



Appeal Decision

Site Visit made on 10 May 2021

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/C1570/W/20/3265181

Newlands, Champions End, Hempstead, Essex CB10 2NZ

- 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 R Midgley against the decision of Uttlesford District Council.
- The application Ref UTT/20/2012/FUL, dated 11 August 2020, was refused by notice dated 5 October 2020.
- The development proposed is described on the application form as 'the erection of a three bedroom one storey new-build house with mezzanine level. Including a master suite for the owners and two flexible bedroom workspaces for family and guest visitors.'

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr R Midgley against Uttlesford District Council. This is the subject of a separate decision.

Preliminary Matters

3. The appellant and the Council agree that the appeal site is part of the residential curtilage of Newlands and therefore constitutes previously developed land. However, as with the previous appeal here¹, it is not for me to determine whether the site is within the residential curtilage in the context of an appeal made under Section 78 of the Town and Country Planning Act 1990.

Main Issues

4. Whether the site would be a suitable location for housing, with regard to accessibility of services and facilities; and the effect of the development proposed on the character and appearance of the area.

Reasons

Location

5. The appeal site is located outside of a defined settlement. For planning purposes, it is therefore in the countryside. Paragraph 78 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. I note that Policy S7 of the Local Plan² does not only apply to locations that might be considered 'isolated' within

¹ Appeal Ref: APP/C1570/W/19/3226701

² The Uttlesford Local Plan 2005

the terms of paragraph 79 of the Framework, but also to the countryside in general.

6. The site is some distance away from the nearest settlements of Hempstead and Great Sampford. These villages have a limited range of facilities and services and future occupants of the development would therefore be likely to travel to larger settlements further away, such as Saffron Walden or Haverhill, in order to access a greater range of facilities and services on which they are likely to rely day to day.
7. In considering whether the site would be a suitable location for housing, the Inspector for the previous appeal found that “there are no shops or community facilities or bus transport facilities within a reasonable and convenient walking distance of the site. The local road network lacks street lighting and pedestrian footways. Accordingly, the opportunities to walk or cycle to the services and facilities available nearby are not therefore convenient or realistic ones, particularly after dark or in bad weather”.
8. The previous Inspector considered that future residents would therefore be likely to travel regularly by car to access education, retail, employment and healthcare. That is the least sustainable travel option. Accordingly, the proposal was found to conflict with Policy S7 of the Local Plan, and the sustainable development objectives of the Framework.
9. I note that the design of the proposed dwelling would incorporate facilities for electric car charging and that it is intended to be constructed to Passivhaus standards. Whilst the use of electric cars would be encouraged, there would be no restriction on the use of alternative motor vehicles by residents or those visiting the site. In addition, design to high standards of energy efficiency would not sufficiently offset the effects of additional vehicular movements in respect of emissions. Since both local and national planning policies seek to direct new development to locations which have good access to services and facilities, including by a range of transport options, these considerations would not outweigh the environmental harm arising from the site’s unsuitable location with poor access to local facilities and services.
10. Overall, and in regard to this main issue, I conclude that the appeal site would not be a suitable location for a new dwelling and would therefore be contrary to Local Plan Policy S7 which, amongst other things, seeks to protect the countryside for its own sake and restricts development to that which needs to take place there. The proposal would fail to enhance or maintain the vitality of rural communities. Future occupants would have a limited choice of transport modes, contrary to the objectives of the Framework. The development proposed would also be contrary to the aims of Local Plan policy GEN1 which, amongst other things, requires that development encourages movement by means other than driving a car.

Character and Appearance

11. The site is a modest, broadly level and irregular parcel of land laid to grass and bounded by established hedges. The proposed dwelling would be situated on the southern side of Campions End, which is currently free from development and has a rural character. Beyond the site there are fields to the north, east and south and a smaller field to the west. The closest properties are Newlands which is located approximately 110 metres to the south-west, and The

Hawthorns which lies on the northern side of Campions End. The trees and hedges along the northern boundary of the site provide some screening from Campions End.

12. In considering the previous appeal, my colleague found there to be variation in the plot size and design of dwellings within the area. However, there was found to be a clear and distinct pattern of development due in part to the arrangement of dwellings aligned with road frontages and the space around dwellings, which provides a transition to the agricultural fields beyond. I agree that those characteristics contribute positively to the character and appearance of the area.
13. The long driveway from Howe Lane, proposed as part of the previous scheme, no longer features in the proposal. The proposed siting of the dwelling would be slightly further towards the northern site boundary than it was. With access proposed to be taken from Campions End, rather than Howe Lane as before, the appellant considers that the proposed dwelling would incorporate a frontage onto the public highway. However, I noted during my site visit that Campions End is tarmacked as far as The Hawthorns and then becomes an unmade track. At that point, it has more the appearance of a farm track. It is not experienced in the same way as other highways in the area, such as Howe Lane. Therefore, given its proposed siting to the rear of Newlands, the proposed dwelling would still appear as an uncharacteristic form of development.
14. The appellant argues that the open character of the space behind Newlands would be preserved as the house would be tucked into a corner of the site, completely out of sight from Newlands and set against a backdrop of trees and hedges. However, given the scale of the proposed dwelling and the likely level of visibility from the proposed access through gaps in the trees and hedges along the northern boundary, particularly when these are not in leaf, the proposal would have a presence and thus be viewed as a protrusion into the open and undeveloped countryside.
15. I acknowledge that the removal of the long driveway from Howe Lane to serve the proposed dwelling, and its reduced height, would go some way to reducing the effect of the proposed development but, referring to my earlier findings, this would not be sufficient to make it acceptable for the character and appearance of the area.
16. The appeal scheme would therefore conflict with Local Plan Policy S7 which seeks to protect the character of the countryside, together with Local Plan Policy GEN2, where it seeks to ensure that development is compatible with its surroundings. The proposal would also conflict with paragraph 170 of the Framework, which requires that development should contribute to and enhance the natural and local environment.

Other Matters

17. The appellant has drawn my attention to the outline planning permission granted for a new dwelling at Frenches Farm,³ which is less than 100m from the site. However, that proposal was considered by the Council to represent an infill development. Indeed, Policy S7 affords in-principle support to infilling of

³ Council Ref: UTT/19/1987/OP

small gaps in small groups of houses outside the development limits where it would be close to settlements and in character with the surroundings. Although I have had regard to that decision, the circumstances of that case are clearly different to the appeal before me and it is some distance away.

18. The appellant has referred to a number of other permissions which have been granted for new dwellings away from settlements. However, I have no substantive details of these schemes before me and it is not clear whether they are directly comparable to the appeal scheme. Furthermore, I must consider the appeal on its own merits.
19. Although I understand the appellant's desire to downsize and remain in the local area, that does not represent sufficiently compelling justification for the development in this countryside location.
20. Concerns have been raised by an interested party in relation to the location of the proposed development adjacent to a meadow and woodland and its effect on wildlife. However, based on the evidence before me, including the Ecological Survey and Assessment, I have no reason to disagree with the Council's conclusion that the proposal would not adversely affect protected species or biodiversity. However, the absence of harm in that regard is a neutral matter which does not weigh in favour of allowing the appeal.

Planning Balance and Conclusion

21. The proposal would not accord with the relevant development plan policies which seek to protect character and appearance and ensure that new development is located where it would have good access to existing services and facilities and to all forms of transport. There would also be a conflict with the policies of the Framework where they seek to serve the same objectives.
22. There is no dispute that the Council are able only to demonstrate around 3.11 years' worth of forward supply of deliverable sites for housing, and therefore that paragraph 11. d) of the Framework is engaged. As well as considering the most important policies out of date, this requires that planning permission should be granted 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.
23. The development proposed would provide a single new dwelling to the Council's housing stock in a district with a significant housing under-supply (albeit numerically rather than in terms of appropriate design). The proposal would also have economic benefits through employment opportunities during the construction phase of the development and spending in the local area by future occupants. I have noted above how the intention is that the proposal be designed to high environmental standards. However, given the modest scale of the proposal such benefits are inevitably limited, affecting the amount of weight I could ascribe to them.
24. By contrast I have found that the proposal would result in clear harm by virtue of its location, and associated vehicular emissions, and in respect of character and appearance. I have reasoned that those are matters dealt with equally by the development plan as in the Framework, notably paragraphs 170 and 102 of the latter. I afford substantial weight to these harms which would be wide ranging (in terms of the principle of the proposed development) and long

lasting (in terms of the character and appearance of the area). Accordingly, the adverse impacts of allowing the appeal would, in this particular case, significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

25. The appeal should therefore be dismissed.

Mark Ollerenshaw

INSPECTOR

