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# Appeal Decision

Site Visit made on 27 July 2021

**by Benjamin Clarke BA (Hons.) MSc MRTPI**

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

**Decision date: Monday, 13 September 2021**

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**Appeal Ref: APP/C1570/W/21/3271280**

**Ashcroft, Wicken Road, Wicken Bonhunt, Saffron Walden CB11 3UL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by Mr & Mrs C Bull against Uttlesford District Council.
  - The application Ref UTT/20/2762/FUL, is dated 26 October 2020.
  - The development proposed is the demolition of two existing outbuildings, the erection of one dwelling and the conversion of one out building to form one dwelling.
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## Decision

1. The appeal is allowed, and planning permission is granted for the demolition of two existing outbuildings, the erection of 1 no. dwelling and the conversion of one out building to form 1 no. dwelling. at Ashcroft, Wicken Road, Wicken Bonhunt, Saffron Walden, CB11 3UL in accordance with the terms of the application, Ref UTT/20/2762/FUL, dated 26 October 2020, and the plans submitted with it, subject to the attached schedule of conditions.

## Procedural Matter

2. Following the submission of this appeal, a revised version of the National Planning Policy Framework (the Framework) has been published. I have considered the proposals in the light of this revised document, having first given the parties an opportunity to comment on its content.

## Main Issue

3. The main issue in this appeal is the suitability of the site as a location for a residential development.

## Reasons

4. The appeal site consists of a large garden to the rear of the existing dwelling. The garden is significantly larger than many others within the vicinity. The appeal site contains some outbuildings. Amongst other boundary treatments, the appeal site's boundaries feature trees and hedges. The surrounding properties are most used for residential accommodation.
5. My attention has been drawn to Policy H4 of the Uttlesford Local Plan (2005) (the Local Plan). This, in essence, seeks to manage the provision of back land development. Owing to the layout, scale and relationship with the neighbouring properties, the proposed development would not result in the loss of light and privacy to the occupiers of neighbouring properties. In addition, the siting,

design and layout of the proposed development is such that there would not be an overbearing effect on the neighbouring properties.

6. Furthermore, the proposed development would create a new driveway and access. This would mean that there would be an increase in vehicle movements. However, owing to the scale of the development, this is unlikely to create disturbance to the occupiers of the neighbouring properties as the number of journeys would not be large.
7. The policy also seeks to retain garden spaces unless they are underused. In this case, the property features a large garden and whilst, some elements do not appear to be currently used with a great degree of intensity it has not been demonstrated that such space would not be required by a future occupier of the existing dwelling.
8. Therefore, the proposed development would breach the requirements of the Development Plan. However, the harm arising from the proposed development would be limited by reason of the proposed dwellings having a sufficiently sized garden. In addition, the existing dwelling would retain a suitably sized garden space. Therefore, appropriate living conditions would be provided for future and existing residents.
9. In addition, the proposed development would be well-screened by the site's boundary treatments. Therefore, the subdivision of the site would not be readily apparent from the surrounding area, which would ensure that the character and appearance of the vicinity would not be eroded.
10. 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 a sound structural condition. I have no reason to believe that the building is not in a sound condition. In addition, the presence of buildings does not have a significant effect on the character of the surrounding area. Furthermore, the conversion works would respect the characteristics of the building.
11. 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.
12. However, the buildings are being utilised for domestic storage and as such would not displace any existing economic activity. Therefore, the harm arising from the proposed development would be of a small level.
13. Therefore, the proposed development would breach the requirements of Policies H4 and H6 of the Local Plan as it has not been conclusively demonstrated that the garden is underused, and the outbuilding could not be utilised for a different purpose. However, the harm, due to the scale of the development would not be large. Nonetheless, the development would not be in complete conformity with Policies H4 and H6.

## **Planning Balance**

14. 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'.

15. In this instance, the proposed development would comprise two 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 in favour of the proposal.
16. 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.
17. I have identified that the proposed development would generate some harm as it would result in the loss of rural buildings. It has also not been demonstrated that the proposed development would replace an underused garden. However, given the nature and scale of the development, I find that this harm would be limited.
18. 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**

19. In addition to the standard implementation condition, a condition specifying the approved plans is necessary and reasonable in the interests of precision. In the interests of ensuring that the development harmonises with its surroundings conditions regarding landscaping and building materials are necessary and reasonable. However, I am not persuaded that these details need to be agreed prior to the commencement of development as they would not be affected by the early stages of the construction process. I have therefore amended this condition so that the details are agreed prior to any above ground works being commenced. A condition regarding the implementation of the landscaping scheme is also necessary.
20. To ensure that appropriate living conditions are provided for the future occupiers of the development, a condition regarding contamination is necessary and reasonable.
21. In order to maintain highway safety, conditions covering the minimum width of the driveway, its surfacing and gates are appropriate to ensure that materials are not brought onto the highway and that there is room to pass. For similar reasons, it is necessary to include conditions for the provision of car parking and visibility splays. In the case of the latter, the wording suggested by the Council includes splays greater than that shown on the submitted plans. However, given the nature of the road and the surrounding speed limits, I consider it appropriate to provide a greater visibility splay.

22. In order to encourage more environmentally sustainable means of travel, a condition requiring the provision of cycle storage and electric car charging points is appropriate. However, I have amended the wording suggested by the Council in the interests of precision.
23. Given the location of the development, conditions regarding the submission of a biodiversity method statement, biodiversity enhancement and lighting are necessary and reasonable.
24. I am unpersuaded that a condition requiring the works to be carried out to a specified set of Building Regulations is necessary as this is separate to the planning process. Furthermore, the layout of the development would meet the reasonable needs of all potential users.
25. Where necessary, I have amended the wording of conditions suggested by the Council to remove references to mechanisms by which alternative details might be considered.

### **Conclusion**

26. For the preceding reasons, I conclude that the appeal should be allowed with planning permission granted, subject to conditions.

*Benjamin Clarke*

INSPECTOR

Schedule of Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted, and subject to the other conditions hereby imposed, shall be carried out in accordance with the following approved plans: 563.201; 563.202; 563.203; 563.205; and 563.207.
3. Prior to commencement of any above ground works, 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 (unless since removed)
  - 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, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards.
5. Prior to the commencement of any above ground works, details of the materials to be used in the construction of the buildings shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials.
6. In the event that contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with Land contamination risk management published by the Environment Agency. A written report of the findings should be forwarded for approval to the Local Planning Authority. Following completion of remedial measures, a verification report shall be prepared that demonstrates the

effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works are approved in writing.

7. Notwithstanding the submitted details, and prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 215 metres to the west (including tangential splay) and visibility splays of 2.4 metres by 120 metres to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided including any necessary regarding works, before the access is first used by vehicular traffic and retained free of any obstruction at all times.

8. Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate vehicular crossing of the verge.

9. No unbound material shall be used in the surface treatment of the vehicular access within six metres of the highway boundary.

10. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of six metres from the back edge of the carriageway.

11. No dwelling shall be occupied until the associated parking and/or turning head indicated on the approved plans has been provided. The vehicle parking and turning heads shall be retained in this form at all times.

12. No development shall take place until a precautionary working Biodiversity Method Statement, particularly for mobile species including reptiles/amphibians, birds and mammals, has been submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures including the presence of an Ecological Clerk of Works (ECoW) during any works likely to impact nesting birds and works to reduce potential impacts to reptiles/amphibians, and other mobile species during the construction phase. Details of the protection of trees and hedgerows, siting of any compound and timing of works will also be included.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

13. Prior to works commencing above slab level, a Biodiversity Enhancement Strategy 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:

- Purpose and conservation objectives for the proposed enhancement measures;
- detailed designs to achieve stated objectives;
- locations of proposed enhancement measures by appropriate maps and plans;
- timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- persons responsible for implementing the enhancement measures;
- 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 in that manner thereafter.

14. 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 and locations set out in the scheme and retained thereafter in accordance with the scheme.

15. Prior to occupation of the development, details of secure covered storage for motorised and non-motorised cycles and electric vehicle charge points must be submitted to and approved in writing by the local planning authority. The measures must be installed in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be retained thereafter.