



Appeal Decision

Site visit made on 26 April 2022

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2022

Appeal Ref: APP/C1570/W/21/3285755

Happy Days, Chapel End, Broxted, Dunmow, CM6 2BW

- 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 Castle Lane Securities Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1866/FUL, dated 29 July 2020, was refused by notice dated 29 July 2021.
 - The development proposed is the erection of 3 new detached dwelling houses with associated parking and landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal was originally made to the Local Planning Authority for 4 dwellings. However, during the course of its determination, this was amended by the appellants to 3 dwellings. As such, I have taken the description of development from the Council's decision notice rather than the application form as this more accurately describes the development which is the subject of this appeal.

Main Issues

3. The main issues are:
 - Whether the proposed development would be in a suitable location for a new dwelling having regard to local and national policy; and
 - The effect of the proposed development on the character and appearance of the area including nearby non-designated heritage assets.

Reasons

Suitable location

4. The appeal site comprises an area of land surrounding the property known as 'Happy Days' along with its associated grounds. The site also surrounds Ebenezer Chapel and would be adjacent to Poppy's Cottage which is a non-designated heritage asset identified on the local list.
5. The Uttlesford Local Plan (2005) (ULP) was adopted prior to the publication of the first iteration of the National Planning Policy Framework (the Framework). Policy S8 of the ULP seeks to strictly control any new development within the

defined Countryside Protection Zone (CPZ). The Council has undertaken an assessment of saved policies of the ULP against the Framework and concluded that it does not provide any specific policy guidance or restriction in respect of the approach taken in Policy S8. The Council has indicated that the proposed development has not demonstrated the need for it to be located in the CPZ that Policy S8 requires. However, Policy S8 does not provide any guidance as to what forms of development may be acceptable in the CPZ. The NPPF does not recognise blanket requirements for development proposals to provide justification, and as such, this requirement would not be consistent with the Framework.

6. Policy S8 of the ULP states that in the CPZ planning permission will only be granted for development that is required to be there, or is appropriate to a rural area. The appellant has not provided separate justification for the proposed development and it would therefore not accord with the policy in this regard.
7. Policy S8 contains two further criteria against which proposals would be considered. Policy S8 states that development will not be permitted if new buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside, and that development would adversely affect the open characteristics of the zone.
8. The Council's evidence includes the CPZ Protection Zone study (2016) which divides the CPZ into a number of parcels with each parcel being assessed as to the performance of the parcel against the CPZs purposes. The appeal proposal would be located in parcel 7. Despite having a generally high contribution to the protection of the CPZ, the study recognises that the parcel plays a limited role in protecting the rural settlement pattern of Mole Hill Green and Chapel End in preventing coalescence with the airport.
9. The proposed development would result in the creation of an additional three dwellings located along the frontage of the site. Whilst the proposed development would introduce additional built development into the CPZ, Broxton is a small village with a loose pattern of development. Plots 1 and 2 of the proposed development would infill the land between Ebenezer Chapel and Poppy's Cottage, and as such, would not result in coalescence between the airport and surrounding countryside. Plot 3 would be sited to the north of 'Happy Days' and although it would remain within the existing hedge boundary of the site, it would extend built development beyond what is currently the last property on this side of Mole Hill Green. However, as this is to the north of the village and the airport being located to the south, I do not consider it would result in coalescence between the airport and existing development that Policy S8(a) seeks to avoid.
10. Having regard to Policy S8 criterion (b), the site is currently bounded by mature hedging, and there are very limited views into the site from Mole Hill Green. As such, I consider the site does not have an open character and is self-contained and does not form part of a larger area of land or arable field. On that basis I consider the proposal would accord with criterion b) of the policy.
11. The appeal proposal would be located adjacent to Poppy's Cottage and Ebenezer Chapel with residential dwellings opposite. As a result, I consider it would not result in the creation of isolated homes that paragraph 80 of the NPPF seeks to avoid.

12. In light of the above, whilst I find the proposals would not result in coalescence with the airport and would not adversely affect the open characteristics of the zone, due to the absence of justification for being within in the CPZ, I conclude that the proposed development would not be in a suitable location for a new dwelling having regard to local and national policy. The proposal would therefore fail to accord with Policy S8 of the ULP in this regard.

Character and appearance

13. The site would be located on Mole Hill Green which in the vicinity of the appeal site, has a loose pattern of development with a number of detached properties opposite and a number of pairs of semi-detached two storey dwellings to the south of Poppy's Cottage. Poppy's Cottage is a diminutive single storey thatched cottage with a white finish to the exterior walls. The cottage has a gable frontage and it is sited towards the rear of its broadly triangular plot. As such, the cottage is very close to the boundaries of the appeal site and School Villas. The cottage makes a significant positive contribution to the character and appearance of the area due to its traditional aesthetic and position along the apex of the bend in this part of Mole Hill Green.
14. Plot numbers 1 and 2 are proposed to be a 1 and a half storey dwellings and would be sited between Ebenezer Chapel and Poppy's Cottage would have gables to the front elevations. Whilst a number of properties in the surrounding area do not have gabled frontages, the proposed gable-fronted design of the two southernmost plots would reflect the design of Ebenezer Chapel. The appellant considers that the site could accommodate significantly more development than the appeal proposal would provide. However, I consider that plots 1 and 2 would be developed very close to their respective side boundaries and would appear cramped in the street scene. This cramping would be at odds the loose pattern of development in this part of Mole Hill Green, harming its appearance.
15. The proposal would result in the removal of an outbuilding along the boundary with Poppy's cottage and whilst the dwelling closest to the cottage would have a gabled front elevation, it would also have a single-storey flat roofed element to the side elevation. The flat roofed element would be positioned slightly further away from the cottage than the existing outbuilding, however I consider that when viewed from Mole Hill Green, the flat roofed element which the application form indicates would be finished with composite cladding, would jar against the simple cottage appearing awkwardly against the simple white finish of the cottage's external walls and the softened appearance of its thatched roof. Furthermore, the proximity of the flat roofed element of plot 1 to the boundary would result in a cramped appearance when viewed alongside Poppy's cottage. The proximity of the proposed dwelling at plot 1 tight to the site boundary would result in a cramped appearance, significantly harming the cottage's significance and setting.
16. The plans show that the two southernmost dwellings on the site would have parking areas located behind the dwellings in a parking court type arrangement utilising an existing access point adjacent to Ebenezer Chapel. Whilst the character of the area is generally mixed, the area is broadly characterised by plots with long rear gardens. There is no evidence before me of other parking courts or parking areas sited to the rear of dwellings in the vicinity. As such,

the proposed parking area serving plots 1 and 2 would not reflect the prevailing pattern of development in the area, harming its character.

17. In light of the above, I conclude that the proposal would harm the character and appearance of the area including nearby non-designated heritage assets. As such, it would be contrary to Policy GEN2 of the ULP which seeks to ensure that development is compatible with the scale, form, layout, appearance and materials of surrounding buildings.
18. The proposal would also fail to accord with the provisions of paragraph 203 of the Framework which requires a balanced judgement to be made on the scale of any harm of loss to non-designated heritage assets.

Other Matters

19. The proposed development would result in a number of benefits. Economic benefits would arise as a result of jobs created through the proposed development's construction and in the accompanying supply chain. Future occupiers would utilise nearby services and facilities and engage in community activities generating some social benefits. Environmental benefits could be secured through the proposed additional planting, albeit this would be largely offset as a result of the removal of existing hedgerows and trees on the site. Whilst the clearance of the site would provide some benefit to the character of the area, I consider it is not resulting in any significant harm to the character of the area and therefore the extent of the benefit would be modest. The proposal would also make a contribution of 3 dwellings to meeting housing need in the area.

Conclusion and planning balance

20. There is no dispute between the parties that the Council is currently unable to demonstrate a 5 year housing land supply with Council acknowledging its latest position being 3.52 years. Furthermore, the requirement in policy S8 to provide a blanket justification for development in the CPZ would be inconsistent with the Framework. As a result, tilted balance set out at paragraph 11(d) of the Framework is engaged and the policies most important for determining the proposal being considered out of date.
21. Paragraph 11(d)(i) requires consideration of policies that protect assets of particular importance. I have identified harm in respect of the character and appearance of the area, including the setting of a non-designated heritage asset. Paragraph 204 of the Framework requires a balanced judgement to be made in relation to the scale of harm to a non-designated heritage asset. For the reasons set out above, I consider that there would be significant harm to the setting of Poppy's Cottage as a result of the impact of the proposed development.
22. I find that the proposal would not be in a suitable location for a new dwelling in accordance with Policy S8. However, due to the policy being out of date and the fact that I consider the proposal would accord with criteria a) and b), the extent of the conflict with Policy S8 would be limited. However, as set out above, the proposal would result in clear conflict with Policy GEN2 in respect of its character and appearance.
23. Despite the limited conflict with Policy S8, due to the significant harm I have identified to the character and appearance of the area in respect of the setting

of Poppy's Cottage and the conflict with Policy GEN2, I consider that the proposed development would not accord with the Development Plan when read as a whole.

24. The proposal would result in economic and social benefits as set out above albeit due to the proposed removal of existing trees and hedgerows, any environmental benefits would be limited. The proposal would also make a positive contribution of 3 dwellings to the current land supply shortfall which weighs in its favour.
25. Notwithstanding the above, paragraph 11(d)(i) of the Framework indicates that where policies are out of date, proposals should be granted permission unless policies in the Framework that protect assets of importance provide a clear reason for refusing the development. Due to the significant harm to a non-designated heritage asset, I consider this provides a clear reason for refusing the proposal.
26. Furthermore, the harms I have identified would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole.
27. For the reasons given above I conclude that the appeal should be dismissed.

Philip Mileham

INSPECTOR