude the site from falling within this part of the definition of Built-up Area. The appellant has provided plans which indicates so-called "infilling markers". However, these include estimated sight lines to distant properties and do not, in my judgement, mean the site amounts to an infill plot. Nor does a possible future layout of a 20 mph speed limit along the road to a point beyond the site conclusively demonstrate that the site could be regarded as infill.
15. For the reasons set out above, I conclude the appeal site is not within the Built-up Area for Abbotsley. Accordingly the proposed development would not be supported by that part of Policy LP9 that allows for sustainable development within the Built-up Area. Whilst the second part of Policy LP9 is supportive of development on land that is well-related to the Built-up Area, that is only if it accords with the specific opportunities allowed for through other Policies in the new Plan.
16. The appellant considers that he and his family have a local connection and need to live in the village for employment and educational reasons. However, to gain support from Policy LP28, Rural Exceptions Housing, formal evidence is required of a housing need from the settlement, or nearby settlements, as well as a mechanism to ensure that affordable housing² is delivered and is kept available for the appropriate period. There is no substantiated evidence before me to demonstrate that.

¹ 17/01628/FUL and 18/01317/FUL

² As defined in the Framework and the Glossary to the new LP

17. I recognise that the appellant wishes to build the house for occupation by himself and his family. However, the proposal would not attract support from Policy LP25, Housing Mix, as the appellant is not included on the Huntingdonshire self and custom-build register, a specific requirement of the policy³.
18. Whilst the appellant works for a local company and is a key holder, no evidence is before me to demonstrate that he is mainly employed for the purposes of the proper functioning of an economically viable agricultural or other land-based rural business, or that no suitable alternative accommodation is or could be available nearby, taking into account the requirements of the work. Accordingly, though it may be desirable to walk to work rather than drive, the proposal does not gain support from Policy LP20, Homes for Rural Workers.
19. For the above reasons, I conclude that the proposal does not accord with specific opportunities allowed for through other Policies in the new Plan. Therefore it does not attract support from the second part of Policy LP9, or indeed the thrust of Policy LP10, which restricts development in the countryside apart from the limited and specific opportunities as provided for in other Policies of the new Plan.
20. Taking all the above into account I conclude that the proposal would conflict with, and would therefore undermine, the development strategy for the District as set out in the new Plan, including Policies LP1, LP2 and LP10. There would be conflict too with Part 2 of the Framework which seeks to meet the needs of the present without compromising the ability of future generations to meet their own needs by applying planning policies with the development plan as the starting point for decision making. I conclude the site is therefore not a suitable location for a dwelling taking into account the development strategy in local and national planning policies.

Character and appearance

21. The appeal site lies within the CA boundary. The criteria for drawing up such boundaries relate to the special architectural and historic interest of an area. As such, the boundaries would not correlate necessarily with those of the Built-up Area. Abbotsley CA was designated in November 1975. Whilst the Act requires a review of CAs from time⁴, the fact that no review has been undertaken does not affect the CA designation; the status of the land within it; or the tests that apply to development of such land as the CA designation remains extant. There are some potential anomalies in that properties at Waterloo Close⁵ and Nos 11-19 (odds) St Neots Road⁶ are shown on the CA plan seemingly prior to construction/permission. However, it is not for me at this appeal to resolve that historical position. Notwithstanding the concerns raised, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA as so designated.
22. No formal Character Area Appraisal has been carried out. In response to my request for information, made to aid the efficient use of time at the Hearing,

³ The Council advises this can be achieved by registering through the Council's website

⁴ Section 69 Planning (Listed Buildings and Conservation Areas) Act 1990; Historic England's Guide "Conservation Area Appraisal, Designation and Management"

⁵ Outside the CA - records appear to indicate planning permission was granted in 1974 but it is asserted that the houses may not have been built by 1975

⁶ In the CA and shown on the CA plan but records appear to indicate planning permission was granted in the nineteen eighties

the Council prepared a document entitled "Abbotsley Conservation Area Statement of Significance". As this has not been through any consultation process, I regard it as purely for the purpose of explaining the Council's position in relation to this appeal.

23. Based on what I have seen and heard, I consider that the special character of the CA is as an historic rural settlement within the open countryside. It is focussed around St Mary's Church, a Grade II Listed Building, a little way from the appeal site. The historic settlement is characterised by a loose collection of principal farmsteads with associated outbuildings, all of which have a close relationship with the landscape in which they are located. These include Manor Farm, Waterloo Farm, Vicarage Farm and Fen End Farm.
24. The village has grown over the years and there has been modern infilling within the historic framework of the CA⁷. A number of bungalows and other more modern buildings, including No 21 High Green, properties on Hardwicke Lane, parts of Blacksmith Close and Pitsdean Road, are outside the broadly 'L' shaped irregular CA boundary. I also note the four houses Nos 11-19 (odds) St Neots Road, which are shown within the CA on the plan and which, despite the concerns of the appellant, as such cannot be confirmed as forming an open area at the time the CA was designated. There have been changes over time, but the layout of the village, vegetation, planting and views from the roads out to the countryside beyond combine to enable the setting and historic origins of the settlement to be appreciated. The local topography means that in some parts, such as the appeal site and adjoining land, these views out are far reaching; elsewhere they are more intimate.
25. In my view, the open fields which lie west of Pitsdean Road, between the Manor Farm buildings complex and the High Green area, including the appeal site, make a positive contribution to the character and appearance of the CA. Together they maintain the separation between the outlying farmstead buildings, notwithstanding these are now in use as a care home, and the Built-up Area of the village. They provide open views where the setting of the settlement and its rural character can be readily appreciated.
26. The appeal proposal is for a substantial, broadly 'L' shaped, detached house plus a separate double garage with an attached store/workshop/planroom. The house would be on the higher part of the site. The first floor accommodation would be partially in the roof space helping to reduce the overall height. The main front wall of the house would be positioned some 9m from, and roughly parallel with, Pitsdean Road. It would be at an angle such that the side wall would be between some 4m and 8m from the northern boundary of the site. The garage block would be to the south of the proposed house and set back behind the wall of the projecting rear wing.
27. The proposed buildings, although setback from the road, would form a substantial extent of built development in a currently undeveloped open area. Their size, together with the change in character from field to domestic garden, would erode the openness and character of the countryside. The reduction in separation between the Manor Farm complex and the Built-up Area of the village would also harm the special character of this part of the CA and would impede views into and out from it even though some views would remain across the remainder of the field.

⁷ The appellant has indicated more than 40 examples including conversions

28. At the Hearing, the appellant explained that the house design is intended to resemble a pair of semi-detached workers cottages that had subsequently been combined into one dwelling and follows the advice in the Huntingdonshire Design Guide Supplementary Planning Guidance 2017. Its layout has been designed to facilitate family living, with the largest glazed areas to the rear.
29. There is no doubt that the appellant has given very careful consideration to the proposed design. He has picked up some features such as dormer windows that occur elsewhere in the village and is content to agree external facing materials by condition. However, the proposed house would appear too wide to resemble most worker's cottages. This, together with scale of the porch, described as over-sized in the Design and Access Statement, would result in a disproportionate appearance from the road. The proposed dormers, due to their scale and positions, off-set from the windows below, would have a disjointed and awkward juxtaposition, as would the off-centre door in an otherwise symmetrical design. Taken together, I conclude that the scale, siting and design of the proposal would not be appropriate in this location. Overall therefore, the proposal would have a harmful effect on the character and appearance of the CA and the countryside.
30. The passion of the appellant is that the house would have zero emissions using the latest technology and sustainable construction methods. Energy would be produced from solar panels and ground source heat pumps, sufficient to also supply some to the national grid; human waste would be fully recycled to reduce demand on the mains water supply with solids turned into fertiliser. However, circumstances may change, and there is no mechanism for ensuring this would happen. Accordingly these intentions, although laudable, do not lead me to any different overall conclusion in this case.
31. The harm I have identified to the character and appearance of the CA, whilst real and enduring, would be limited in terms of the effect on the significance of the CA as a whole. I conclude in this regard, that the harm to the CA would be less than substantial for the purposes of the Framework. Less than substantial harm to the CA does not equate to a less than substantial planning objection. As a decision maker I am required to give considerable importance and weight to the conservation of the CA as a designated heritage asset. Having found less than substantial harm to the significance of the CA, Paragraph 196 of the Framework states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
32. Public benefits would arise from the addition of a family dwelling to the housing stock; from employment, albeit short term, during the construction period; and additional residents would help support facilities and the local community. These benefits would be limited as the proposal is for a single dwelling. The proposed wild flower meadow and rare species orchard with public access, and which would be attractive to a range of birds, animals and insects, would also be a public benefit. However, there is no mechanism to ensure this would be delivered or retained into the future, so the weight I can give this is limited. Despite its relatively small size, shape and sloping topography it was agreed at the Hearing that the land could be used for agricultural purposes and I conclude that, due to the harm identified above, the proposal would not amount to the optimum viable use of the site. I conclude the harm to the designated heritage asset would not be out-weighed by these public benefits.

33. For the reasons set out above I conclude the proposal would have a harmful effect on the character and appearance of the area and the CA. It would conflict with Policies LP11, LP12 and LP34 of the new Plan and the Framework which, amongst other things, seek good design that recognises the value of the countryside and seeks to protect designated heritage assets.

Other Matters

34. Huntingdonshire's housing delivery rate was 92% in February 2019 and the Council put in place an action plan to boost housing supply. The Annual Monitoring Report October 2019 indicates a housing land supply of 5.59 years including a 10% buffer (based on the Housing Delivery Test results). The appellant considers the Council may have over-estimated the rate of delivery and that the supply is less than quoted.
35. Paragraph 11d (i) and footnote 7 of the Framework say that where the Council cannot demonstrate a five year supply of deliverable housing sites, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 6 lists designated heritage assets as one such policy. Given my findings above, the presumption in favour at Paragraph 11d does not support the proposal, as it would cause harm to the designated CA, whether or not the housing land supply would be less if a 20% buffer is applied as asserted by the appellant.
36. At the Development Management Committee when the application was considered by Members, an ecological up-date was reported. As a rubble pile has been removed from the site, method statements in respect of protected species are not required. Neither the Council nor the Bedfordshire and Cambridgeshire Wildlife Trust raise concerns in this respect and I have seen nothing to lead me to any different conclusion.
37. I acknowledge the personal circumstance of the appellant. He and his family have lived in the village for many years. He has a long standing ambition to build a house in Abbotsley and does not want the disruption to employment, travel to work, education and way of life that moving from the area might entail. However, there may be other less harmful ways in which these aspirations can be met. There is some local support for the proposal. However, neither of these matters would be reasons for granting permission for an otherwise unacceptable proposal.
38. Other examples of recent permissions for dwellings referred to include 18/01801/FUL and 18/02269/FUL. However, it appears these replaced other buildings and so are not comparable. Application No 19/01239/FUL appears to be a conversion and No 17/01393/FUL allowed a change of use to garden land. None of these cases, or others cited by the appellant, are directly comparable to the circumstances that prevail in relation to the instant appeal and do not lead me to any different conclusion. Whilst I note that a colleague Inspector dismissed an appeal (Ref APP/H0520/W/17/318000) on the adjoining piece of land for a larger dwelling, I confirm that I have reached my own conclusion on the appeal proposal before me, based on the material planning considerations and planning merits of the case.
39. The appellant has raised concerns about how the Parish Council considered this case, and other planning matters in the village, and about the behaviour of

individual Councillors. However, those do not go to the heart of the planning matters of this appeal. I can also confirm that the fact that the Council used the appeal proposal Ref APP/H0520/W/17/318000 as training material in the Parish Forum in November 2018, has had no bearing on the outcome of the appeal before me. Matters of possible unrelated planning breaches elsewhere are a matter for the Council, and are not for me to consider in this appeal.

Planning Balance and Conclusion

40. The proposal would provide an additional dwelling, whether for the appellant and family or others. This is a benefit in favour of the proposal. However, I have found it would conflict with the development strategy established by the recently adopted development plan. Paragraph 15 of the Framework emphasises that the planning system should be genuinely plan-led and allowing the proposal would undermine the plan-led process.
41. I have also found that the proposal would cause harm to the established character and appearance of the CA and the surrounding countryside. In failing to fully comply with Policies LP1, LP2, LP9, LP10, LP11, LP12 and LP34 of the new Plan the proposal cannot comply with the development plan as a whole. I have found no material considerations that would outweigh the conflict with the development plan and conclude, therefore, that the appeal should not succeed.

S Harley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Jefferies	Appellant
Richard West	District Councillor

FOR THE LOCAL PLANNING AUTHORITY:

Debra Bell	Senior Development Management Officer
Louise Newcombe	Development Management Team Leader
Rowena Lyons	Administrative Team Leader

INTERESTED PERSONS:

Julie Wisson	Chair of Abbotsley Parish Council
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DOCUMENTS

- 1 Folder of Documents related to the Abbotsley Conservation Area provided by the Appellant
- 2 Signed and dated Unilateral Undertaking
- 3 Council's Conservation Area Statement of Significance
- 4 Local Plan Update with revised Policy Numbers provided by the Council
- 5 Wording of Policies LP25 and LP28