



Appeal Decision

Site visit made on 20 December 2021

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 JANUARY 2022

Appeal Ref: APP/C1570/W/21/3273774

The White House, Pledgdon Green, Brick End Road, Henham CM22 6BN.

- 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 and Mrs P Malins against the decision of Uttlesford District Council.
 - The application Ref UTT/20/2856/FUL dated 3 November 2020, was refused by notice dated 14 April 2021.
 - The development proposed is demolition of existing stables and erection of 3 detached dwellings with associated access and garaging.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing stables and erection of 3 detached dwellings with associated access and garaging at The White House, Pledgdon Green, Brick End Road, Henham CM22 6BN in accordance with the terms of the application, Ref UTT/20/2856/FUL dated 3 November 2020 and subject to the conditions at Schedule A below.

Preliminary Matters

2. In the period since the appeal was submitted the Government has published a revised version of the *National Planning Policy Framework* (The Framework). The new policies in the revised Framework have not brought me to any different decision on the appeal and therefore I have not considered it necessary to invite the appeal parties to comment on the new document.

Main Issues

3. The main issues in this case are whether in principle this is a sustainable location for housing and the effect of the proposed development on the character and appearance of the rural setting to the site.

Reasons

4. The land the subject of this appeal lies to the east of the road through Pledgdon Green and opposite the White House also in the applicants' ownership. The site is partially developed with substantial timber-built stable buildings, manege and hard-paved, disused tennis court and the rest is paddock. It is well screened from the road and generally along the other boundaries by trees and hedgerows. A public footpath No 22 crosses the northern end of the site.
5. Pledgdon Green is a small hamlet, broadly linear in form, following the road, but with a sporadic grouping of well-spaced larger properties around the Green. Other than these properties spaced around the Green the properties lining the road, although in relatively large plots, do create the sense of a built frontage.

Principle of development and whether the location is a sustainable one for housing

6. Pledgdon Green is a small settlement without any defined development limits in the *Uttlesford Local Plan* (ULP). It lies within the countryside and is subject to ULP Policy S7 which is generally restrictive of development in the rural areas. However, in view of the age of the ULP and the fact that it predates the Framework a *Compatibility Assessment* was carried out in 2012 immediately following the publication of the first version of the Framework. This found that protecting the countryside for its own sake was no longer consistent with the Framework. The matter of the weight that can be attached to Policy S7 in the light of subsequent revisions to the Framework has been considered in several recent appeals within the district (most clearly in the Inspector's decision in APP/C1570/W/19/3243744). The consensus arising out of the appeal decisions and with which I concur, is that of the 3 elements to the Policy, the first two protecting the countryside for its own sake and restricting development only to that needed or appropriate to the countryside, were no longer consistent with the Framework and therefore carried very limited weight. The only element carrying weight and remaining consistent with the Framework at paragraph 174, where it requires decisions to recognise the intrinsic character and beauty of the countryside was the last clause requiring the appearance of development to protect or enhance the particular character of the part of the countryside within which it is set.
7. Generally, the ULP makes it clear that opportunities for infilling in small settlements such as Pledgdon Green within the countryside are unlikely. However, paragraph 6.14 of the ULP states that *"...if there are opportunities for sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements these will be acceptable if development would be in character with the surroundings and have limited impact on the countryside in the context of existing development"*.
8. I consider below whether the appeal proposal for three dwellings would meet this test and protect the countryside but clearly the Council considered that the site met these tests when it granted permission for two dwellings on the site (ref UTT/20/2902/FUL), a decision which is a material consideration in this case.
9. Turning to the question of the sustainability of the location for housing it is not in dispute that in terms of sustainable transport Pledgdon Green is not well provided for. The hamlet is on a minor road off the B1051 Stansted to Thaxted road with no public transport connections and residents would depend in the main on private cars. However, local facilities including schooling, shops, surgery and railway station are available at Elsenham and schooling, local shopping and other facilities at Henham both only short journeys from the appeal site, approximately 2.5 and 2.2 miles respectively or 5 minute journeys by car and about 15-20 minute journeys by cycle. Each of the dwellings are proposed to have garages so secure cycle storage would be available to each house. The situation in respect of accessibility for present and future residents in Pledgdon Green would not in fact be dissimilar to a number of smaller villages in Uttlesford district.
10. In respect of other aspects of sustainability the site is, in part at least, developed with structures and hardstanding and although it is reportedly Grade 2 agricultural land it is not in agricultural use being used for horse grazing and livery. Moreover, the site is enclosed to the north, south and west by other development within Pledgdon Green and is only undeveloped to the east, where it is screened by woodland. The ecological survey carried out for the appellant identified no

protected species or habitats on the site although, given trees and hedgerows, it was likely that bats and birds would forage across the site. Conditions requiring submission of a Construction Environmental Management Plan and biodiversity enhancement would manage any potential ecological impacts.

11. In granting permission, first in principle and then in full for two units, the Council has clearly decided that, although not ideal in terms of accessibility and sustainable transport, the development of the site was acceptable. The principle of the site as a sustainable location for residential development has therefore been established and I am not persuaded that one additional unit would make a material difference to that finding.

Character and Appearance

12. The design of houses proposed would be very similar in scale and detailing to that already permitted and reflects the characteristic elements, height and massing and materials of older housing in the hamlet. The proposed houses would observe the guidance previously provided to the appellant in being designed as 1.5 storeyed properties with ridge heights slightly lower than Woodlea to the north and slightly higher than White Thorn Cottage to the south therefore fitting in with the existing scale of development. The issue is whether the addition of a third house would materially and adversely affect the setting.
13. Assessing this for the appeal site, although two dwellings would allow a plot width more in keeping with those around, the plots, as proposed, would still be large and the addition of a third dwelling would not significantly change the appearance compared with the site developed for two houses. This is because the site is set back and comprehensively screened from the road by a mature tree belt around the pond. The most visible house, (plot 1) largely on the site of the stables/garage closest to the frontage, would be set adjacent to a 15 metre buffer space between it and Woodlea to the north maintaining the very spacious character to the settlement. Plot 2, as the narrowest, would not be dissimilar to that of Elm Cottage to the south and Plot 3 would not be substantially less than the width of the plot at White Thorn Cottage. I am therefore satisfied that someone walking along the road through Pledgdon Green or along Footpath No 22 would be unlikely to reach the conclusion that three dwellings on this site would be overdevelopment or appear cramped. It has been put to me that the proposal would result in a continuously built frontage out of keeping with the character of the settlement and its built form. Having walked the length of the main section of Pledgdon Green it appeared to me that the lane, from the cottages north of the White House down to Tudor Hall has a developed character. Whilst I accept that at present the appeal site appears more open, other than glimpsed views of the stabling currently on it, this is in large part due to the tree screen to the road which would be retained in its entirety. I am not persuaded therefore that, with the development complete, the finished result would be materially different and more harmful if three houses were to be developed rather than the two already permitted.
14. Moreover, the Framework at paragraph 124 states that decisions should support development that makes efficient use of land and at paragraph 125 in cases where, as here, there is an existing shortage of land for housing it is especially important that decisions avoid homes being built at low densities. I acknowledge of course that paragraph 124 requires an area's prevailing character and setting to be maintained but for the reasons above I do not consider that the spacing, scale,

design and materials proposed would affect the prevailing character any more than would be the case with a development of two dwellings.

15. In terms of the test in Policy S7 and related references in paragraph 6.14 of the ULP discussed above, therefore, the development would respect the character of its surroundings. It would have limited impact on the countryside given its containment within existing development in Pledgdon Green and the extensive frontage screening and woodland screening to the rear that would remain untouched. It would therefore at least protect the particular character of that part of the countryside within which it is set. Similarly, the principal elements of policy GEN2 of the ULP at issue, namely compatibility in scale, form, layout, appearance and materials and safeguarding important environmental features in the setting to reduce visual impact, would not be conflicted.

Other Matters

16. The proposal would result in the provision of one new family house in addition to those already permitted. In that way it would make a small additional contribution to meeting housing needs in Uttlesford District as a whole.
17. The Council has a housing shortfall and I note that, although the published *Housing Delivery Target* (HDT) results for Uttlesford in 2020 show that in the last 3 years the District achieved in excess of the target, the Council can only demonstrate 3.11 years of housing supply. The policies of the ULP influencing housing supply including Policy S7 are therefore out of date and the 'tilted balance' set out in the Framework at Paragraph 11d) is therefore engaged. In this context, the supply of further housing would be important even though in this case it would only be one unit over those already permitted.
18. With the Framework's 'tilted balance' engaged it is important to apply that balance. Paragraph 11d) of the Framework provides that the presumption in favour should apply other than in two circumstances. The first of these, namely where the development would conflict with Framework policies to protect areas or assets of particular importance would not apply in this case. The second requires that permission is granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Policies in respect of supply of housing and efficient use of land would support the proposal and as discussed above the addition of one further unit would not materially affect the Framework policies in respect of design and the natural environment.
19. Concerns have been raised by third parties that the development would have a detrimental impact on living conditions for occupants of White Thorn Cottage. However, having assessed the plan on site and considered the spacing, orientation and design of the units in respect of the existing house there would be no overlooking, overshadowing or overbearing impacts from the house on Plot No 3. Concern was also raised in respect of highway safety issues and the impact of traffic entering and exiting the site on the lane. However, the design of the scheme, subject to conditions, would not give rise to problems for highway safety and no objection has been raised by the Highway Authority. Concern was also raised in respect of impact of development on the protected lane and the ecological attributes of the site. However, the redline boundary of the appeal site is set back behind the pond and planting on the lane and the visibility splays would not affect the treed nature of the lane given the road geometry. Any ecological impacts can be satisfactorily controlled through the imposition of

conditions, a point agreed by the Council's ecological advisers. In short, as other matters that might give rise to adverse impacts can be satisfactorily controlled by conditions, adverse impacts would not outweigh the social benefits of providing additional family housing and the presumption in favour of development should apply in this case.

Conclusion and conditions

20. In reaching my decision I have had regard to the matters before me. The above assessment in terms of Paragraph 11 of the Framework shows that the presumption in favour of development would apply and for the reasons above the appeal should be allowed and permission granted for three dwellings on the appeal site subject to conditions.
21. The Council suggested a number of conditions. I have considered these in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
22. Given the proximity to Stansted Airport two further conditions are necessary, one to ensure that the living conditions for occupants would be acceptable in terms of noise generation and the other to ensure that any areas of standing water during construction are allowed to dry out and do not remain wet to attract bird life which may in turn increase the risk of aircraft bird strikes.
23. The Council propose that all housing on the site is built to provide accessible and adaptable homes because ULP policy GEN2c) requires development to meet the needs of all potential users. Normally as this is laid out in the Building Regulations it would not be appropriate for a condition to replicate this. However, as the Building Regulations are not mandatory in this regard and the appellant has indicated in their statement that they accept all the conditions, it is not unreasonable to apply it in the interests of helping to futureproof the housing stock.
24. The Council proposed four conditions to deal with ecological and biodiversity matters however two of these involved a considerable degree of unnecessary repetition. Therefore, I propose that three should be included one requiring a Construction Environmental Management Plan to be submitted, one controlling the biodiversity mitigation and enhancement proposed for the site and one requiring submission and approval of a lighting strategy to avoid adverse impacts on wildlife using the site. All three are necessary to protect and enhance biodiversity.
25. The Highway Authority have requested a number of conditions to be added all in the interests of securing highway safety. The first relates to the creation of appropriate visibility splays. The second and third to ensure that the access is properly constructed and that loose surfacing material is not transferred onto the highway. The fourth is to ensure that any gates to the development are set back and do not cause an obstruction on the highway. In addition, and related to transport, a condition is necessary to protect the existing Public Right of Way No 22 Henham and to maintain the path at an adequate width.
26. In view of the fact that material has been brought to the site from elsewhere, notably in association with the construction of the manege, a condition is necessary requiring a contamination assessment to be carried out to ensure no contaminants are present on the site.
27. Finally, in the interests of promoting more sustainable transport and supporting a

lower carbon future a condition requiring the provision of electrical vehicle charging points for each house is also necessary.

28. A number of the conditions in particular those requiring the Construction Environmental Management Plan and the contamination assessment need to be pre-commencement conditions. The appellant in their statement have indicated in writing that they accept all conditions and therefore, although pre commencement conditions are generally to be avoided, the necessity of these in this case has been accepted.

P. D. Biggers

INSPECTOR

Schedule A Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: 2018-129-003; 2018-129-004A; 2018-129-010A; 2018-129-011; 2018-129-012;
3. The development hereby permitted shall be constructed in strict accordance with the construction details provided in Section 5 of the acoustic report submitted by Stansted Environmental Services Ltd reference ENV184-HENH-002 dated 17/07/2020. The building construction shall thereafter be retained as approved. The development shall not be used unless the building construction is in compliance with these details.
4. During construction, robust measures should be taken to prevent birds being attracted to the site. No pools of water should be allowed to stand on site and measures should be taken to prevent scavenging of any detritus.
5. All of the dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings M4(2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
6. Prior to the commencement of the development hereby permitted a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.
The CEMP (Biodiversity) shall include the following:
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones".
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (- these may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority

7. Prior to the commencement of development above ground level a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4 Ecology Ltd, July 2020). The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the approved strategy and details contained in the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4 Ecology Ltd, July 2020) and shall be retained in that manner thereafter.

8. Prior to first occupation of the development hereby permitted 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 maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

9. Prior to first occupation of the development hereby permitted, clear to ground visibility splays of 2m by 35.1m as shown on DWG no. 2018-129-003 (excluding the tree to the north of the access) shall be provided. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

10. Prior to first occupation of the development hereby permitted, the proposed private drive shall be constructed to a width of 5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the verge.

11. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

12. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

13. Public footpath No. 22 (Henham) must be retained on its current route and retain a minimum width of 1.5 metres through the site, and any proposed planting must be set back a minimum of 1 metre from the edge of the footpath.

14. No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site and must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments.
- (iii) proposals for the treatment of any contamination identified.

15. Infrastructure for a minimum of a single electric vehicle fast charging point shall be installed at each of the dwellings. All new parking spaces should be adaptable for electric vehicle fast charging (7-22kw) including through local electricity grid reinforcements, substation design and ducting. These shall be provided prior to first occupation.