



Appeal Decision

Site Visit made on 27 July 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2021

Appeal Ref: APP/C1570/W/21/3269005

Newlands Cottage, Ugley Green, Snakes Lane, Ugley CM22 6HL

- 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 Darren Poulter against the decision of Uttlesford District Council.
 - The application Ref UTT/20/2273/FUL, dated 6 September 2020, was refused by notice dated 2 November 2020.
 - The development proposed is described as the “demolition of existing dwelling and erection of replacement dwelling and one new dwelling”.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the submission of the appellant’s appeal the Revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and I have taken subsequent responses into account in reaching my decision.

Main Issues

3. The main issues in this appeal are the effect of the development on the:
 - character and appearance of the area,
 - setting of designated heritage assets, and
 - ability of future occupiers of the dwellings to access sustainable transport options.

Reasons

Character and Appearance

4. Newlands Cottage is a detached dwelling which has a long and narrow form that extends into the site. Adjacent to the dwelling is a detached double garage. The village itself is rural in character and contains a variety of style and size of property, some of which are statutorily listed for their architectural or historic value. The area has a pleasant and verdant character, with a distinct open quality that is reinforced by the presence of mature landscaping within this countryside setting.
5. The village contains pockets of development created by dwellings that are grouped together. The existing dwelling on the appeal site forms part of such a group and is located behind a frontage development of dwellings that face onto Snakes Lane, positioned close to the rear boundary of 1 and 2 Batts Row and Oakley Cottage. As a result of the pillars to the entrance and existing landscaping, only the roof of the

- existing dwelling and garage are readily visible from Snakes Lane and partly visible between 2 Batts Row and Oakley Cottage. Additionally, although the site is visible in longer views and when approaching the village from the south, the existing dwelling is barely discernible from the wider area, with the top of its end gable visible from the south on Pound Lane.
6. It is proposed to demolish the existing dwelling, garage and remnants of other outbuildings and erect two detached dwellings on the site, both of which would be provided with attached cart lodges to be used for vehicle parking. The appeal site contains part of the adjoining field, separated by a hedge that runs partly down the centre of the site. The proposed dwellings would be positioned away from the rear boundaries of properties that are located on Snakes Lane, with the land to the front of the properties given over to a shared drive and parking and turning areas. Each dwelling would be provided with a private garden area to the side of the property.
 7. I concur with my colleague who, in considering the appeal at Fieldgate Lane¹, described the village as being loosely defined. However, the location of the proposed dwellings would increase the visual intrusion of the properties into an area that is otherwise devoid of development, resulting in the expansion of built form into the surrounding open areas, and away from the core group of dwellings that exist on Snakes Lane. The development of two large dwellings on the site, coupled with areas required for the access, parking and turning of vehicles would result in a very large proportion of the site being developed.
 8. Consequently, the proposal would have a suburbanising effect upon a large area of land in a visually prominent position when approaching the village from the south, extending the built development into a visibly undeveloped and tranquil rural part of the village edge. The effect would be a detrimentally harmful erosion of the intrinsic landscape character of the site and the western edge of the village. Furthermore, the subdivision of the wider parcel of undeveloped land, would also have a suburbanising effect that would erode the rural qualities of the site, resulting in harm to its character and appearance.
 9. Moreover, whilst very close to the rear boundaries of dwellings on Snakes Lane, the site relates better to its rural surroundings and makes a positive contribution to the edge of the village. As such, I find that the proposed incursion of built development into this grassed and open area of land would have a detrimentally harmful suburbanising impact on this part of Ugley Green.
 10. New landscape planting and the retention of existing features on the site, as proposed by the appellant, could potentially provide a high degree of screening to the development. However, this would rely upon the implementation, and maintenance thereafter, of the landscaping scheme which would also take a considerable time to mature and cannot be relied upon to remain in perpetuity. Also, this would not overcome the harm to the intrinsic rural character of this part of the countryside which would arise from the expansion of permanent residential built development onto the appeal site.
 11. Furthermore, whether the whole of the appeal site represents previously developed land (PDL) or not, the glossary to the Framework states that it should not be assumed that the whole of a curtilage should be developed. Moreover, the Framework also states at paragraph 119 that although planning decisions should promote an effective use of land, it should nonetheless do so while safeguarding

¹ APP/C1570/W/19/3230897

and improving the environment. For the reasons as set out, I do not consider that to be the case before me.

12. Thus, the development would result in harm to the character and appearance of the area. It would be in conflict with saved Policy S7 of the Uttlesford District Council Local Plan 2005 (ULP) and paragraph 8 c) of the Framework which seek, amongst other things, to ensure that development protects or enhances the particular character of the countryside within which it is set.

Designated Heritage Assets

13. There are two pairs of semi-detached properties located on Snakes Lane that back onto the appeal site which are Grade II listed buildings. The listing for the properties identify these as 1, 2 and 3 Ugley Green and Kents Cottage, although the names of these properties have since changed to 1 and 2 Batts Row, Oakley Cottage and Bunnies Hop. Across the existing entrance into the site is a further Grade II listed property known as Little Buckland.
14. The Framework states at paragraph 200 that any harm to, or loss of significance, of a designated heritage asset, including development within its setting, should require clear and convincing justification. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
15. In this instance, the proposed dwellings would be set further away from the listed buildings on Snakes Lane. Although larger than the existing dwelling, I am not persuaded that the location or design of the proposals would harm the prominence that the four properties possess as they face onto Snakes Lane. Moreover, as a result of the northern part of the site being re-modelled with a new fence and hedgerow, this would increase the separation distance of buildings within the appeal site from Little Buckland. Overall, the development would create a more open and spacious environment for the setting of the surrounding listed buildings. Consequently, I am satisfied that the layout and design of the proposed dwellings would have a neutral impact on the setting of the adjoining listed buildings.
16. Thus, the development would not result in harm to the setting of adjoining designated heritage assets. It would not be in conflict with saved Policies ENV2 and GEN2 of the ULP and sections 12 and 16 of the Framework which seek, amongst other things, to ensure that developments are compatible with the scale, form, layout and appearance of surrounding listed buildings.

Sustainable Transport Options

17. The Council argue that the occupants of the new dwellings would be heavily reliant upon the private car to access services and facilities. I acknowledge that paragraph 105 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. In addition, paragraph 79 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby.
18. Although the Framework's statement recognises the challenges rural areas face, it should not be used as a justification for the siting of development in locations that are not well served by sustainable transport options. I note that the site is only a very short distance from Elsenham, where one can access a train station. There are also bus stops within Ugley Green that serve Elsenham. Therefore, these represent realistic opportunities to access sustainable transport options within and close to the appeal site.

19. Thus, the development would have access to sustainable transport options. It would not be in conflict with saved Policy GEN1 of the ULP and the sustainable development objectives as set out at paragraph 8 of the Framework which seek, amongst other things, to encourage movement by other means than driving a car.

Other Matters

20. I have also been made aware of the appeal which granted planning permission for a single dwelling at Fieldgate Lane². I visited the location of this site during my visit and noted that the site was between two distinct areas of development and would form part of the ribbon development that currently exists along Fieldgate Lane. The Inspector also commented that much of the site would remain undeveloped and would help maintain the sense of openness that is compatible with Fieldgate Lane. That is not the case before me.
21. I note the condition of the building which the appellant states is not fit for human habitation and that the Parish Council did not object to the proposal. I also acknowledge that this proposal seeks to overcome the reasons for refusal as set out in a previous decision at the site and that the site is not within a "valued landscape". However, neither this nor any other material consideration that has been advanced outweighs the harm identified above.
22. I also note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issue, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

23. The Council state that it is only able to demonstrate 2.68 years supply of deliverable housing sites, with the appellant citing a figure of 3.11 years. Nonetheless, either scenario represents a significant shortfall below the five year supply of deliverable housing sites as required by the Framework. Therefore, the policies that are the most important for determining the application are considered out of date and the tilted balance at paragraph 11 of the Framework is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
24. In this case, Policy S7 of the ULP is the most important policy and I agree with my colleagues who considered the developments at Elsenham³ and Newport⁴ that it is not wholly consistent with the Framework in terms of its approach to countryside protection. The Framework does not imply that protection from development be given to the countryside in its totality, rather that recognition be given to the intrinsic character and beauty of the countryside. However, in seeking to protect and enhance the character of the area it is consistent with the design policies of the Framework. Therefore, the conflict with Policy S7 of the ULP still attracts moderate weight overall.
25. As a small windfall site, it would deliver additional residential units in a District where there is currently a significant shortfall in housing land supply. This represents a meaningful contribution in such circumstances. Indeed, small-sized sites can make an important contribution to meeting the housing requirement of an area. Whilst the delivery of two units would not make a clear and noticeable

² APP/C1570/W/19/3230897

³ APP/C1570/W/19/3242550

⁴ APP/C1570/W/16/3166101

difference to the overall housing land supply position in the District, I apportion moderate weight to this benefit of the scheme.

26. In the context of the Council's shortfall in housing land supply, the proposal may well make more 'efficient' use of land and gain some support from Policy H4 of the ULP, but this would not be sufficient to overcome the harm to the character and appearance as noted above. The proposal would also generate jobs and investment during the construction phase and expenditure in the local economy and support for local community facilities in the area once occupied, these are benefits that attract limited weight given the modest scale of development under consideration. Furthermore, given the restricted size of the site, any biodiversity benefits brought about through additional landscaping would be limited and would attract commensurate weight in the planning balance.
27. The appellant also refers to permitted development rights that exist⁵ on the site and argues that, if fully utilised, could create more buildings over the site than the proposed dwellings. However, the proposal before me is for the erection of two dwellings and there is nothing persuasive to suggest that should this appeal fail, the appellant would carry out such a level of development under permitted development rights. Moreover, I am not persuaded that the harm created through the erection of buildings that are ancillary to a single dwelling would be appreciably greater than the erection of two large dwellings with cart lodges on the site. As such, I only afford this argument limited weight in support of the appeal.
28. Whether the site's location is outside of any defined settlement boundary is not determinative in this case. Nevertheless, in the context of the Framework, the proposal would cause harm by failing to recognise the intrinsic character and beauty of the countryside which, even when noting the limited scale of development under consideration, attracts significant weight in the planning balance.
29. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified would significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. Therefore, the presumption in favour of sustainable development, as set out in the Framework, does not apply. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
30. For the reasons set out above, the harm from the development, significantly and demonstrably outweighs the benefits of the development when assessed against the Framework taken as a whole. Therefore, the appeal should not succeed.

Graham Wyatt

INSPECTOR

⁵ Appendix A of appellant's Design and Access Statement.