



Appeal Decision

Site Visit made on 21 September 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2021

Appeal Ref: APP/C1570/W/20/3266185

Land east of Dunmow Road, Thaxted CM6 2NX

- 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 Nigel Tedder of New Homes Dunmow Road Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/3165/FUL, dated 20 December 2019, was refused by notice dated 1 July 2020.
 - The development proposed is proposed single storey residential development and associated infrastructure to erect 9 no. bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application was made by Mr Nigel Tedder of Go Dunmow Road Ltd. The appeal was submitted by Mr Nigel Tedder of New Homes Dunmow Road Ltd. The appellant has confirmed that he is both the applicant and appellant for the scheme and has provided evidence that the company's name changed since the application was refused. Having regard to this, I am satisfied that the appeal is duly made. The banner heading above shows this change.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on heritage assets; and
 - whether the appeal site is a suitable location for new dwellings having regard to local and national policy for the delivery of housing.

Reasons

Character and appearance

4. The appeal site is located on the eastern side of Dunmow Road at the entrance to Thaxted. It comprises a broadly rectangular area of undeveloped pastureland enclosed by mature hedgerows and trees. The bank of trees and vegetation along its southern boundary runs along the crest of a hill and are prominent in views on the approach to Thaxted from this direction. A small spinney and area of open land lies to the north beyond which lies a number of

tennis courts and the edge of the built up area. On the opposite side of the road, there is a stretch of linear, semi-rural frontage development. To its south and west, the site is surrounded by open fields and countryside. The appeal site contributes to the rural setting of the town, providing a transition between the open fields and the smaller areas of open land to the north.

5. The proposal would provide a cul-de-sac of nine houses, laid out in a linear pattern on the southern side of the site with an area of open space separating it from the site's northern boundary. The entire site would be enclosed by existing boundary trees and vegetation with additional hedging proposed to the Dunmow Road frontage.
6. The scheme would introduce a suburban form of development on the southern approach into Thaxted. This would contrast with the more traditional form of two-storey linear development along the opposite side of Dunmow Road and characteristic of the wider area.
7. It is proposed to mitigate this through screening the proposed houses from the surrounding area. To this end, the houses have been designed to ensure their roofs are much lower than the existing tree cover, with generous rear gardens so that they are set away from the site's southern boundary. However, during winter months when there is less vegetative cover, the proposed houses would become much more visible, introducing an urban form into a strongly agrarian and rural landscape. This would be made more prominent by the elevated position of the site in relation to the countryside to the south. This would fail to protect and enhance the character of the countryside and the rural setting of Thaxted.
8. The proposed development would have no shared street frontage with existing development and would be enclosed on all sides by substantial boundary vegetation. This would result in a form of development that would be both physically and visually separate from the built up area of the town. The presence of limited development on the other side of Dunmow Road would not be sufficient to integrate the proposal into the town. As such, I find it would fail to function as part of the settlement. It would appear as an anomalous development within the countryside, both disconnected from and out of character with its surroundings.
9. The Framework places a strong emphasis on achieving well-designed places. Specifically, paragraph 130 sets out that developments should function well, be sympathetic to local character, add to the overall quality of the area and establish a sense of place. I do not find that the proposal would achieve this for the reasons I have set out above.
10. The appeal site falls within land identified as being the least sensitive to change with a medium capacity to accommodate residential development within the landscape setting of Thaxted. This is set out in the Landscape Character Assessment and described in the Thaxted Neighbourhood Plan 2019 (TNP). However, this does not mean that there would be no harm. I have found harm to the character and appearance of the area arising from the expansion of the built form as proposed which fails to integrate with surrounding development and appears incongruous due to its being surrounded by undeveloped land.

11. I have not been provided with the full details of the previously dismissed scheme¹. However, I am aware that the scheme has been revised to provide single-storey rather than two-storey dwellings, changes to the layout and siting of the proposed houses. It would also occupy the entire site area unlike the previous scheme.
12. I appreciate that single-storey dwellings could be less visually intrusive than those previously proposed as they would be largely hidden by the mature boundary vegetation. However, the formation of a fully enclosed cul-de-sac, disconnected from surrounding development would, to my mind, give rise to other concerns as I have set out above.
13. I conclude that the proposed development would significantly harm the character and appearance of the area. It would therefore conflict with Policy S7 of the Uttlesford Local Plan 2005 (ULP) insofar as it permits development where its appearance protects or enhances the particular character of the part of the countryside within which it is set. It would also conflict with Policies TX LSC1, TX LSC2 and TX HD1 of the TNP. These policies together seek to protect the countryside for its intrinsic character and beauty, to protect Thaxted's rural setting and to require residential development to respect the streetscape. I also find it would not accord with the Framework as referred to above.

Heritage Assets

14. The TCA extends around the historic core of Thaxted flanked by areas of open land to the south and west. The appeal site is largely located outside the TCA but within its setting. A small part of the site frontage and the existing access lies within its boundary as does the adjacent spinney, a small area of pastureland and tennis courts to the north and the built development on the opposite side of Dunmow Road. In addition, Totman's farm, a Grade II listed building, lies opposite.
15. The absence of built development and the open land and vegetation along the eastern side of Dunmow Road, including the appeal site, make a positive contribution to the TCA and its setting.
16. I have been referred to the Thaxted Conservation Area Appraisal and Management Proposals 2012 (CAAMP) which identifies that areas of open land are important to retain on this approach to Thaxted. None of the sites listed are the appeal site, as it lies without the conservation area. Nevertheless, given its character, I consider the appeal site displays the open and undeveloped attributes of those sites listed within the CAAMP and therefore contributes to the TCA's setting.
17. Notwithstanding its exclusion from the list of open land, the introduction of development on this area of undeveloped land partially within the TCA and largely within its setting would fail to retain the open land on the approach to Thaxted along Dunmow Road which is considered important. Indeed, it seems to me that to allow for such development would in many respects undermine the importance of those other open areas within the TCA which help provide for the transition into the open countryside.
18. The proposed development has been designed to be single-storey with the houses set away from the boundary of the TCA, separated from this by an area

¹ APP/C1570/W/18/3205631

of public open space and the road serving the proposed houses. Despite the diminutive height of the proposed houses and boundary screening, the character of the site would nevertheless change from agrarian to a suburban form of development. This would introduce an uncharacteristic development between the TCA and its wider agricultural and rural setting. Furthermore, whilst the existing boundary vegetation may provide screening, there is nothing to ensure its permanent retention in the future.

19. The formation of public open space, whilst providing a greater degree of openness and separation between the TCA and the proposed built development, would not overcome this harm as the proposed houses would still cut the TCA off from its undeveloped and rural setting. With minimal changes proposed to the frontage and the access which lie within the TCA, the main harms arising from this would be to the setting of the TCA.
20. As concluded by the previous Inspector, the lack of development on the eastern side of Dunmow Road forms an important part of the setting of the TCA. The development would similarly introduce housing in a manner that does not follow the historic development pattern as well as eroding the open and agricultural character in this part of the settlement. The scheme before me has not successfully overcome these harms. It would therefore adversely affect the setting of the TCA.
21. The western-most of the proposed dwellings would be positioned immediately behind the boundary vegetation separating the site from the main road. This appears to differ from the previous scheme where the Inspector stated that the proposed buildings would be set well back from Dunmow Road. Totman's Farm is positioned with its gable end to the road and lies to the north-west of the appeal site, roughly opposite the proposed site access. There would be a limited degree of intervisibility between the sites. Notwithstanding the conclusions of the previous Inspector on this matter, due to the proposed houses being positioned close to the listed building and with a suburban character, I find some moderate harm to its setting would arise.
22. Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act require me to have special regard to the desirability of preserving the setting of this listed building and the setting, character or appearance of the TCA. The harm the proposal would cause to the significance of the TCA would be significant and to the setting of the listed building, moderate. In both regards, it would be less than substantial. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of heritage assets, this harm should be weighed against the public benefits of the proposal.
23. The scheme would deliver nine bungalows of one, two and three bedrooms for which a local need has been identified in the TNP. The site is available for development and the proposal would make a small contribution to the supply of housing within the district. In the absence of a five year housing land supply, these would be a moderate benefit of the scheme that weighs in its favour.
24. The houses would be built to accessibility and adaptability standards as set out in Building Regulations as well as using renewable energy and rainwater harvesting which would limit the environmental impact of the proposal. There would be some economic and social benefits in association with both the construction and occupation of the dwellings. The proposed dwellings would be

located with reasonable access by means other than the private car to the services and facilities in the town. These minor benefits attract limited weight.

25. Some improvements to a pedestrian footway would be made which could benefit highway safety and connectivity with the public footpath network. I have no firm evidence that these improvements were recommended by the highway authority although I note they found the scheme acceptable. Nevertheless, the proposed improvements to the access would largely serve future occupants of the proposed development although some modest benefits in terms of wider access would be realised. This is also therefore a minor benefit which carries limited weight.
26. In combination, the public benefits of the scheme are modest. I do not find that they are sufficient to outweigh the harms to the heritage assets which I have found and to which I give considerable weight.
27. I conclude that the proposed development would cause significant harm to the character and appearance of the TCA and its setting. It would also harm the setting of the listed building. It would therefore conflict with Policy ENV1 of the ULP which amongst other matters seek to preserve or enhance the character of conservation areas. It would also conflict with the Framework which recognises that heritage assets are an irreplaceable resource and seeks to their conservation and enhancement.

Suitable location

28. With the exception of the north-western corner, the appeal site lies outside the defined development limits of Thaxted and is therefore in planning policy terms, located within the countryside. Policy S7 of the ULP restricts development in the countryside to that which needs to take place there, or is appropriate to a rural area including residential infilling.
29. The appeal proposal would not be a form of development that needs to take place in the countryside. Furthermore, it would not constitute infilling. As such it would be in conflict with this policy. However, the Council has confirmed that as of April 2020 it has a 3.11 year housing land supply. Policy S7 which is more restrictive than the Framework in respect of boosting the supply of housing, is considered out-of-date.
30. Thaxted has been identified as a key rural settlement under Policy S3 of the ULP, the boundary of which, including provision for a village extension, is defined on the proposals map. Development compatible with the settlement's character and countryside setting will be permitted in these boundaries. I have been provided with no evidence that the appeal site is within any boundaries identified for the extension of Thaxted.
31. The appeal site was put forward in the Call for Sites in 2015. However, it was discounted on the basis that development would extend the settlement into the open countryside. It was assessed again in 2018 and was found to not contribute to sustainable patterns of development. I have not been presented with any evidence that leads me to a different conclusion on these points.
32. The appeal site is located reasonably close to the town's services and facilities and future occupants of the proposal would not be reliant on the private car in order to meet their day-to-day needs. This is a positive aspect of the scheme.

33. I conclude that the appeal site would not be a suitable location for housing, having regard to local and national policy for the delivery of housing. It would therefore conflict with Policy S7 of the ULP. However, I attribute limited weight to this conflict due to the absence of a five year supply of housing land. I return to this in the Planning balance below.

Other Matters

34. The appellant has suggested that the Council's reasons for refusal, due to their similarity to the text of the refusal for the previous two-storey scheme on the site, have been based on unsound reasons. From what I have read and seen, despite the differences between the proposals, the appeal scheme before me gives rise to the same harmful effects as set out by the Council. The Council's reasons reflect those harms.
35. The Framework supports making effective use of land. However, in this case, the land is pastureland and a greenfield site and of value for its own sake as open land. There are no compelling reasons for its development.

Planning Balance

36. The council cannot demonstrate a five year supply of deliverable housing sites. At 3.11 years supply, the shortfall is significant. In such circumstances, paragraph 11 of the Framework indicates that housing policies should be regarded as out of date.
37. However, paragraph 11d) makes it clear that the presumption in favour of sustainable development does not apply if the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 sets out that this includes, amongst others, designated heritage assets.
38. Given that I have found that there would be harm caused to the significance of a designated heritage asset that is not outweighed by the public benefits of the scheme, I consider that this is a clear reason to refuse the development proposed in accordance with the Framework. In this regard, the scheme would also not comply with Policy ENV1 of the ULP. Since the presumption (at paragraph 11d) of the Framework does not apply, then paragraph 14 of the Framework is not engaged.

Conclusion

39. The proposal would conflict with the development plan overall, and there are no material considerations that would cause me to determine this appeal other than in accordance with the development plan for the area. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR