
Appeal Decision

Site visit made on 20 January 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/C1570/W/19/3240207

Land at Little Owls, Marks Hall Lane, White Roding CM6 1RT

- 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 Darren Williams against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1378/FUL, dated 7 June 2019, was refused by notice dated 8 August 2019.
 - The development proposed is demolition of garage block, studio flat and stable and erection of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is an emerging Local Plan (emerging LP) but as it is at consultation stage I afford it limited weight.
3. The Council have released a 'Compatibility Assessment' for the adopted Uttlesford Local Plan 2005 (LP) against the National Planning Policy Framework (the Framework). This concludes that Policy S7 is only partially consistent with the Framework, because the Framework takes a positive approach, rather than a protective one, to appropriate development in rural areas. Therefore, Policy S7 is out of date according to paragraph 11 of the Framework and cannot be given full weight in my reasoning.
4. I have adopted the description of development from the decision notice because this more accurately reflects the proposed development.

Main Issues

5. The main issues are:
 - whether the development would accord with relevant local policies and national legislation with regard to location; and
 - the effect of the development on the character and appearance of the area.

Reasons

Location

6. The site is a grass field to the rear of a substantial detached house and garden in the countryside, and also the house and garden itself. A detached house is proposed within a clearly distinct part of the site. The grass has been allowed to grow longer, there is a pond, and it is separated from the true garden of the house by a fence. The two buildings to be demolished are within the true garden area of the house.
7. There is an existing house to the east and a small collection of farm buildings and houses further to the north east, but the surrounding area has a distinct open and rural feel. White Roding is the nearest village and provides some services, including a pub, park and shops, but the walk to the village is about 10 minutes along an unlit country road and is potentially unsafe, particularly in poor weather, after dark, and for people with limited mobility. The appellant states that there are regular bus services to Bishops Stortford, Harlow and Chelmsford, but these are all from White Roding. Train services are available but these are from Bishops Stortford and Harlow, which are 8 or 9 miles away respectively. As such, they are not particularly accessible to the site, and the future occupiers of the proposed house would be highly likely to undertake the overwhelming majority of journeys to and from the site by car.
8. Consequently, the home would be in an isolated location in the countryside. It is divorced from surrounding settlements and would not help a village to grow and thrive. The development would not be for a rural worker, secure the optimum viable use of a heritage asset, re-use a redundant or disused building, nor would it involve the sub-division of an existing dwelling. The traditional design approach and materials palette does not offer truly outstanding or innovative architecture. The proposal therefore fails to comply with paragraphs 78 and 79 of the Framework. It also fails to comply with the relevant parts of Policy S7 of the LP, which seeks, amongst other things, to protect the countryside for its own sake, and emerging Policy SP10 of the emerging LP, which seeks, amongst other things, to focus development in locations with good access to services and facilities.

Character and appearance

9. A large detached house and garden is proposed, set well back from the road behind the existing house. This would be accessed from an upgraded private grass track that runs along the edge of the garden. The house would be 2-storeys and of traditional design, with a mixture of brick, timber and rendered elevations, and dormers and lattice effect windows. The appellant states that the proposed house would be partially sunk into the land. This is not made clear on the drawings although I did note on site that the area where the house is to be sited is at least in parts lower than the surroundings due to the lake.
10. The traditional design approach is in-keeping with the area and the siting of the proposed house below the prevailing ground level combined with the existing and proposed hedgerows would help to reduce the visual impact of the new building as much as possible. Despite these design measures, the house would still be a substantial structure visible from longer range views from the road and from nearby on public footpaths, eroding the rural and countryside character and appearance of the site and wider area. The associated upgrading

of the currently green access track, the courtyard, and the urbanising effect of turning the remainder of the field into a garden, would further erode the countryside character and appearance of the site and the wider area.

11. Both buildings to be demolished are within the garden of the existing house. One building is set away from the house, but it is a very small wooden storage structure and it is debatable whether it is a true building. The other building is 1 and a half storeys high and is of a reasonable size. However, it is set directly adjacent to the main driveway in a courtyard arrangement with the main house, within its immediate setting. Consequently, the demolition of the buildings would not sufficiently mitigate for the significant built form of the proposed house, which would be significantly larger and would be set far away from the existing house in a different character area of the site.
12. Therefore, the proposal would have an adverse effect on the character and appearance of the area, failing to comply with the relevant parts of Policies S7 and GEN2 of the LP, and Chapter 12 of the Framework. Amongst other things, these policies seek development of high quality design that is compatible with its surroundings, and protects or enhances the particular character of the part of the countryside within which it is set. The proposal also fails to comply with the relevant parts of emerging Policy SP10 of the emerging LP, which seeks, amongst other things, that the landscape character and local distinctiveness of the countryside be protected and enhanced.

Other Matters

13. The appellant seeks to argue that the site should be considered as Previously Developed Land, citing the 'Dartford Case' in particular in support of this (the case is not directly referenced, but I believe this is Dartford BC v SSCLG [2016] EWHC (Admin)). This does not apply in this case because the part of the site where the proposed house would be located is not a garden to the host house and is not within its true curtilage. There is a clear distinction between these two areas of the site, and the wider site has only been included because of the proposed demolition. Consequently, the site is not Previously Developed Land, as defined by the Framework. Pertinently, even if it were considered to be on Previously Developed Land, then the proposal would still fail to comply with the Framework and the Development Plan, for the reasons set out in the 'Location' section of this decision, which are not contingent on whether the land is previously developed or not.
14. The proposal includes for the upgrading of an existing grass track and the use of an existing access to Marks Hall Lane. The Council object to this on the basis that Marks Hall Lane is a Protected Lane and the development might harm flora or other biodiversity features along the lane and its grass verges. However, no evidence has been provided of what precise value there is in the existing flora and biodiversity, nor has an assessment been made of what the impact of the proposal might be. It is therefore not clear what is at jeopardy. It is also likely that any impact on these factors could be controlled by condition if the proposal were otherwise acceptable. I therefore conclude that the proposal complies with the relevant parts of Policy ENV8 of the LP, which seeks, amongst other things, to resist development that adversely affects semi-natural grasslands.
15. The appellant references planning permission Ref UTT/1889/04/FUL, which provided permission for 2 dwellings. However, these were later changed to the

one house that exists on the site, ie the host property. This is the established existing situation and the permission for 2 houses under a different Development Plan and different national guidance in 2006 does not provide precedent.

16. The appellant also mentions the loss of the existing studio flat within the larger building to be demolished. However, this does not have the appearance of a truly independent unit and no evidence has been provided that it is an occupied, stand-alone flat. And, even if it were, the replacement house would be much larger and accommodate more people than the existing flat and is in a different location within the site. I have therefore assessed the proposal as a new residential unit, rather than a replacement unit for the studio flat.
17. The appellant has provided a number of example planning decisions for consideration. Although they provide some useful contextual information they have not directly impacted on my decision because they do not provide direct precedent for what is proposed for the appeal. This is for a number of reasons, including the proposals directly adjoining defined settlements, or sometimes with a different Local Planning Authority.

Planning Balance

18. It is common ground that the Council cannot demonstrate a 5-year housing land supply. The Council confirms the current position is 2.68 years. Consequently, paragraph 11(d)ii of the Framework is engaged.
19. The provision of one additional dwelling would make a minor contribution to local housing. There would be limited economic benefits through short-term employment during construction, and long-term to local services in nearby villages. The isolated location of the site would mean future occupants would be almost entirely reliant on the car, hampering the aim of a low carbon future. The adverse effects of the development, as outlined above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Permission should not therefore be granted.

Conclusion

20. For the reasons set out above, the appeal is dismissed.

O S Woodward

INSPECTOR