
Appeal Decision

Site visit made on 15 September 2020

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

Appeal Ref: APP/C1570/W/20/3247123

**Bramley Hollow, Bumpstead Road, Hempstead, Saffron Walden,
Essex CB10 2PW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs D Walsh against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2082/OP, dated 19 August 2019, was refused by notice dated 17 October 2019.
 - The development proposed is outline application with all matters reserved except access for the demolition of former commercial and agricultural buildings and construction of 4 no. dwellings with new access, and closure of existing access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline, with all detailed matters apart from access reserved for later consideration. The appeal has been addressed on the same basis, taking the further details provided at this stage as being indicative only.

Main Issues

3. Whether this proposal would be acceptable with regard to (i) policy for housing in the countryside, including in respect of character and appearance, and (ii) any effects upon protected species potentially present on the site.

Reasons

Countryside policy and character and appearance

4. The appeal site comprises a parcel of previously developed land containing disused farm buildings, latterly in light industrial and storage use, and areas of hardstanding within otherwise roughly vegetated parts. It lies alongside the road leading away from the nearest village of Hempstead and is in more open countryside. With the completion of future barn conversions, the appellants estimate that the surrounding area will contain some 12-14 dwellings. However, this housing remains sporadically arranged and insufficient to form a clearly defined settlement.
5. Plans illustrate the potential for four closely arranged, barn-like dwellings grouped around a courtyard. The appearance is reminiscent of that of the

conversion of a group of traditional farm buildings. The surrounding gardens could then be subject to landscaping, with limitations on domestic permitted development offered, to provide an enhanced setting.

6. Although not a part of this outline application, I agree that such details would create a small group of buildings of a traditional rural appearance. Compared to conventional dwelling types, these might better protect the particular character of this part of the countryside, which would inevitably be altered by four new dwellings, and thus help to comply with the relevant section to Policy S7 of the Uttlesford Local Plan (LP).
7. Like other Inspectors in recent appeal decisions, I give limited weight to the part of LP Policy S7 which seeks to protect the countryside for its own sake. This is no longer reflected in the more recent National Planning Policy Framework (the Framework). However, in seeking that development protects or enhances the particular character of the part of the countryside within which it is set, LP Policy S7 maintains some consistency with where paragraph 170 refers to decisions recognising its intrinsic character and beauty. In any case, assuming the illustrative designs were followed, the proposal would cause limited harm to the character and appearance of this rural area.
8. However, LP Policy S7 also restricts development in the countryside generally to that needing to be, or appropriate, there. In this respect, it should be viewed in the context of the wider LP policies over where development will take place in Uttlesford. These focus most housing in main urban centres and other key settlements which contain a more complete range of services and facilities, including better public transport links. This then correlates residential growth with the availability of supporting infrastructure, such as schools, and reduces both the overall need to travel and the amount and length of journeys by private car. Through restraining residential development in the countryside to that requiring such a location, Policy S7 complements this wider strategy and ensures housing is not spread more evenly within the District in a less sustainable manner.
9. The four dwellings proposed do not require to be located in the countryside and so conflict with Policy S7, and the wider LP policies for the location of residential growth. These remain consistent with the Framework in respect of its fundamental aim to achieve sustainable development, including by actively managing patterns of growth that limit the need to travel and offer a genuine choice of transport modes, thus helping to reduce congestion and emissions, and improve air quality and public health¹. Other than a request bus stop for a two-hourly service, there are no facilities near to the appeal site. There would be significant harm both from this proposal undermining the statutory plan-led approach to decision-making and by introducing housing where future occupiers would be highly dependent upon private car use to meet daily needs.

Protected species

10. The Preliminary Ecological Appraisal² (PEA) supporting the proposal has concluded that the site provides potentially good habitat for newts, reptiles and bats and recommends further surveys to establish the degree of use by these species.

¹ Part 9 of the Framework – Promoting sustainable transport

² By Practical Ecology Limited, July 2019

11. Paragraph 99 of Circular 06/2005³ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This advises that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, although developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.
12. In this case, the PEA has found the potential for the site to provide a habitat for protected species and it would be reasonable to expect the results of the further surveys recommended to inform a decision on the proposal. This evidence would be necessary to establish if the principles of paragraph 175 of the Framework could be met. These are that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. At this stage there is not the evidence to show the proposal would have no harmful effects on biodiversity and consequently I find there to be conflict with LP Policy GEN7. Unlike in another case⁴ cited, where the Council had granted outline planning permission for two dwellings subject to conditions addressing biodiversity mitigation and enhancement, the evidence does not support such an approach in this case.

Other planning decisions in the District

13. The appellants have referred to several recent permissions for housing in the countryside, granted either by the Council or on appeal. With regard to those⁵ allowed as infilling, permissible under LP Policy S7, I would not describe this proposal as being such. This is generally understood to be the development of a smaller gap in a more complete built-up frontage, not applicable in this case.
14. In allowing appeals⁶ for countryside housing, some Inspectors have given decisive weight to paragraph 78 of the Framework. This states that planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services and where there are groups of smaller settlements, development in one village may support services in a village nearby. However, this proposal is not located in what I consider to be a settlement and is some distance apart from the nearest village of Hempstead. Whilst not comprising the development of isolated homes in the countryside, which the following Framework paragraph 79 seeks decisions avoid, this proposal is not strongly supported by preceding paragraph 78.

³ Circular 06/2005: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system

⁴ UTT/19/2457/OP Outline application with all matters reserved for the erection of two semi detached dwellings accessed from existing crossover at Potash Farm Hempstead Road Radwinter CB10 2TH

⁵ One dwelling at Cock Green Bannister Green, LPA ref: 18/3038/FUL; Three dwellings allowed at Brook Cottage Gransmore Green LPA ref: 17/1123/FUL; Two dwellings at Hawkspur Green, Little Bardfield APP/C1570/W/18/3197857

⁶ APP/C1570/W/19/3225516 – three dwellings at Quicksie Hill, Arkesden; APP/C1570/W/19/3223395 and 3220995 – one dwelling at Wimbush Lower Green

15. A number of appeals⁷ quoted relate to housing allowed around Felsted, elsewhere in the District. However, these are of limited comparability to this proposal mainly in respect of having a closer relationship to a larger settlement with more facilities. Elsewhere appeals allowed have related to the Green Belt where limited residential infill and conversions can be deemed as not inappropriate⁸.

Planning Balance

16. Having had regard to the recent decisions cited in support of this proposal, I find none closely mirroring the circumstances in this appeal. However, all were made when, as now, the Council could not demonstrate the five-year housing land supply sought by the Framework. I must similarly consider LP Policy S7 most important for determining this appeal and out-of-date, thus giving weight to the presumption in favour of sustainable development set out in paragraph 11 of the Framework, applying the 'tilted balance' in part d) ii.
17. The availability of previously developed land commonly comprises one of the reasons why steering growth to urban areas provides for sustainable development. There are some of the same benefits in the countryside. However, here the sites might reasonably be expected to mainly be disused agricultural sites, such as in this case. Development of these for housing would generally lead to a more dispersed settlement pattern, less tied to the availability of supporting services and facilities. I note that housing in the countryside has been granted by the Council in other locations⁹ where previously developed land had been a consideration. Nevertheless, in this case, I attach only moderate weight to this as a benefit.
18. Whilst helping to meet the Framework's aim of boosting housing supply and, as a small scheme, capable of a quick build-out, four additional dwellings would nonetheless offer only modest social benefits towards addressing the significant under-provision of residential development in Uttlesford. The construction of the new houses and the additional household expenditure would provide similarly modest benefits to the local economy.
19. Whilst on a bus route, the dwellings would not be close to the services available in larger settlements further away. The resulting degree of private car reliance to access regular household needs, such as schools, supermarkets and places of work, would run counter to the Framework's objectives for securing sustainable development. The adverse impacts found in respect of this, and of incomplete evidence over the effects on biodiversity, would significantly and demonstrably outweigh the small social and economic benefits identified, when assessed against the Framework policies taken as a whole. The proposal would therefore not benefit from the presumption in favour of sustainable development provided by paragraph 11. As a material consideration, this would

⁷ APP/C1570/W/19/3228069 - 9 dwellings allowed at Pound Hill, Felsted. APP/C1570/W/19/3234739 - up to 30 dwellings allowed abutting development boundary south of Braintree Road, Felsted. APP/C1570/W/19/3238389 APP/C1570/W/19/3241210 - Two bungalows at Gransmore Meadow, Chelmsford Road, Felsted, Essex CM6 3ER

⁸ APP/C1570/W/19/3241822 - five dwellings allowed on land between Green Corners and Silver Birch dwellings, Latchmore Bank, Little Hallingbury, Bishop Stortford. APP/C1570/W/19/3243843 Conversion of stables/store to one dwelling at Foxglove Farm, Dunmow Road, Hatfield Heath

⁹ UTT/13/2678/FUL Three dwellings at Radwinter Mushroom Farm, Bent Road, Wimbish; UTT/19/0027/OP - four dwellings at a former farmyard at Causeway End.

thus not indicate the appeal be decided other than in accordance with the development plan, where I find there to be conflict when considered in its entirety.

20. For the reasons set out above, having considered all further matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

Inspector