
Appeal Decisions

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: 12 May 2020

Appeal A, Appeal Ref: APP/C1570/W/19/3238389

Gransmore Meadow, Chelmsford Road, Felsted, Essex CM6 3ER

- 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 Felsted Place Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1288/FUL, dated 31 May 2019, was refused by notice dated 20 August 2019.
 - The development proposed is the erection of 2 no. single storey bungalows, associated garaging and parking area to serve adjacent cemetery.
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Appeal B, Appeal Ref: APP/C1570/W/19/3241210

Gransmore Meadow, Chelmsford Road, Felsted, Essex CM6 3ER

- 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 Felsted Place Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2241/FUL, dated 9 September 2019, was refused by notice dated 31 October 2019.
 - The development proposed is the erection of 2 no. single storey 2 bedroom wheelchair adaptable bungalows, permissive footpath and parking area to serve adjacent cemetery.
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Decisions

1. **Appeal A** is allowed, and planning permission is granted for the erection of 2 no. single storey bungalows, associated garaging, and parking area to serve the adjacent cemetery at Gransmore Meadow, Chelmsford Road, Felsted, Essex CM6 3ER in accordance with the terms of the application Ref UTT/19/1288/FUL, dated 31 May 2019, subject to the conditions as set out in the appended Schedule 1 – Conditions.
2. **Appeal B** is allowed, and planning permission is granted for 2 no. single storey 2 bedroom wheelchair adaptable bungalows, permissive footpath, and parking area to serve the adjacent cemetery at Gransmore Meadow, Chelmsford Road, Felsted, Essex CM6 3ER in accordance with the terms of the application Ref UTT/19/2241/FUL, dated 9 September 2019, subject to the conditions as set out in the appended Schedule 2 – Conditions.

Preliminary Matters

3. There are two linked appeals for separate proposed development at the same site. The proposals are substantially similar apart from the precise location of the entrance, a footpath providing access through the site to the fields to the

west, the layout and number of cemetery parking spaces and use of grasscrete as the surface material, provision of an access gate to the cemetery parking, the change from 3-bed dwellings to 2-bed wheelchair adaptable dwellings, and the detail of the boundary treatments.

4. For Appeal A, the appellant has submitted an updated Location Plan (Ref 001 B) and Site Layout Plan (Ref 002 E). The changes relate to land ownership and visibility splays, and I deal with this as appropriate in the decision.
5. There is an emerging Local Plan, but this is only at its Regulation 19 consultation stage and I afford it limited weight given that it may be subject to change. 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, because the Framework takes a positive approach, rather than a protective one, to appropriate development in rural areas. Therefore, Policy S7 can only be afforded limited weight in this regard.

Main Issues

6. The main issues are the effect of the development on the character and appearance of the area, and in particular the potential coalescence of Felsted and Causeway End villages, for both appeals. And the effect on highway safety for Appeal A.

Reasons

Character and appearance

7. The site is currently used for parking and other supporting infrastructure for the development under construction to the north. The evidence before me suggests that it was previously a meadow or field. The site lies directly adjacent to the southernmost element of Felsted village. It is to the north of Causeway End village but separated from it by a cemetery and associated meadow. There is also a gap in development on the east side of Chelmsford Road, separating the two villages. Chelmsford Road is characterised by dwellings of various designs and styles, mostly directly accessed from the road in a largely linear pattern.
8. The proposed bungalows and garage block are of simple design, using brickwork and tiles, that would sit comfortably in the context of the mixed surrounding architecture. The bungalows would be set back from the road, which is a common feature along Chelmsford Road. They would also be set at a right angle to the road, and while not currently a feature of the area, this would be successful at the appeal site as it would bookend the southern reach of development of the village, set against the cemetery boundary. The car park for the cemetery would be screened by hedges and trees and would be similar in appearance to the large driveways and partially hard standing front gardens that are a common feature in the area.
9. The introduction of the paved access, car parking, footpath (Appeal B only), and the bungalows would urbanise the site and narrow the gap between Felsted and Causeway End villages. The set back of the bungalows from the road would not significantly mitigate this, nor would the use of grasscrete for the cemetery parking for Appeal B. However, the bungalows would be located directly adjacent to the under-construction development to the north and would

read as a small extension to the existing developed area of Felsted village. The cemetery would remain and provide a buffer to Causeway End. The openness to the fields to the east is the primary contributor to the current sense of separation and this would be unaffected by either appeal scheme.

10. The proposals would result in development in the countryside in conflict with Policy S7 (Countryside) of the LP. However, I attach limited weight to this due to its inconsistency with the Framework. Moreover, for the reasons set out above, neither of the appeal proposals would have a significant effect on the character and appearance of the area. Consequently, both appeals would accord with Policy GEN2 (Design) of the LP, and also Emerging Policy SP10 (Protection of the countryside) of the emerging Uttlesford Local Plan (Reg 19 LP), as well as with the relevant parts of the Framework (Chapters 11 and 12).

Highway safety

11. Site access is from an existing access to Chelmsford Road, albeit widened in the case of Appeal A, and also moved slightly south in the case of Appeal B. For Appeal B the visibility splays include land that is currently a grass verge and is either owned by the appellant or the Highway Authority (HA). For Appeal A there is also a small amount of land where the land ownership and therefore the maintenance of the visibility sight lines is in dispute. This has not been definitively resolved to my satisfaction in the supporting material. However, the amount of land is very small and provides a hedge for the adjacent development. Realistically, the most significant effect would be from an overgrown hedge, which would only partially interfere with sight lines. The access point sits on the outside of a slight bend in the road, affording generally good visibility in both directions such that visibility would be acceptable.
12. The two proposed bungalows would be likely to generate very few additional vehicular trips without a significant increase to traffic flows on Chelmsford Road. The cemetery car park, either with 10 (Appeal A) or 8 (Appeal B) spaces, would generate more vehicular movements, but this would still be unlikely to result in a significant increase to traffic flows along Chelmsford Road.
13. In addition, at present parking along this part of Chelmsford Road is difficult due to the number of driveways and the nature of the road nearby to the cemetery. The proposed car park in either proposed configuration is therefore actually likely to improve highway safety in the area by providing more controlled off-street parking spaces. I acknowledge that either the 8 or 10 proposed spaces would be unlikely to be sufficient for all visitors to most funerals, but this would still be an improvement on the current situation.
14. The originally proposed footway to access the cemetery has been withdrawn from the scheme by the appellant (Appeal A). While this is not entirely clear on the Site Layout drawing Ref 002 E, this could be controlled by condition. For Appeal B, there is no footway. For both proposals, visitors could access the cemetery via the grass verge or by walking through the tree line. This would be acceptable, given the very short distance.
15. For the reasons above, and subject to the conditions, the proposals would be unlikely to have a significant effect on highway safety, and therefore comply with the relevant parts of Policy GEN1 (Access) of the LP, Paras 108 and 109 of the Framework, and also Emerging Policy TA1 (Accessible Development) of the Reg 19 LP.

Other Matters

Habitats

16. There would be a loss of a green and undeveloped field, but there is little evidence to suggest that the site has significant value in terms of species or habitats, with no protected species identified according to an ecology report.
17. The site falls within the Zone of Influence for the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), in particular the Blackwater Estuary Special Protection Area and the Essex Estuaries Special Area of Conservation. These are afforded the same protection as designated European sites, as set out in Para 176 of the Framework.
18. Natural England (NE) have stated that new residential development in this area and of the scale proposed is likely to have a significant effect on the sensitive interest features of the designated sites, through increased recreational pressure when considered 'in combination' with other plans and projects. The sensitive interest features include the habitats of birds and particularly important coastal and estuary habitats. NE have requested a proportionate financial contribution, to be paid prior to commencement of development, to secure mitigation in the form of 'off-site' measures to increase the resilience of the sites to recreational pressure.
19. Unilateral Undertakings (UUs) for both appeals have been provided in this regard. The UUs would commit the appellant to a payment of £244.60 as contribution if either development is commenced before the RAMS is formally adopted, to be used for funding of additional visitor management measures. If the RAMS is adopted before development commences, then payment would be made to the yet to be determined RAMS contribution.
20. The UUs are necessary to make the development acceptable in planning terms and are directly related to the development. They are also fairly and reasonably related to the scale and kind of the development because the payment of £244.60 is a mitigation figure agreed between the Council and the appellant. The yet to be unannounced payment to the RAMS would be set at an appropriate level through the adoption process for that document.
21. The proposed contributions have therefore been secured in mitigation, and it has been demonstrated that the proposals would not adversely affect the integrity of the RAMS.

Other

22. The living conditions of future occupants would be acceptable. The bungalows would be located in a predominantly residential area, set back from Chelmsford Road. Traffic movements either through the site to the field to the west or to and from the cemetery car park are likely to be limited and relatively quiet. The proposed windows overlook the flank wall of the neighbouring house to the north. The distance, siting and size of the proposed houses to neighbours would ensure that there would be no significant effects in terms of loss of sunlight or daylight, increase in overshadowing, increase in sense of enclosure, or loss of privacy. The effect on living conditions would therefore be acceptable.
23. Appeal B includes a footpath running next to the drive. The drive is also to provide access for agricultural vehicles to the field to the west (in both

appeals). The number of vehicular, pedestrian and agricultural vehicle movements is likely to be low and vehicle speeds would be very slow. This semi-shared space arrangement is acceptable in this context.

Conditions

24. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty. Conditions controlling visibility splays, the access point width, the provision of car parking, and a layout to allow for vehicles to enter and exit the site in a forward gear, are necessary to ensure highway safety. Conditions relating to the materials, boundary treatments, and landscaping (both appeals), and re-instatement of the highway verge (Appeal B only), are necessary in order to safeguard the character and appearance of the area.
25. The Council has requested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions.
26. For Appeal A, I have not attached a condition to require details of a gate for vehicular access because no such gate is proposed and this is therefore unnecessary. But I have attached this condition to Appeal B, where the gate is proposed. For Appeal B, I have amended the condition requiring the verge to be re-instated to remove the direct reference to the Highways Authority, which is unnecessary as the ultimate determining authority for discharging the condition would be the Council. For Appeal A I have not attached a condition in relation to maintaining visibility splays. This is because this is not in the control of the appellant and this would therefore be an unreasonable requirement.
27. The Council have requested conditions to control surface water onto the highway and for unbound material to be used within 6m of the highway boundary. However, no substantiated evidence or policy justification has been provided that this is necessary to either protect highway safety or the character and appearance of the area. Similarly, the Council request that an electric car charging facility be provided in the garage, but no substantiated evidence or policy justification has been provided to justify this. I have not therefore attached these conditions.
28. I have attached a condition to ensure the bungalows are built to an accessible and adaptable standard to Appeal B, which is explicitly for wheelchair adaptable dwellings. However, Appeal A is not made for such dwellings, and the condition in that instance is unreasonable as it has not been substantiated with either evidence or planning policy.
29. Conditions 3 and 4 for both appeals are pre-commencement which is necessary because the details being controlled may influence the detailed design and therefore the construction process.

Conclusion

30. For the reasons given above, I conclude that both appeals be allowed, subject to the identified conditions.

O S Woodward

INSPECTOR

Schedule 1 – Conditions for Appeal A Ref APP/C1570/W/19/3238389

- 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: 2015-598-2-001 rev B; 002 rev E; 010 rev B; 011 rev B; 020; 020 rev C.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 5) Prior to first occupation of either bungalow hereby permitted, the proposed private drive shall be constructed to a width of 5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the verge.
- 6) The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans has been provided. The vehicle parking area and associated turning area shall be retained in this form at all times.
- 7) Notwithstanding the details as drawn on plan Ref 2015-598-2-002 rev E, the 'potential footpath link' to the cemetery is not hereby permitted.

Schedule 2 – Conditions for Appeal B Ref APP/C1570/W/19/3241210

- 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: 2015-598-2-001 rev C; 002 rev F; 003 rev D; 010 rev C; 011 rev B; 020.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 5) Prior to first occupation of either bungalow hereby permitted, the proposed private drive shall be constructed to a width of 5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the verge.
- 6) The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans has been provided. The vehicle parking area and associated turning area shall be retained in this form at all times.
- 7) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
- 8) The bungalows hereby permitted must be built in accordance with Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume1, 2015 edition.
- 9) Any gate provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.
- 10) Any redundant access width shall be suitably and permanently closed to the satisfaction of the Local Planning Authority incorporating the reinstatement to full height of the highway verge / kerbing within one month of the proposed new access being brought into first beneficial use.