

---

## Appeal Decision

Site visit made on 16 June 2020

**by S Tudhope LLB (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 July 2020**

---

**Appeal Ref: APP/C1570/W/20/3246954**

**Abbots Manor Bungalow, Thaxted Road, Wimbish CB10 2UT**

- 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 Justin Evans against the decision of Uttlesford District Council.
  - The application Ref UTT/19/2108/FUL, dated 26 August 2019, was refused by notice dated 10 December 2019.
  - The development proposed is demolition of existing bungalow and construction of two dwellings with garages.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matter

2. During the course of the appeal the appellant submitted additional information in respect of likely impacts of the development on biodiversity features. The Council provided comment on this information and I am satisfied that no party is prejudiced by my taking it into account in the determination of the appeal.

### Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) on biodiversity, with particular regard to bats and great crested newts.

### Reasons

#### *Character and appearance*

4. The Council raises no concerns in relation to the proposed Plot 1 dwelling in isolation from proposed Plot 2. It advises that there is extant permission for the replacement of the existing dwelling (a mobile home, hereafter 'the bungalow') and that in this respect the principle of the proposed Plot 1 dwelling is established. In addition, the Council raises no concern regarding the scale or design of Plot 1 nor its position within the appeal site. I have no reason to disagree. However, the appeal scheme also seeks the erection of an additional dwelling (Plot 2).
5. The appeal site lies outside of any settlement boundary as defined within the Uttlesford Local Plan 2005 (ULP). For the purposes of planning policy, it is therefore within the countryside.

6. Policy S7 of the ULP sets out that the countryside will be protected for its own sake unless special reasons apply. Whilst this is not a requirement contained in the National Planning Policy Framework (the Framework), Policy S7 also states that development will not be allowed unless its appearance would protect or enhance the particular character of the countryside. In this respect the Policy is consistent with paragraph 170 (b) of the Framework which seeks to recognise the intrinsic character and beauty of the countryside. I therefore consider Policy S7 should be afforded significant weight when considering matters of character and appearance in the countryside.
7. The appeal site is set back from Thaxted Road (the B184) behind a wide grass verge and a bank of mature trees and vegetation. It is flanked on two sides by unbound access tracks which lead to existing dwellings, including the bungalow. The site is an irregular shaped, sizeable plot of land, in residential use. The site is long; narrow towards the road end, widening significantly as it stretches away. It accommodates a large pond in the middle; timber outbuildings and some hardstanding, along with the bungalow, are located toward the southern end of the site. It is largely contained by mature trees and other vegetation. The character of this section of Thaxted Road is rural; wide grass verges bordered with hedges and trees largely screening the small cluster of properties on the appeal site side of the road.
8. Given the grouping of the site with other dwellings, the site is not isolated in the context of paragraph 79 of the Framework. In addition, the appeal site does not represent a "small gap in a small group of houses". The site is sizeable and is flanked on one side by woodland. Plot 2 would be situated between Plot 1 and the road, essentially forward of Plot 1, with woodland to one side and neighbouring garden land to the other. Consequently, I do not consider that the site, or even the part of the site relating to Plot 2, represents an infill site for the purposes of ULP Policy S7.
9. In addition to a new two storey dwelling and associated outbuilding at the rear of the site (Plot 1), the proposal would result in a single storey 'U' shaped dwelling with a detached garage (otherwise described on the submitted plans as 'carport and store') positioned towards the front of the site (Plot 2). The garage would be forward of its dwelling, with the space between comprising a shingled area. A new access from the existing driveway alongside the north west boundary of the appeal site would be created.
10. Nearby properties are mostly situated within spacious curtilages, with garden on all sides. The Plot 2 buildings would occupy much of their plot breadth, given the narrowness of this part of the overall site. The proposed development would not extend beyond the confines of the existing boundaries of the site. Nevertheless, the proposal would clearly result in significant built form, where currently there is none, with a consequent loss of openness to this part of the site. This would be inconsistent with the prevailing, loose and spacious, pattern of development.
11. The appellant referred me to an earlier approved planning application<sup>1</sup> at the site where the Council considered that "due to the dense vegetation around the site ... the proposed development will only be visible at close proximity of the site and therefore will continue a sense of undeveloped frontage ... It would not

---

<sup>1</sup> UTT/16/3624/FUL

be readily apparent from the road itself...". He considers that the same conclusion should therefore apply in this case.

12. However, as the appellant also points out, that application was for a single dwelling, sited in largely the same position as proposed Plot 1 of the appeal scheme, far removed from the road. Plot 2 would introduce residential development to the front of the site. I accept that the proposed development would not be readily visible from Thaxted Road, as it would be some distance from it and largely screened by the intervening vegetation. Nevertheless, the introduction of a dwelling of significant size, together with its associated garage, along with the inevitable increase in domestic paraphernalia and activity at the site, would result in a fundamental alteration to the site's character. This would take place regardless of whether or not it would be seen from any public viewpoint and would amount to a significant domestication of the appeal site as a whole. This would be to the detriment of the character and appearance of the site and the area.
13. My attention has been drawn to development close to the road at the nearby Carver Barracks. The appellant considers that the presence of this development forms part of the character of the area and therefore provides justification for the appeal proposal bringing built form closer to the road. However, the separation distance and intervening undeveloped land, between Carver Barracks and the appeal site is such that they are not viewed in conjunction with each other. Therefore, this matter does not alter my assessment of the effect of the proposed development on its surroundings.
14. I conclude that 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 ULP, 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.

### *Biodiversity*

15. The Council's third reason for refusal was concerned with insufficient information having been submitted in relation to nature conservation matters. Updated information has been submitted during the course of the appeal.
16. The County Ecologist has advised that subject to securing the proposed biodiversity mitigation, compensation and enhancement measures they no longer object to the proposal. However, they also advised that a further bat survey would be necessary prior to demolition of the bungalow. They consider this building to be derelict and to have high potential for bats. The appellant's ecologist disagrees with this assessment and clarifies that the 'bungalow' is a 'portable cabin' which is lived in, and as such is regularly subjected to noise and vibration disturbance. I saw on my site visit that this is the case. I am persuaded on this basis and on the other bat survey evidence that the 'bungalow' is unlikely to have 'high potential' for the presence of bats.
17. However, be that as it may, given the identified presence of bats at the site within the existing outbuilding, and the high number of trees within and in close proximity to the site, I cannot rule out the possibility that bats might be present in the bungalow and may be affected by its demolition. I, therefore, agree with the County Ecologist, that if the appeal were to be allowed, ecology

matters could be adequately dealt with by conditions, including a condition for a supplementary ecological survey for bats to be undertaken prior to demolition of the bungalow.

18. Further, the appellant has provided an Impact Assessment and Conservation Payment Certificate (IACPC) countersigned by Natural England for the District Level Licensing for Great Crested Newts (GCN) in Essex. The County Ecologist advised that subject to the provision of the IACPC, further GCN surveys would not be required for the development to proceed.
19. Consequently, I conclude that, subject to appropriate conditions, the proposal would not have an adverse effect on biodiversity. Thus, there would be no conflict with Policy GEN7 of the ULP or the Framework, which seek to conserve and enhance biodiversity.

### **Other Matters**

20. The appellant raised concern that pre-application advice provided by the Council was misleading in relation to the subsequent reasons for refusal. However, pre-application advice is not binding on either party. In any case, I have determined the appeal on its own merits.
21. There are two grade II listed buildings situated to the rear of the site. Given the separation distance, intervening landscaping and screening, I consider that the appeal scheme would have a neutral material impact on the setting of these listed buildings. Their setting would therefore be preserved.
22. Although the site is in existing residential use and therefore could be considered to be previously developed land (PDL), the Framework makes clear that it should not be assumed that the whole of the curtilage should be developed. The Framework also makes clear in Footnote 44 to paragraph 117 that making as much use as possible of PDL does not include where doing so would conflict with other policies in the Framework. I have found that the proposal would conflict with design and environmental policies of the Framework. This factor does not therefore weigh in favour of the proposal.
23. Reference has been made to a covenant relating to the shared access to the site. However, covenants are civil matters outside of the control of the planning system. As such, this matter cannot be taken into account in the determination of this appeal.

### **Planning Balance**

24. The Council has confirmed that it cannot currently demonstrate a 5 year supply of deliverable housing sites. It advises that it can only demonstrate 2.68 years supply. This is a significant shortfall. In such cases, the provisions of paragraph 11 d) of the Framework are triggered and the presumption in favour of sustainable development applies.
25. The development would result in a net gain of one dwelling. The overall contribution to the supply of housing would be minimal. The appellant has advised that the development would be self-build. This benefit would be modest commensurate with the scale of development proposed. The proposal would have economic benefits resulting from both the construction and subsequent occupation of the proposed development and the support by future

occupiers for services and facilities. I attribute limited weight to these benefits because of the scale of development proposed.

26. The appellant contends that the appeal site is in a sustainable location with good public transport access to nearby services and facilities. Although the Council did not raise specific concern in relation to these matters, it nevertheless acknowledged that the future occupants of the proposed development would be likely to use private motor vehicles for most of their journeys to access services and facilities. As the route to the bus stop would be alongside an unlit 60 mph speed limited road, without the benefit of footpaths, and there are no dedicated cycle ways, use of alternative transport modes would not be the most attractive option. Notwithstanding the likely reliance on a motor vehicle, future occupiers would be able to access services and facilities local to the site and within nearby settlements. I have taken into account the Framework which sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I therefore consider this matter neutral in the planning balance.
27. The proposal could provide biodiversity enhancements. I afford this benefit limited weight. Other issues where no material harm has been identified, would be neutral in the overall planning balance.
28. However, I have found that the proposal would give rise to unacceptable harm to the character and appearance of the area. This is a matter I give significant weight. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. This is the case even when taking into account the significant housing land supply shortfall. The proposal would be contrary to the development plan and this conflict is not outweighed by other material considerations including the Framework.

## **Conclusion**

29. For the above reasons the appeal is dismissed.

*S Tudhope*  
Inspector