
Appeal Decision

Site visit made on 4 May 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 15 June 2021

Appeal Ref: APP/C1570/W/20/3264013

Land rear of Malt Place, Cornells Lane, Widdington CB11 3SP

- 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 M. King against the decision of Uttlesford District Council.
 - The application Ref: UTT/20/2154/FUL, dated 20 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is the conversion of existing agricultural buildings to five dwellings with associated parking and landscaping.
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Decision

1. The appeal is allowed, and planning permission is granted for the conversion of existing agricultural buildings to five dwellings with associated parking and landscaping at land rear of Malt Place, Cornells Lane, Widdington CB11 3SP in accordance with the terms of the application, Ref: UTT/20/2154/FUL, dated 20 August 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - the effect of the development upon the character and appearance of the surrounding area; and
 - whether the proposed development would have an adverse effect on the availability of agricultural facilities.

Reasons

Character and appearance

3. The part of the countryside in which the appeal site is situated is verdant due to the topography and the presence of a historic landscape pattern which includes small fields, woods and hedges. The former poultry buildings are proportionate in size to this topography and are located in an open area and have a utilitarian agricultural appearance that integrates with the rural landscape. There are some dwellings along Cornells Lane that radiate out from the village. Two are in reasonably close proximity to the appeal site and have large gardens. Many of these properties have gardens, boundary treatment or other visible domestic paraphernalia. This provides a limited residential context to parts of the lane.

4. Policies S7, ENV9 and H6 of the Uttlesford Local Plan (2005) (the Local Plan) state that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set; that the development would only be permitted in instances where the need for the development outweighs the historic significance of the site; that their form enhances the character and appearance of the rural area; that the works respect the characteristics of the buildings; and that private gardens can be provided unobtrusively.
5. The proposed development includes the conversion of the poultry building to five dwellings and the creation of garden areas, car parking and vehicle manoeuvring spaces. The provision of new gardens would enclose and domesticate the small field in which the appeal buildings sit due to the insertion of new boundary treatments and the accumulation of other domestic paraphernalia. This would harmfully erode the rural character of the field and its contribution to the historic landscape.
6. In addition, the gardens would be of regular proportions that would contrast with the irregular shape of fields within the appeal site and beyond. Furthermore, the presence of physical boundaries (such as a fence, or wall) would differ from the appeal site's boundary treatments that include hedges, trees and fencing to the detriment of the rural and verdant character of the area.
7. However, the garden areas would not be overly prominent in views from the lane because they would be small and positioned back from the road behind a belt of landscaping, the boundary treatment and domestic paraphernalia would be viewed alongside the existing buildings and neighbouring dwellings.
8. In result, the proposed development would be in an area characterised by the presence of built boundary treatments, physical enclosures and areas where domestic activities might take place. The proposed development would also be screened from the road by other existing dwellings. The proposed development also includes some additional landscaping, including the planting of native species. These factors would limit the harm from the creation of the gardens.
9. The proposed development would result in the existing building being converted into dwellings. Therefore, it would not result in an increase in the overall level of built form and would not result in a building of a greater height than the existing structure.
10. The development would feature a greater number of doors and windows than the existing building and would therefore appear more domestic. However, these insertions would be relatively small and would not result in a significant change in the appearance of the existing building. In addition, the front and side elevations (as identified on the submitted plans) feature glazing sections that would break up the massing of the dwellings, whilst maintaining the utilitarian agricultural aesthetic.
11. The development includes areas of hard surfacing for car parking, however, there are some areas already in situ on the appeal site, albeit somewhat overgrown. In addition, other nearby sites feature driveways. Whilst the proposed development would result in an increase in the level of such surface treatments, it would not be particularly unusual and would also be screened. Although cars may be present in the development, the appeal site has

previously been used for commercial activities, where vehicles might be expected to attend. Therefore, the presence of cars would not lead to erosion of the area's character.

12. The appeal site is accessed from Connells Lane, which has been described in the Council's delegated report and some representations as a 'protected lane'. The land has a distinctive character due to its landscaping. Whilst the development would result in vehicles using the lane, I am mindful that the existing use may also generate vehicle movements from deliveries, collections and workers. Therefore, even if the number of vehicle movements were to increase, the scale of the development is such that it would not be by a significant amount. In result, the character of Connells Lane would not be harmed.
13. I conclude that the development would harm the character and appearance of the surrounding area. Whilst this harm would be of a moderate level, the development would nevertheless breach Local Plan Policies S7, EN9 and H6.

Loss of agricultural facilities

14. The appeal site includes a poultry barn. At the time of my site visit, this was not in use for its originally intended purpose. In addition, the building was not in a good state of repair. However, the evidence before me is not indicative that the building could not still be used for the keeping of poultry.
15. Policy H6 of the Local Plan seeks to maintain rural buildings unless it can be demonstrated that there is no significant demand for business uses, small scale retail outlets, tourist accommodation or community uses; and that they are in sound structural condition. I have no reason to believe that the building is not in a sound condition.
16. There is no evidence that the building could not be used for business activities, small scale retail outlets, tourist accommodation or community uses, or that such uses would not be viable. I am also unaware that meaningful marketing has taken place in order to find a policy compliant occupier for the building. Therefore, the development would breach the requirements of Policy H6.
17. This is a concern as the National Planning Policy Framework (the Framework) is clear that planning decisions ensure the sustainable growth and expansion of all types of business in rural areas. Therefore, the loss of the building as a place where poultry might be kept and the lack of an assessment of other alternative uses would conflict with this objective.
18. However, I am also mindful that the building is not currently being used. As such, the development would not displace an existing economic activity. Although this reduces the level of harm arising from the development in terms of having an adverse effect on economic activity, it does not overcome it.
19. I conclude that the proposed development would result in the loss of an agricultural building, contrary to the requirements of Policy H6 of the Local Plan.

Other Matters

20. A previous appeal has been considered at the site. Amongst other matters, the Inspector raised concerns regarding the proposed garden arrangements. I have

no reason to disagree with these conclusions, however, the scheme before me features smaller gardens in a different layout. This gives a different effect. Whilst the previous Inspector raised concerns regarding the provision of a tree-lined entrance road, this is not a feature in the current scheme. In result, the presence of the previous appeal decision does not change my previous conclusions.

21. I note concerns regarding the suitability of the site as a location for a residential development. However, the site is adjacent to existing dwellings and a consent exists for the conversion of an existing building on the site to dwellings. The site is also accessible from the nearest settlement. Given the context of the development, I do not believe that it would be inappropriate to create dwellings on this site.
22. I note that applications for residential developments have previously been submitted on this site. However, in reaching my conclusions I have assessed this development based on its own individual circumstances and the planning policies to which I have been directed.
23. There is some debate as to whether the building is capable of being converted, however, the evidence before me is not indicative that the building is structurally unsound. Given its proportions and design, occupiers of the development would benefit from appropriate living conditions.
24. My attention has been drawn to other decisions made by the Council. I have not been provided with the full information regarding the planning circumstances of these, which lessens the weight that I can attribute to them. However, I note that these developments are in different areas and therefore, it follows that the landscape effects would also be different. In result, these planning decisions do not outweigh my previous conclusions.
25. I note concerns that if this appeal were allowed, it may result in further proposals being made on the site. However, I am conscious that all proposals must be determined in conformity with the development plan, unless material considerations indicate otherwise. It is this approach that I have followed in determining the appeal. Furthermore, the surrounding sites have different layouts and contexts, which mean that my conclusions in respect of this development are not directly applicable to the surrounding sites.

Planning balance

26. The evidence before me is indicative that the Council cannot demonstrate a five-year housing land supply. Therefore, the provisions of Paragraph 11(d) of the Framework are invoked. This states that in such instances, planning permission should be granted for the development unless the benefits of the proposal are significantly and demonstrably outweighed by the harm. This is referred to as the 'tilted balance'.
27. In this instance, the proposed development would comprise five new dwellings. Whilst this is a benefit, the overall effect is tempered by the scale of the development as it would deliver only a limited number of new houses. However, the shortfall is acute and therefore the Council are some way off the objective in the Framework to significantly boost the supply of housing. In this context, I give the increase in housing supply a moderate amount of weight as a point in favour of the proposal.

28. The development would also provide some economic benefits during the construction process and residents would provide some support to local facilities. However, these effects are unlikely to be large due to the scale of the development and would, in some instances, be time limited in effect. Therefore, I can only give these a small amount of weight.
29. I have identified that the proposed development would generate some harm to the character and appearance of the landscape due to the creation of the garden areas and would result in the loss of an agricultural building. However, owing to the level of harm, the breach of Policy H6 can only be attributed a limited amount of weight.
30. Therefore, when applying the 'tilted balance', I find that the limited harm as set out previously would not significantly and demonstrably outweigh the benefits of the proposal. This is a material consideration that strongly indicates permission should be granted.

Conditions

31. In addition to the standard implementation condition, a condition specifying the approved plans is necessary in the interests of precision.
32. To provide the previously described mitigation, a condition requiring the agreement of a landscaping scheme is necessary and reasonable. As the main element of the development is the conversion of the existing building, I am satisfied that these details should be agreed prior to the commencement of development in order to ensure that the a satisfactory scheme is put in place at an appropriate stage in the development process. I have amended the condition to remove references to biodiversity enhancement as this is the subject of a further, necessary condition.
33. A condition requiring the implementation of the landscaping scheme is also necessary to ensure that it is delivered at an appropriate stage in the development process.
34. To provide certainty that appropriate living conditions can be provided, a condition requiring the investigation of contamination is necessary. As works may need to be carried out prior to building, this needs to be a pre-commencement condition. For similar reasons, conditions requiring the implementation of the scheme and processes for dealing with unexpected contamination are necessary.
35. However, I have amended the condition to ensure that alternative details cannot be agreed and to allow the Council to consider, and agree, the validation report. This is to ensure that the conditions meet the statutory tests of reasonableness and precision.
36. Given the site's rural location, it is necessary for the development to provide biodiversity enhancement and appropriate lighting. As the development is the conversion of an existing building, I have amended the wording of the condition suggested by the Council as the only timely trigger point is for the works to be agreed prior to the commencement of development. I have also amended the suggested condition to allow the Council to agree a timetable for implementation.

37. Given that the site is within the countryside and near to woodland, the appeal site might be attractive to several species. Therefore, the agreement of a Construction Environment Management Plan is necessary and reasonable. As certain preparatory works may need to be carried out on site, this also needs to be a pre-commencement condition.

Conclusion

38. The harm that would arise from the appeal scheme would be contrary to the development plan as a whole. However, in this instance the Framework as a material consideration indicates the proposal should be determined otherwise than in accordance with the development plan. Therefore, I conclude that the appeal should be allowed, and planning permission granted.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 493X20B; 493X500D; and 493X504.
- 3) Prior to commencement of the development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:-
 - a) Proposed finished levels
 - b) Means of enclosure
 - c) Car parking layout
 - d) Vehicle and pedestrian access and circulation areas
 - e) Hard surfacing, other hard landscape features and materials
 - f) Existing trees, hedges or other soft features to be retained
 - g) Planting plans, including specifications of species, sizes, planting centres, number and percentage mix
 - h) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
 - i) Details of siting and timing of all construction activities to avoid harm to all nature conservation features
 - j) Location of service runs
 - k) Management and maintenance details

- 4) All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards.
- 5) Prior to the commencement of development, a scheme to deal with any contamination of land or controlled waters shall be submitted to and approved in writing by the Local Planning Authority given the commercial history of the site and its potential for historical contamination. The scheme shall include all of the following measures:
 1. No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to human health, adjoining land, groundwater and surface waters.
 2. No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, and the natural environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 3. The remediation scheme shall be implemented in accordance with the approved timetable of works and prior to the commencement of development other than that required to carry out the remediation, unless otherwise agreed by the Local Planning Authority. Within two months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) must be submitted to, and approved in writing by, the Local Planning Authority.
 4. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority and work halted on the part of the site affected by the unexpected contamination.
- 6) Prior to the commencement of development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in

writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.
- 7) Prior to the commencement of development, a Biodiversity Enhancement Layout for protected and Priority species shall be submitted to and approved in writing by the Local Planning Authority. The content of the Biodiversity Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed enhancement measures for bats and Barn Owls;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the enhancement measures;
 - e) a timetable for implementation; and
 - f) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained thereafter.

- 8) Prior to first occupation, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications prior to the first occupation of the development and retained thereafter.