



Appeal Decision

Site visit made on 25 January 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Friday, 19 February 2021

Appeal Ref: APP/C1570/W/20/3256498

The Barn, Lower Green, Lower Green Lane, Wimbish CB10 2XH

- 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 Paul Challis against the decision of Uttlesford District Council.
 - The application Ref: UTT/20/1138/FUL, dated 15 May 2020, was refused by notice dated 21 July 2020.
 - The development proposed is described as 'new passive house dwelling located within the garden of The Barn, Lower Green Wimbish'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have amended the address of the appeal site from that given on the application form as the address provided does not clearly identify the site.

Main Issues

3. The main issues are:-
 - i) whether the appeal site is a suitable location for residential development having regard to the accessibility of services and facilities; and
 - ii) the effect on the character and appearance of the countryside.

Reasons

Character and appearance

4. The appeal site is an area of maintained garden land to the side of The Barn. It is bordered by substantial, mature hedgerow to its front boundary and includes an outdoor swimming pool and small outbuilding. Dwellings along Lower Green Lane are sporadically positioned with distinct gaps and views of open countryside. The appeal site makes an important and valuable contribution to the overall rural character of Lower Green Lane. If the proposed dwelling were allowed, this gap would be permanently lost, to the detriment of the area's character and appearance.
5. The existing hedgerow would largely screen the proposal from views from the highway and neighbouring dwellings that are positioned opposite. However, some partial views of the proposal would be possible above the vegetation. In addition, some glimpsed views would be capable through the proposed access and existing access to The Barn. Moreover, the hedgerow is not protected and although the appellant is minded to retain it, it cannot be relied upon to

provide permanent screening. Landscaping of this kind is not an appropriate means of obscuring an otherwise unacceptable development. If the vegetation were to be trimmed or die in future, this would increase the visual prominence of the scheme from the surrounding area. Any replacement vegetation would inevitably take a considerable period of time to become well-established. The proposed scheme would reduce the sense of openness and be harmful to the rural character of the countryside.

6. I therefore conclude that the proposed development would be harmful to the character and appearance of the countryside and the prevailing pattern of built form, contrary to Policies S7 and GEN2 of the Uttlesford Local Plan 2005 (LP) which seek, among other things, to restrict development within the countryside to that which is appropriate to a rural area and safeguards important environmental features in its setting.
7. I am mindful that LP Policy S7 is only partially consistent with the National Planning Policy Framework (the Framework) insofar as it is more restrictive in seeking to protect the countryside for its own sake. However, it goes on to state that development will not be allowed unless it would protect or enhance the particular character of the countryside. In this respect, LP Policy S7 is broadly consistent with the Framework's aims to recognise the intrinsic character and beauty of the countryside. I therefore consider that it should be afforded significant weight when considering development proposals in the countryside.

Accessibility of services and facilities

8. The appeal site is located outside of the defined development limits and for the purposes of applying planning policy, the appeal site is regarded as being located within the countryside.
9. The Framework sets out that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. It also states that isolated homes in the countryside should be avoided unless there are special circumstances. This fits into the general planning principle of supporting thriving rural communities. Given the proximity of other dwellings I do not consider that the appeal site would be 'isolated' for the purposes of the Framework, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
10. However, it does not necessarily follow that a site that is not 'isolated' will be reasonably accessible to services and facilities when considered in the context of other requirements of the Framework. In this case, within Lower Green there are no shops and services and access to bus services is stated by the Council to be very limited. Future occupants of the proposed dwelling would therefore have to travel further afield to access services and facilities to meet their day to day needs.
11. There is little information before me detailing the availability of services and facilities nearby albeit I have had regard to the appeal decisions at *'the site opposite The Drove'*¹ and the findings of the previous Inspector in those appeals. Nevertheless, the evidence presented in respect of those previous appeal decisions is not before me in my consideration of this appeal.

¹ APP/C1570/W/19/3223395 and APP/C1570/W/19/3220995

Furthermore, it is not clear to me that the availability of nearby services and facilities, as referred to by the previous Inspector, remains unaltered at the time of this appeal. Consequently, I am unable to consider whether the particular circumstances of those developments are comparable to the appeal proposal. In this regard, a comparison is of limited relevance and I have therefore considered the appeal before me on its individual planning merits.

12. In the absence of information regarding nearby services and facilities, I am unable to make any assessment of the likelihood of sustainable transport modes such as walking and cycling being used to access those services and facilities.
13. Therefore, on the basis of the evidence before me, I conclude that the future occupants of the proposed dwelling would be heavily reliant on the use of a private motor vehicle to access services and facilities. As such, the proposal would fail to accord with the provisions of LP Policy GEN1 which requires development to encourage movement by means other than driving a car. In addition, the proposal would conflict with the principles of the Framework which seeks to limit the need to travel and offer a genuine choice of transport modes.

Other Matters

14. The appellant's assertion that the proposed dwelling would be constructed to a Passive House standard is unconvincing and the stated features and measures are largely unexceptional.
15. The design of the proposed dwelling would reflect the Essex vernacular as well as nearby dwellinghouses and in terms of its style and materials, the design is deemed acceptable to the Council. In addition, there would be no adverse impact upon the living conditions of neighbouring residents in terms of outlook and loss of light. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
16. I have had regard to a letter of support and I note that the Parish Council did not raise an objection to the proposed development. However, support for a scheme does not outweigh general planning considerations. In addition, there is no substantive evidence before me to demonstrate that larger scale developments would result as a consequence of this scheme not going ahead.
17. The appeal site lies in close proximity to a number of Grade II listed buildings, Mill Cottage and Nottage Farmhouse. The Council considers that there would be no adverse impact upon their settings given the separation distances involved and the presence of intervening vegetation. However, as the proposed development is not going ahead I have not been required to give this matter any further consideration.
18. Albeit I note that there was only one reason for refusal within the decision notice for a previous scheme², whereas the appeal scheme provides two, the Council have provided an explanation that the sole reason for refusal encompassed issues relating to '*sustainable transport and sustainable development and the harm to the rural character of the area*'. On the basis of the evidence before me, I find that the appellant has not adequately demonstrated any inconsistency on the part of the Council in their approach to deciding similar applications at the appeal site.

² Planning Reference: UTT/19/1451/FUL.

19. Reference has been made to a number of appeal decisions³. However, I am not aware of all of the factors which contributed to these decisions being made and, in any event, I have determined the appeal before me on its individual planning merits.

Planning Balance

20. The Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. However, the contribution that would be made by one additional dwelling and their occupants towards the vitality of the rural community would be small. The social benefits of one additional dwelling attracts little weight in the overall balance.
21. There would be economic benefits of the proposal would be primarily related to employment during construction. This benefit would be short-term and limited and so carries limited weight.
22. I have concluded that the proposed scheme would be harmful to the character and appearance of the countryside and the prevailing pattern of built form. Additionally, on the evidence before me, I am of the view that future occupants of the proposed dwelling would be heavily reliant on the use of a private motor vehicle to access services and facilities. Therefore, the proposal would not contribute to the move towards a low carbon future as encouraged by the Framework. As a consequence, I find that the appeal site is not an appropriate location for a dwelling and the environmental dimension of sustainable development would not be achieved. This is a matter that weighs significantly against the proposal.
23. The Council advise that it is currently unable to demonstrate a five-year supply of deliverable housing sites, with their evidence putting the current supply at (2.68 years). This is a matter to which I attach significant weight. Nonetheless, I have found that the proposal would result in significant conflict with the environmental objectives of the Framework. I therefore consider that the adverse impacts of the scheme would significantly and demonstrably outweigh the limited benefits I have identified, when assessed against the policies in the Framework taken as a whole.

Conclusion

24. For the reasons given above, I find that there are no material considerations that outweigh the conflict with the development plan. I conclude that the appeal is dismissed.

E Brownless

INSPECTOR

³ Planning References: UTT/17/2204/FUL and UTT/15/3793/FUL.