



Appeal Decision

Hearing held on 16 January 2020

Site visit made on 16 January 2020

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2020

Appeal Ref: APP/C1570/W/19/3231568

The Bell House, High Street, Henham CM22 6AR

- 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 Martin Gay, Marsta Properties Ltd, against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1811/FUL, dated 28 June 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the erection of three new dwellings on the land to the rear of Bell House, including the demolition of the existing garage for Bell House and its replacement as an extension to Bell House.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three new dwellings on the land to the rear of Bell House, including the demolition of the existing garage for Bell House and its replacement as an extension to Bell House, at the Bell House, High Street, Henham CM22 6AR in accordance with the terms of the application, Ref UTT/18/1811/FUL, dated 28 June 2018, and the plans submitted with it, subject to the conditions at the end of this decision.

Preliminary Matters

2. The stage 1 hearings of the examination of the emerging Local Plan have been completed. The Inspectors have raised significant concerns, including about the evidence supporting it and the deliverability of key sites. In accordance with paragraph 48 of the National Planning Policy Framework, this limits the weight I can accord its policies.
3. Among the items of additional evidence discussed at the opening of the Hearing, a copy of an appeal decision and costs decision¹ issued since the appeal was made, and with particular reference to the decision structure, was submitted by the appellant.
4. Though all parties were given the opportunity to consider this copy at the opening of the Hearing, with further copies to be provided during the course of the event, the Parish Council did not receive a paper copy. An electronic copy

¹Appeal Ref: APP/C1570/W/19/3233553

was provided after the event, alongside earlier appeal decisions on the same site. However, so as not to prejudice the Parish Council, these appeal decisions have not formed part of my considerations in my determination of this appeal.

5. An application for partial costs was made by Mr Martin Gay, Marsta Properties Ltd against Uttlesford District Council. This application is the subject of a separate decision.

Main Issues

6. The main issues are:

- whether the location of the proposed development would be appropriate, having regard to the spatial strategy of the District; and its effect on,
- the Henham Conservation Area (CA) and its setting;
- the character and appearance of the wider area; and,
- the setting of surrounding listed buildings.

Reasons

The site

7. The site of the proposed housing lies outside the development limits of the village of Henham, and beyond the boundary of the CA, which covers the Bell House and the land immediately beside it. Two C18, thatched houses, Datchet Mead and Yarrow Cottage, and a pair of C18 cottages, Bell and Rose, stand close to the driveway into the site and on the land adjoining its southern boundary. They are grade II listed buildings, listed for group value.
8. I heard that though the site of the new housing was previously used as a paddock, for the last 12 years it has been part of the back garden of the Bell House. It is bordered on 2 sides by housing, and it is enclosed by substantial ditches and hedgerows, separating it from the adjoining agricultural land. Given this, and its connection to the Bell House, the site of the new houses is, in my view, within the built-up area.

The spatial strategy of the District

9. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the saved policies of the Uttlesford Local Plan 2005 (LP).
10. The Council's housing strategy is set out in LP policy H1, which concentrates development at the main centres and along the A120 corridor. LP policy H3 concerns new housing within development limits so is of limited relevance here. LP policy H4 allows backland development provided it would make more effective use of the land, would not overlook, overshadow or overbear neighbouring properties, and so long as its access would not cause disturbance.
11. LP policy S7 applies strict control over development in the countryside. It only permits development that needs to take place there, or which is appropriate to a rural area, in which case its appearance should protect or enhance the character of the countryside, which it protects for its own sake. While this prescriptive approach differs from that of the Framework's, of recognising the

intrinsic character and beauty of the countryside, it seeks to protect and enhance the natural environment which is an important component of the environmental dimension of sustainable development. Its thrust is broadly consistent with the Framework; I therefore accord it significant weight.

12. Notwithstanding the progress of the emerging Local Plan (eLP), I note that it reapplies the present Local Plan's development limits at Henham. It recognises the role of Henham as a local service centre in policy SP3, classifying it as a type 'A' village, suitable for development that reinforces that role, sharing an allocation of 134 homes with the other type 'A' villages. It permits development appropriate to a rural area, so long as it protects the best and most versatile agricultural land and protects biodiversity. It supports the use of previously developed land and development in locations with good access to services and facilities.
13. The policies of the Framework are a material consideration, and they postdate the adopted Local Plan by 14 years. The Framework has a less prescriptive approach to rural housing. The proposed housing would not be isolated in the countryside, which is the kind of development the Framework says should be avoided. I acknowledge the Parish Council's evidence that the majority of residents use their car to travel to work. However, Henham has a village shop with a post office, a pub, a community hall and a primary school. It therefore provides some local services and has a degree of life and activity which this development would help to maintain. The new housing would help to maintain the vitality of the rural community, promoting sustainable development in rural areas, as indicated by the Framework².
14. The local policies pull in different directions. While development should be concentrated in the main centres, the eLP recognises that villages like Henham need to accommodate new housing, and the adopted Local Plan allows backland development, whichever side of the development limit a site falls. Nonetheless, the spatial strategy of LP policy S7 is clear. The location of the new houses would conflict with its objectives as regards development in the countryside which should be recognised for its intrinsic character and beauty, and this weighs against the proposal.

The CA and its setting

15. Henham grew as an agricultural community from a small cluster of buildings around the High Street leading to the church and the Hall at one end, set in a landscape of worked fields and woods. Its linear, historical development is peculiar for the distinctive, green and spacious arrangement of houses, many now listed, which are set back from the street by spring-fed ponds and wide grass verges enclosed by shrubs and trees. This unusual spacious arrangement appears on the 1777 map and is said to have changed little in the last two centuries.
16. This distinctive layout along the High Street, combined with the loose grained siting of the houses, their relatively small footprints for the most part, and their generally low heights makes for a bucolic street setting for a most attractive village in the heart of rural Essex. This is the significance of the CA as I saw it during my visit.

² National Planning Policy Framework, paragraph 78

17. However, on closer inspection, this picturesque passage reveals a second and third layer of development behind it. For instance, the cul-de-sac of large houses beside this site, Highfields, accessed by a driveway between older houses. Another example is the houses around the Chase, a cul-de-sac at the other end of the High Street accessed by a driveway between older houses. On the opposite side of the High Street, secondary and tertiary development appears more prolific with yet more driveways leading to development that has no street frontage.
18. This pattern of development of the village as a whole does not alter the significance of the CA within it, to the conservation of which the Framework directs that great weight should be given. It does, however, characterise its setting now, as distinct from the open fields which may once have run up to the backs of the houses fronting the High Street, 200 years ago.
19. Because of this change in the pattern of development which forms this setting of the CA, I can see no harm from the development of this site for housing accessed by a shared drive off the High Street. The plot areas, widths and the footprint: plot ratios of the proposed houses would be similar to those in the CA. Neither would there be any incompatibility between the proposed houses and the appearance of the CA in terms of their footprint, height, or their materials.
20. On the contrary, the design of these houses, with their steeply pitched roofs sweeping down to low eaves behind asymmetric gables and compact dormers is sensitive to the architectural language of the older houses in the CA while retaining its own identity. With the indicated attention to craft detailing and materials, the suggested high quality townscape of the houses would enhance the setting of the CA, raising the standard of design for new houses in the area, and would make a positive contribution to local character and distinctiveness as promoted by the Framework³.
21. There was no objection from the Council or from interested parties to the development proposed on the small section of the site within the CA, in effect the extension of the existing house and the demolition of its garage. The Bell House would be widened following the local vernacular, and its width would be comparable to the houses nearby in the CA. The garage is freestanding and has a steeply pitched roof. Its footprint is similar to the pair of listed cottages beside it. Its removal would free-up some views to the listed buildings, the visibility of whose siting and architectural character make an important contribution to the significance of the CA. The development at the Bell House would therefore have a preserving effect on the character and the appearance of the CA.
22. Views from within the CA which would include the proposed houses would be very limited, and given the other development behind the CA, not out of character with it. I walked along the footpath to the north. From here the proposed houses would be visible, but their backdrop would be the houses in the CA and the new houses in Highfields, the rear development line of which these would share. They would not disrupt any view into the CA from outside it. While the view of the village from the countryside would change, with the footprint of Henham expanding, it would be little different to the present view of the recently developed houses beside the site, at Highfields.

³ National Planning Policy Framework paras 131 & 192

23. I conclude on this issue that the proposed development would preserve the significance of the CA as well as its setting. It would satisfy the requirements of the Act and paragraphs 192 and 194 of the Framework and it would not conflict with LP policy ENV1 which requires development to preserve or enhance the character and appearance of the essential features of the CA.

The character and appearance of the wider area

24. I appreciate the Council's resistance to allowing the village to expand towards the open countryside beyond the development limits. However, the village has already expanded beyond its development limits in this direction, at Woodend and at the Chase, and most notably, directly beside this site, at Highfields. In this context, though the character of the village would change, incrementally, I can identify no harm to the village character from this development which would extend no further than the Highfields development and which would be of a comparable footprint and height.
25. I understand the Parish Council's point that fifty wrongs do not make a right, however, my impression of the character of the village is how I saw it during my site visit, and includes the development completed at Highfields. I cannot ignore its effect on the pattern of development of the village and its direct bearing on this site. To do so would be to pretend that it is not there.
26. For these reasons, the development would not harm the character of the village, and its appearance would make a positive contribution to local character and distinctiveness. There would be no conflict with LP policy GEN2 which requires development to be compatible with the scale, form, layout, appearance and materials of surrounding buildings.

The setting of surrounding listed buildings

27. While the Council does not object to the proposal in terms of its impact on the setting of surrounding listed buildings, I have nevertheless undertaken my statutory duty pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving their settings.
28. The rear settings of the listed buildings would change from the development of the new houses behind them. However, the new houses would be of a scale and distance from them not to undermine their stature which already includes houses of a similar scale and proximity.
29. While the area of the new driveway would have a greater intensity of use than its present use associated with the single dwelling, the additional trips from the development would not harm the significance of the listed buildings. The garage for demolition, a utilitarian building with a footprint similar to the pair of listed cottages, stands close to the flanks of Datchet Mead. Its removal would restore some of the flank setting of Datchet Mead and some prominence to the pair of cottages.
30. I consider that the setting of the listed buildings would be enhanced. There would be no conflict with LP policy ENV2 which protects the settings of listed buildings. Nor would there be any conflict in this regard with the objectives of the Framework which recognises the potential for harm to the significance of a designated heritage asset from development within its setting.

Other Matters

31. The proposed houses would be sited sufficiently distant from the windows and garden boundaries of neighbouring houses to avoid any harmful impact in terms of loss of light, privacy or outlook. The movement of vehicles on the drive proposed beside Datchet Mead would not be dissimilar to other accesses I saw in this residential area, and the number of trips associated with the proposed houses would be unlikely to disturb its occupiers. The neighbouring houses are sufficiently distant from the manoeuvring areas of the proposed houses and screened on the boundaries to ensure no disturbance to their living conditions. I can identify no harm to the living conditions of surrounding occupiers and no conflict with LP policies GEN2 and H4 which protect their amenity.
32. While the site of the proposed housing may be classified as agricultural land, it is separated by a ditch to the adjoining land, it has restricted access from the High Street, its size is relatively limited, and activity would be constrained by the proximity of neighbouring residential occupiers. In any event, for the last 12 years it has been part of the garden of the Bell House. Before then, it was a paddock. This limits the relevance of LP policy ENV5 which protects agricultural land from development.

Planning Balance

33. There is no dispute that the Council's current supply of deliverable sites for housing is around 2.68 years. In these circumstances, the presumption in favour of sustainable development as set out in paragraph 11(d) of the Framework is engaged. This means granting permission 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.
34. I have found that the location of the proposed houses would conflict with the development plan's spatial strategy to restrict development beyond the development limits of Henham. To this adverse environmental impact, I accord significant weight.
35. However, the development would cause no harm to the character and appearance of the CA or its setting. In fact, the setting of the neighbouring listed buildings would be enhanced, and the appearance of the new houses would make a positive contribution to local character and distinctiveness, a significant environmental improvement. The development would provide the social benefit of much needed housing, as well as short term economic benefits from construction and longer term benefits from the spending of future occupiers in the local community the viability of which it would help to maintain. I give substantial weight to these environmental, social and economic benefits.
36. Overall, I conclude that, in the light of the Council's 5-year housing land supply and the presumption in favour of sustainable development, the adverse impact would not significantly and demonstrably outweigh the benefits of the development when assessed against the policies in the Framework taken as a whole. Accordingly, planning permission should be granted.

Conditions

37. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Planning Practice Guidance (PPG); for clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
38. In addition to the statutory time condition (1), to provide certainty, it is necessary to impose a condition requiring the development be carried out in accordance with the approved plans (2). To safeguard the green character of the area, a condition to protect retained trees (3) is necessary. Given the location of the development in close proximity to listed buildings and within or beside the CA, and to safeguard their significance, conditions to secure finishing materials (4) and landscaping (5) are necessary. Because of the position of the driveway leading to the proposed houses being close to existing neighbours, the details should have regard to the opportunity to mitigate the effect of noise from the driveway surface from cars passing over it.
39. To reduce highway safety risks, a condition relating to the new houses to secure on-site parking and egress in forward gear (6) is necessary. To ensure the accessibility of the new houses and the protection of the biodiversity resource on the site, conditions for accessibility standards (7) and ecological mitigation and enhancement (8) are necessary.
40. Given the size of the proposed houses and the proximity and scale of the surrounding houses, the potential to enlarge the houses further without adversely affecting the character and appearance of the area is limited. The articulation of mass and form in the roofscape of the proposal helps to reduce the mass of the development and assists its visual compatibility with its surroundings. While the PPG advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of permitted development rights under class A (enlargement of a dwelling house), class B (additions etc. to the roof), and class D (porches) would be necessary. The removal of rights under these classes would be reasonable, as the condition (9) would not prevent development but would bring it under planning control.

Conclusion

41. For the reasons given above, and having considered all matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mike Washbourne	Savills
Mr Ashkan Liaghat	Savills
Mr Peter Stollery	Donald Purkiss & Associates LLP
Mr Tristan Squire	Squire Heritage Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Mr Nigel Brown	Development Manager, Uttlesford District Council
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INTERESTED PERSONS:

Mr Nick Baker, Chairman	Henham Parish Council
Mr Geoffrey Gardner, Gardner Planning Ltd	For Henham Parish Council
Mr & Mrs Stenhouse	Landowners, appeal site

DOCUMENTS SUBMITTED AT THE HEARING

1. Extract from the travel to work census
2. Henham sites referred to by the appellant
3. Extract from the Essex Design Guide
4. Appeal decisions referred to by Henham PC
5. BMV land classification map
6. Appeal & costs decisions 16 December 2019 ref: APP/C1570/W/19/3233553
7. Letter of 10 January 2019 to Uttlesford District Council from the Examining Inspectors concerning the Local Plan
8. Statement of 14 January 2020 by Uttlesford District Council regarding the Examining Inspectors' letter of 10 January 2020

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Local Plan policies ENV5, H1, H3, and H4
2. Emerging Local Plan policies SP2, SP3, SP4, SP10, EN2, EN4, and the map on page 348
3. Henham Conservation Area Appraisal

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:

1737.03	PLOT 1 – Ground floor plan
1737.04	PLOT 1 – First floor plan
1737.05	PLOT 1 – Side elevations
1737.06	PLOT 1 – Front and rear elevations
1737.07	PLOT 2 – Ground floor plan
1737.08	PLOT 2 – First floor plan
1737.09	PLOT 2 – Front and rear elevations
1737.10	PLOT 2 – Side elevations
1737.11	PLOT 3 – Ground floor plan
1737.12	PLOT 3 – First floor plan
1737.13	PLOT 3 – Front and rear elevations
1737.14	PLOT 3 – Side elevations
1737.15	Bell House ext – Ground floor plan
1737.16	Bell House ext – First floor plan
1737.17	Bell House ext – Section AA
1737.18	Bell House ext – Section BB
1737.19	Bell House ext – Section CC
1737.20	Bell House ext – Front elevation
1737.21	Bell House ext – Rear elevation
1737.22A	Proposed site plan
1737.23	Cart lodges for plots 1 & 2
1737.24	Cart lodge for plot 3
1737.25	Proposed roof plan
1737.26	Proposed site sections and elevations
1737.27	Bell House existing & proposed front elevations
1737.37	Site and location plan
1737.38	Survey - Bell House Side Elevation
1737.39	Bell House ext - Side Elevation
MS-5454 SHEET 1 of 2	TOPOGRAPHICAL SURVEY
MS-5454 SHEET 2 of 2	TOPOGRAPHICAL SURVEY
- 3) All the trees and hedges shown on drawing no. 1737.22A Proposed site plan as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any excavation, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 4) Before work above ground floor slab level begins, samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved samples.

- 5) Prior to the occupation of the new dwellings, there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of the surface finish of the driveway as well as any timber fencing which might together mitigate the risk of noise from the movement of vehicles on the driveway from disturbing the occupiers of the existing dwellings adjacent to the driveway.
- 6) Prior to the occupation of the new dwellings, space shall have been laid out within the site in accordance with drawing no. 1737.22A Proposed site plan for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) The new dwellings hereby permitted shall be built in accordance with Building Regulations Optional Requirement Approved Document M4(2) Category 2: Accessible and adaptable dwellings (2015 edition).
- 8) The development hereby permitted shall be implemented in full accordance with the recommendations for precautionary works, mitigation and enhancement measures contained in the Preliminary Ecological Appraisal Incorporating Bat Inspection, dated June 2018, by T4 Ecology Ltd.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements as set out within classes A and B, and no development as set out in class D (porches), of Part 1 of Schedule 2 of the Order shall be constructed on the new dwellings without the prior written permission of the local planning authority.

END OF THE SCHEDULE OF CONDITIONS