



Appeal Decision

Site visit made on 27 August 2019

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2020

Appeal Ref: APP/C1570/W/19/3230897

Land adjacent Maughans, Fieldgate Lane, Ugley Green, Essex CM22 6HJ

- 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 & Mrs Moore against the decision of Uttlesford District Council.
 - The application Ref UTT/19/0025/FUL, dated 7 January 2019, was refused by notice dated 12 April 2019.
 - The development proposed is construction of 1no. detached dwelling and garage.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 1no. detached dwelling and garage at Land adjacent Maughans, Fieldgate Lane, Ugley Green, Essex CM22 6HJ in accordance with the terms of the application, Ref UTT/19/0025/FUL, dated 7 January 2019, and the plans submitted with it, subject to the conditions provided in the schedule attached to this decision.

Procedural Matters

2. The Council has introduced the issue of sustainable patterns of development and access to services and facilities in its Appeal Statement. This matter was considered by another Inspector in dismissing a previous appeal at the site for an outline proposal for two dwellings (appeal reference APP/C1570/A/14/2212847). I am conscious that the matter of sustainable patterns of development was not a reason for refusal included on the Council's decision notice. Indeed, the Council's committee report accepts that despite a reliance on car travel, the proposal would be acceptable in terms of its location and accessibility to facilities and services. Paragraph 103 of The Framework also refers to there being different opportunities for sustainable transport solutions between urban and rural areas. Therefore, I will not treat this as a main issue in the appeal.
3. New information was submitted by the appellants during the appeal process, regarding the progress of the emerging Uttlesford Local Plan. A letter dated 10 January 2020 from the Examining Inspectors provides an update on housing land supply which I deal with in the body of my decision. I have accepted this information as it is of relevance to the appeal and allowed the opportunity for the Council to comment.

Main Issue

4. The main issue is the effect of the proposal upon the character and appearance of the area.

Reasons

5. The appeal site is largely rectangular shaped, bordered by mature hedges and trees. It is predominantly grassed with a small collection of trees and a shed on the southern part of the site. It is defined as countryside within the adopted Uttlesford Local Plan (2005) (Local Plan). It fronts Fieldgate Lane which is a rural lane that is characterised by sporadic development with houses, farms and commercial premises, broken up by fields and bounded by mature hedgerows. Overall the appeal site has a predominantly rural character and appearance and relates closely to the open countryside.
6. Paragraph 170(b) of the National Planning Policy Framework (the Framework) explains how decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.
7. The appeal site is roughly halfway along Fieldgate Lane and is one of a number of undeveloped gaps that help to break up residential, commercial and agricultural development along the lane. An agricultural field and house are located opposite the site and there appears to be fields beyond the site to the east. The appeal site and nearby fields positively contribute to the rural nature of this part of the lane and to the countryside. Moving away from the centre of Ugley Green along Fieldgate Lane, the road opens up with larger fields and open spaces close to the appeal site.
8. The Council accepts that the village is loosely defined, and I have had regard to the extent of the existing development on the lane. There is no distinct building line along the lane and the proposed development would create a small cluster of residential dwellings and follow the generally linear form of development nearby. It would also maintain its distinct rear boundary to the fields beyond.
9. The traditional style of the proposed house would be generally compatible with other architecture in the vicinity and the semi-rural character of the lane. The scale of the scheme has been reduced in relation to a recently refused application (UTT/18/1612/FUL) (and its layout re-orientated), and the house would be lower in height than the main roof ridge of Maughans and not as wide. Furthermore, there would be no loss of trees or woodland, and gaps within the site and the boundaries would be maintained. Much of the site would remain unbuilt upon which would help to maintain a sense of openness that is compatible with the character of Fieldgate Lane.
10. Fieldgate Farmhouse, which is Grade II Listed, is located further north along Fieldgate Lane. This heritage asset is located close to a bend in the road and has a rural and agricultural setting. Farm buildings are located close to this building. Although the listed building's frontage is not parallel to the road, it remains prominent from the lane due to the openness at the front of the building. In my view, the position of the proposed dwelling, both set back from the road and located beyond two other properties, would avoid it from harming the setting of this nearby listed building.

11. The Council has drawn my attention to appeal decision (APP/C1570/A/14/2212847), which was an outline application for two dwellings and garages, together with turning head, passing bay and other external works. It relates to the current appeal site. One of the reasons it was dismissed was harm to the character and appearance of the area. There are, however, significant differences between this scheme and the current appeal. For one, the current appeal is for one house and would utilise the existing site access, whereas the dismissed scheme was for two houses and would have created a new access. Although the previous scheme was an outline permission, the indicative layout on the proposed plans suggest the houses would be spread across the site. In my view, the current proposal would create a greater sense of openness across the site, compared to the previous scheme.
12. I therefore conclude on this main issue that the proposal would not harm the character and appearance of the area, thus complying with saved Policy S7 of the Uttlesford Local Plan (2005) and Paragraph 170 of the Framework. Policy S7 seeks amongst other things, for the countryside to be protected for its own sake, and states that planning permission will only be given for development that needs to take place there or is appropriate to a rural area. I agree with the appellants that this requirement goes beyond the provisions of the Framework and to that extent is not consistent with it. That said, Policy S7 also states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set. This generally accords with Paragraph 170 of the Framework, which seeks to amongst other things protect the countryside for its intrinsic character and beauty and not be adversely impacted upon by new development.

Other Matters

13. The appellants have drawn attention to Paragraph 114 of a letter dated 10 January 2020 from the Examining Inspectors of the emerging Local Plan. It states that 'in order to arrive at a sound strategy, we consider that as a primary consideration, the Council would need to allocate more small and medium sized sites that could deliver homes in the short to medium term and help to bolster the 5 year HLS.' However, the Council has advised that it has not yet had the opportunity to respond formally to the Examining Inspectors' letter. Nonetheless, the Council does not dispute that that it cannot demonstrate a five year supply of housing.
14. The Council has raised concern over the precedent of allowing the proposed house as it could result in further development along Fieldgate Lane. Each application and appeal must be determined on its individual merits and there is no justification in this case to withhold permission.
15. The impact of the development on wildlife has been raised by a third party. A Preliminary Ecological Appraisal Including a Protected Species Assessment (2018) and Biodiversity Validation Checklist were submitted as part of the original application. The Council's Ecological Consultant has requested a condition which I consider appropriate to mitigate against harmful impacts on wildlife.

16. In response to a comment on the road infrastructure, I agree with the Council's view that there would be no significant adverse effects on road safety as a result of one additional residential house.

Planning Balance and Conclusion

17. As noted above, the Council accepts it cannot demonstrate a 5 year supply of deliverable housing sites. This means that the policies that are the most important for determining the application are considered out of date; although this does not mean the policies should be ignored, it may potentially diminish the weight to be attached to any conflict with them. In this case Policy S7 is the most important policy. Moreover, Policy S7 is not fully consistent with the Framework in terms of countryside policy. Therefore, in light of footnote 7 of Paragraph 11 of the Framework it is clear that in this instance the 'tilted balance' is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
18. The proposal would provide a family dwelling that would make a modest contribution to the Council's housing land supply, and offer limited economic benefits through construction jobs and spending in the local economy via the future occupiers, and as such would help to maintain the vitality of the rural community. It would also allow the appellants and their family to live at the site in the long term. Although the occupants of the proposal would to some extent be reliant on the private vehicle, the site is only a short distance from Elsenham where there is a railway station and there is also a bus stop in the centre of Ugley Green that serves Elsenham. Thus, I find that the adverse impacts of granting permission in this case would not significantly and demonstrably outweigh the benefits.
19. Accordingly, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

20. The conditions imposed are those which have been suggested by the Council but with some variation in the interests of clarity and precision, having regard to the advice on imposing conditions in the Planning Practice Guidance.
21. In addition to the standard timescale condition, I have imposed a condition clarifying the relevant drawings. Material samples or details are also required in order to protect the character and appearance of the area. A condition is also included for compliance with the Preliminary Ecological Appraisal Including a Protected Species Assessment (2018) to mitigate impacts on wildlife. A final condition is imposed with regard to the surface treatment of the vehicular access, in order to protect highway safety.
22. I have omitted the condition suggested by the Council with respect to accessible and adaptable dwellings. This is dealt with separately through Building Regulations.

Conclusion

23. For the reasons set out above, and having regard to all other matters raised, I conclude that the proposed development would be acceptable and thus the appeal should be allowed.

L Gilbert

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: 98318.03 Rev.A, 98318.04 Rev.A, 21150se-01.
- 3) Prior to the commencement of the development, samples/details of the materials to be used in the construction of the external surfaces (including walls, roofs, windows and doors) of the house and garage hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples/details.
- 4) All ecological mitigation & enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Including a Protected Species Assessment Report (Skilled Ecology Consultancy Ltd, May 2018) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination in accordance with a timetable to be agreed. This includes bat sensitive lighting, due diligence regarding nesting birds, precautionary measures for amphibians and reptiles (detailed p.18), the installation of bat and bird boxes.
- 5) No unbound material shall be used in the surface treatment of the approved vehicular access within 6 metres of the highway boundary.