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# Appeal Decision

Site Visit made on 20 July 2021

**by William Cooper BA (Hons) MA CMLI**

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

**Decision date: 20<sup>th</sup> August 2021**

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**Appeal Ref: APP/C1570/W/21/3267763**

**Sandhurst, Canfield Road, Takeley, Bishop's Stortford, Herts CM22 6SU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
  - The appeal is made by Mr & Mrs Keith & Elizabeth Pickford against the decision of Uttlesford District Council.
  - The application Ref: UTT/19/2149/OP, dated 29 August 2019, was refused by notice dated 25 November 2020.
  - The development proposed is demolition of existing outbuildings and erection of 5 no. dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description in the banner heading above is taken from the appeal form in the interests of precision.
3. The appeal is in outline with matters of detail except for access and layout reserved for future consideration.
4. The road fronting the site is referred to in the evidence before me as both Canfield Road and Great Canfield Road. For clarity I refer to that road as Great Canfield Road in this decision, it being in more common use.
5. Since the Council's decision, a new version of the National Planning Policy Framework (the Framework) was published in July 2021. The substance of Framework policy, insofar as is relevant to the main issues in this case, remains broadly the same. I shall determine the appeal on this basis.

## Main Issues

6. The main issues in this case are:
  - the effect of the proposal on the character and appearance of the area;
  - whether the location of the proposed development would be sustainable, with particular regard to reliance on the private car; and
  - the effect of the proposal on wildlife and biodiversity.

## Reasons

*Character and appearance*

7. The appeal site is situated between two residential properties, fronting onto a country lane. Notwithstanding the Nissen hut and ridge roofed building for storage and workshop purposes towards the front of the appeal site, it has a predominantly open and verdant character, being mainly grass with some orchard type trees in its south-eastern corner.
8. The site is within an area of countryside that stretches south of the Flitch Way between the settlement of Takeley and the hamlet of Hope End Green.
9. When dismissing the previous appeal on the site on highway safety grounds (the June 2019 appeal decision)<sup>1</sup>, the previous Inspector found that a similar layout to that currently proposed would be acceptable in terms of character and appearance. This finding was based on judgement that a) the Nursery Grove development which was under construction would introduce a deeper development extent that departed from the prevailing largely linear pattern in the vicinity, thereby establishing a decisively different localised grain to the east of the appeal site, b) the proposed frontage and layout would be in keeping with the area and c) boundary hedging, and intervening vegetation in the wider landscape would acceptably limit views of the development.
10. However, in the current appeal case, Great Canfield Parish Council has expressed that, with its local knowledge, it strongly disagrees with the previous Inspector's finding in the June 2019 appeal decision regarding character and appearance. The Parish Council's position is based on its view that a) the proposal would depart from the prevailing linear development character, free from backland development, of Great Canfield Road, and b) this would diminish the open countryside character of the area. Furthermore, in this appeal case these concerns are echoed by some local residents.
11. In the light of the above, it is necessary to look afresh at the effect of the proposal on the character and appearance of the area, having regard to the totality of evidence presented in this case and the circumstances on the ground.
12. During my site visit, I saw that detached houses in relatively spacious grounds, including those now constructed at the Nursery Grove development, as well as more established properties along Canfield Road and Great Canfield Road, establish a noticeably less dense and more spacious prevailing character than that proposed by the appeal scheme.
13. Within this context, I find that the proposal would have the following impacts. It would reduce the spaciousness and verdancy of the site and the countryside setting of the hamlet of Hope End Green. It would disrupt the prevailing linear pattern of dwellings on the north-eastern side of Great Canfield Road by locating four of the proposed houses with their garages further north-east into the countryside. This would bring an atypically denser suburban cul-de-sac development layout to that lane. The proposal would also fill in the space between the linear pattern of existing development on the north-eastern side of Great Canfield Road and the enlarged northerly bulge of the built-up area of Hope End Green that results from the Nursery Grove development.

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<sup>1</sup> Appeal Ref: APP/C1570/W/19/3222613, 21 June 2019.

14. This would expand the built-up area of Hope End Green hamlet and erode the spacious and verdant character of the southern tip of the countryside which runs down the western side of the former nursery site.
15. Consequently, the proposal would have an urbanising influence that would unbalance the semi-rural feel of Great Canfield Lane and land on its north-eastern side, which derives from the relatively spacious, verdant grounds and settings of its detached properties. Furthermore, the proposed development would erode the spaciousness and verdancy of the countryside area that separates the village of Takeley and the hamlet of Hope End Green.
16. While hedging and trees in the locality would go some way to contain the visual impact of the proposal to a relatively localised extent, albeit tempered by seasonal leaf fall and pruning, the above adverse impacts on local character would nevertheless be significant, being noticeable from within the appeal site, neighbouring residential properties and from Great Canfield Road, looking up the proposed development access.
17. While matters of scale, appearance and landscaping are reserved for future consideration, it is unlikely that such detail would remedy the fundamental shortcomings identified which would result from the proposed development layout.
18. In the light of the above, I cannot agree that the proposed layout would be acceptable in terms of character and appearance. That the separation of the appeal site from the Flitch Way means the proposal would not have an urbanising effect on the Flitch Way does not alter the above.
19. I therefore conclude that the proposed development would be awkwardly out of kilter with the development pattern and character of the area. This would conflict with Policy S7 of the Uttlesford Local Plan (2005) (LP) which requires that, where there are no special reasons for the proposal needing to be in the countryside, which there are not, development should protect or enhance countryside character. Furthermore, the proposal would not accord with LP Policy GEN2 criterion a) which requires development to be compatible with the layout of surrounding buildings.
20. Policy H4 of the LP covers criteria other than character and appearance and so is not engaged in respect of this main issue.

*Whether a sustainable location*

21. The appeal site is around 1km from Takeley village centre, which contains a number of shops and facilities including a convenience store and Post Office, fish and chip shop, pub and vets. This is reflected in the June 2019's appeal decision's description of the location as relatively accessible.
22. Nevertheless, as set out in the planning officer's report in the current case, Great Canfield Road is a country lane without footpaths and street lighting. Furthermore, the village facilities in Takeley would not meet the full range of anticipated employment, healthcare, education, bulk shopping and leisure requirements of future occupiers of the proposed dwellings. These factors in combination would limit the prospect of year-round use of modes of transport other than the private car. This would make it likely that future occupiers of the proposed dwellings would be substantially dependent on the private car to access

a range of employment, healthcare, education, bulk shopping and leisure facilities.

23. Therefore, the proposed development would not be sustainably located in terms of reliance on the private car. This would conflict with Policy GEN1 of the LP which requires, among other things, that development encourages movement by means other than driving a car.
24. Policy H4 of the LP covers criteria other than reliance on the private car, and so is not engaged in respect of this main issue.

#### *Wildlife and biodiversity*

25. Given the mown grass nature of much of the site and the indicated retention of much of the perimeter hedging and trees, I see no reason to disagree with the County Council ecology team's view that, subject to securing the appropriate method statement and biodiversity enhancement measures by planning condition, the proposal would be acceptable in wildlife and biodiversity terms. As such, the proposal would not conflict with Policy GEN7 of the LP, which seeks to ensure that development protects and enhances biodiversity.

#### **Other Matters**

26. Concern has been expressed by local residents about the effect of the proposal on the privacy of neighbouring properties, which goes beyond the reasons for refusal. As I am dismissing the appeal on other grounds, it is not necessary in this instance for me to consider this matter further.
27. I appreciate that the planning officer's report found insufficient harm in relation to the main issues to justify refusal, but this does not alter my reasoning. In any case, Members reached a different conclusion.

#### **Planning Balance and Conclusion**

28. The proposal would contribute modestly to local housing supply in the form of five dwellings, with associated socio-economic benefits during and after construction. Also, there is scope for a biodiversity enhancement strategy for the site subject to planning condition.
29. It is undisputed that the Council cannot demonstrate a 5 year supply of deliverable housing land, with its evidence indicating a shortfall of around 1.9 years. Therefore, policies which are most important for determining the application are to be considered out of date. The tilted balance, as set out within paragraph 11 of the Framework, thus applies.
30. Moreover, the 'special reasons' test for development in the countryside in LP Policy S7 is more restrictive than the Framework in relation to development in rural areas, and is thus inconsistent with it. Nevertheless, Policy S7 is consistent with paragraphs 130(b) and 174(b) of the Framework in seeking to protect the character of the countryside. As such, Policy S7 of the LP is partly consistent with the Framework and carries some weight. The other most important policies in this case are GEN1 and GEN2 of the LP.
31. Given my findings in relation to character and appearance, and locational sustainability I attach considerable weight to the proposal's conflict with the above combination of development plan policies.

32. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where the tilted balance is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean that they carry no weight. The balancing exercise remains a matter of planning judgement.
33. As such, given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the relatively modest scale of benefit, when assessed against the policies in the Framework taken as a whole. The proposals would fail to comply with the relevant policies of the development plan and national guidance, and therefore the appeal should be dismissed.

*William Cooper*

INSPECTOR