



Appeal Decision

Site visit made on 25 October 2021

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 01 DECEMBER 2021

Appeal Ref: APP/C1570/W/21/3277218

**Land adjacent to Brick House, Wicken Road, Wicken Bonhunt,
Essex CB11 3UG**

- 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 Mrs K Forde against the decision of Uttlesford District Council.
 - The application Ref UTT/20/2418/FUL, dated 2 October 2020, was refused by notice dated 29 December 2020.
 - The development proposed is erection of 3no. dwellings with associated parking and creation of 2no. vehicular accesses.
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Decision

1. The appeal is dismissed.

Main Issues

2. Whether the proposal would be appropriate in relation to:
 - development plan policy regarding housing in the countryside,
 - the settings of the surrounding listed buildings at Brick House, Garden Wall north of Brick House and Clark's Cottage,
 - highway safety, and
 - flood risk.

Reasons

Background

3. Wicken Bonhunt is a small, rural village that straddles the B1038, where the appeal site occupies an undeveloped gap to one side. The site comprises approximately 1.4 hectares of rising land beyond a tree-lined stream. This runs along the back edge of the quite wide roadside verge, behind a length of low, open fencing. Hedging runs along the elevated back edge of the appeal site, screening from the road further views of the countryside beyond.
4. The scheme divides the site into three road fronting residential plots, served by two proposed entrances onto the B1038. Each would contain a detached house set quite centrally within a spacious garden. The Plot 1 house would lie to the rear of the grade II listed Clark's Cottage. This historic thatched dwelling occupies a quite narrow section of land between the road and the stream, beyond where some informal car parking occupies a part of the highway verge. At the other end of the appeal site, the Plot 3 house would be next to the large

grounds of Brick House; a grade II* listed dwelling. Its separately listed garden wall fronts the main road.

Development plan policy for housing in the countryside

5. In the Uttlesford Local Plan 2005 (LP), the settlement boundary for Wicken Bonhunt is drawn around the two main built-up sections of the village. The appeal site, as well as Clark's Cottage and Brick House to either end, lie between these two sections and outside their boundaries. In relation to this location, LP Policy S7 applies. This serves to protect the countryside for its own sake and allows only for development that needs to take place there or is appropriate to a rural area. This complements the wider spatial strategy in the LP, which is to focus most growth to within settlements, where services are available.
6. LP policy S7 only permits development of an appearance which protects or enhances the particular character of the part of the countryside within which it is set, or there are special reasons why the development in the form proposed needs to be there. No special reasons are put forward for the three houses to be within a location that is defined as countryside for LP policy purposes. The few facilities in Wicken Bonhunt, which include little more than a bus service, public house/restaurant and church, provide no basis to support additional residential development beyond the defined settlement boundaries.
7. The scheme occupies a large parcel of land and would not comprise infill development as commonly understood. That is, of a small gap in an otherwise built-up frontage. The design of the three large houses, and their arrangement within spacious plots, would not reflect the less regular pattern of development in the village and be harmfully out-of-keeping within its surroundings. The appeal site comprises a significant green gap, and as such plays an important role in preserving the rural character of the settlement.
8. Unlike where three dwellings were allowed recently on appeal¹ at Ashcroft, nearby in the village, this site is neither surrounded by houses nor two roads. In comparison, it clearly holds the character of a more open area of countryside, that is less confined to within the built fabric of the settlement and more prominent from the main road running through it. The existing pattern of development in this immediate area is not simply that of large houses standing in substantial grounds. It is more varied and less regular than that, with this particular site far more sensitive and susceptible to the adverse effects of development than at Ashcroft. Even if this scheme were viewed as a continuation of an existing settlement pattern, which I consider it would not, there would remain the very harmful loss of this valuable open gap.
9. Through the development of this sensitive parcel of open countryside, of significant value in providing a rural setting to the surrounding parts of the village, this scheme would fail to meet the design requirements set out in LP Policy GEN2. It follows, therefore, that the proposal's appearance would neither protect nor enhance the particular character of this area. Given that there are no special reasons for these three houses requiring a countryside location, this proposal fails to gain the support of LP Policy S7. Therefore, I find the proposal

¹ Appeal Ref: APP/C1570/W/19/3241983 - erection of 3no detached dwellings with associated landscaping and cartlodge parking and new vehicular access Ashcroft, Wicken Road, Wicken Bonhunt, Essex, CB11 3UL. Allowed on 20 February 2020

to be inappropriate in relation to local plan policy governing residential development in the countryside.

The settings of the listed Brick House, Garden Wall north of Brick House and Clark's Cottage

10. The appellant's heritage statement² refers to historical records of part of a medieval settlement once extending into the appeal site. There appears little evidence of this today, although Lidar imagery reveals some interesting topographical features. Otherwise, the historical records show the site to have long been a parcel of land that has remained mainly undeveloped. This is apart from two small buildings which once sat closely alongside the roadside stream, and which were demolished by 1950.
11. The evidence is that the appeal site has historically comprised open agrarian land separating the 17th century Brick House farm group from the village's main historic core, centred around Wicken Hall and the Church of St Margaret. The more recent growth has been mainly further outwards, preserving the appeal site as a key component to the village's historic setting and those of the surrounding listed buildings. The trees flanking the roadside edge add to the verdant qualities of this open gap, where the rising land behind these remains visually prominent.
12. The grade II* Brick House is of very high significance as a heritage asset. Although set within walled grounds, which screen the property from outside views, the appeal site forms part of its setting. Brick House was built around 1600 by the then owner of Wicken Hall, and the appeal site preserves the historical agrarian setting of the principal building within an outlying farmstead. The appeal scheme therefore fails to preserve the currently more isolated rural setting of Brick House and that of its separately listed grade II Garden Wall.
13. The grade II listed Clark's Cottage is probably 17th century and is a more modest building of a timber frame construction, with rendered walls and a thatched roof. This cottage is a prominent feature of the street scene and is also viewed from the rear along the bridleway running to one side of the appeal site. The scheme would also fail to preserve the rural setting of this highly significant heritage asset, and the effects would be visually pronounced due to the more exposed position of this listed dwelling. For the above reasons, the appeal scheme would adversely affect the settings of the three listed buildings referred to, bringing the proposal into conflict with LP Policy ENV2.

Highway safety

14. There appeared to me to be reasonable visibility in both directions onto the highway from the proposed two access points. The main concern would be from the required visibility splays displacing onto the street the informal verge parking, which the stage one safety audit recommends be removed. I do not think it likely cars would then park on the side of the B1038, should this verge parking no longer be available. As the first two main issues are those determinative of this decision, and the question of highway safety a matter likely to be capable of being resolved, I have not taken this matter any further.

² AB Heritage Project no 61346 10 December 2020.

Flood risk

15. This issue relates to a holding objection from the Lead Local Flood Authority (LLFA) over the scope of the Flood Risk Assessment (FRA) provided with the application. No concerns were raised by the LLFA in terms of flood risk to the site itself, but its size required additional information to satisfy the SuDS guidance. An addendum to the FRA indicated favourable infiltration rates to suggest compliance with the recommended surface water drainage hierarchy. Again, with the first two main issues being determinative and the question of addressing flood risk appearing resolvable through a condition, I have not found the need to pursue this issue any further.

Planning balance and conclusion

16. Set against the harm found, the appellant claims a number of benefits relating to the social, economic and environmental threads of sustainable development. The three dwellings, as a readily deliverable small scheme, would provide a modest social benefit towards boosting overall housing supply, as sought by the National Planning Policy Framework (the Framework). Whilst only a small number of homes, the weight attached to these is enhanced in Uttlesford. This is due to the Council's long-standing and significant under-provision of the five-year housing land supply (5YHLS) required by the Framework.
17. There would also be modest economic benefits, both through the construction and future servicing of the three new dwellings and the additional household expenditure in shops and other local services. In respect of the natural environment, I find that at least an absence of harm has been shown. Little by way of biodiversity net gain is demonstrated but there would be some potential for this perhaps, had the matter been pursued more fully.
18. Set against these benefits there are the harms identified. Of these, the blanket ban on housing outside of settlement boundaries reduces the weight given to the conflict with LP Policy S7, insofar as the Framework does not seek to protect the countryside simply for its own sake. However, this policy still accords with the Framework's requirement for decisions to recognise the intrinsic character and beauty of the countryside. In terms of character and appearance, LP Policy GEN2 also remains consistent with the Framework in this regard and over its aims for achieving well-designed places. The proposal's conflict with this policy is given significant weight.
19. Furthermore, by focusing housing into settlements where there are services, LP Policy S7 aligns with a distribution of growth that reflects the Framework's central aim to achieve sustainable development. This includes by actively managing patterns of growth towards locations which are or can be made sustainable, in terms of offering a genuine choice of transport modes. In all, there would be significant harm from the conflict with development plan policy regarding housing in the countryside.
20. Whilst I agree with the appellant that the proposal will lead to less than substantial harm to the significance of the designated heritage assets, these effects are far more than of minor magnitude. Whilst less than substantial, the heritage harm would nonetheless be of a more major degree in this scale. Where a development proposal will lead to such less than substantial harm to the significance of a designated heritage asset, paragraph 202 of the

Framework requires that this be weighed against the public benefits of the proposal, that I have already discussed.

21. Regarding the heritage harm, I have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the settings of these listed buildings. In applying this duty, the Court of Appeal³ has clarified this to mean giving considerable importance and weight to the desirability of preserving the setting of listed buildings when carrying out a balancing exercise. On this basis, whilst less than substantial, the weight I attach to this harm would quite clearly outweigh the small public benefits deriving from this proposal.
22. The Framework's presumption in favour of sustainable development applies, as the Council is unable to demonstrate a 5YHLS. This would mean allowing the appeal unless the application of Framework policies that protect designated heritage assets provide a clear reason not to, which for the reasons explained would apply in this case. On this basis, and due to the harmful conflict found with development plan policy, I must conclude the appeal be dismissed.

Jonathan Price

Inspector

³ Barnwell Manor Wind Energy Limited v East Northamptonshire District Council [2014] EWCA Civ 137