



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/21/3284187

Yew Tree Cottage School Lane, Takeley, Bishop's Stortford, CM22 6PJ

- 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/20/0050/FUL, dated 10 January 2020, was refused by notice dated 27 July 2021.
 - The development proposed is the demolition of existing garage and erection of 1 no. Dwelling with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and erection of 1 no. Dwelling with associated parking and landscaping at Yew Tree Cottage School Lane, Bishop's Stortford, CM22 6PJ in accordance with the terms of the application, Ref UTT/20/0050/FUL, dated 10 January 2020, subject to the conditions set out in the attached schedule.

Preliminary matter

2. The original planning application form sought permission for two dwellings on the site which was subsequently amended to a single dwelling during its consideration by the Council. As a result, I have taken the description of development from the Council's decision notice rather than the application form as this best describes the proposed development.

Main Issue

3. The main issue is whether the proposed development would be in a suitable location for a new dwelling having regard to local and national policy.

Reasons

4. The appeal site comprises of an existing single storey garage which is located to the east of Yew Tree Cottage, Takeley, which is a Grade II Listed Building. The area of School Lane in the immediate vicinity of the appeal site has a loose pattern of development with dwellings on either side of the road. Towards the centre of the village, there have been a number of recently constructed pairs of semi-detached dwellings. As such, School Lane has a generally mixed character.
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 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 requirements in respect of a policy approach such as that advocated in Policy S8. However, the Framework does not recognise blanket requirements for development proposals to provide justification, and as such, I consider this requirement would not be consistent with it in this regard.

6. Saved 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 proposal in the CPZ and although it would provide for residential development in a rural area, the absence of justification means it would not comply with the policy in this respect.
7. Policy S8 contains two further criteria against which proposals would be judged. 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 proposed development would replace an existing garage building on the site. The replacement of a single storey garage with a dwelling would result in a larger building than is currently on site. Whilst the proposal would not be located in exactly the same position as the garage, the proposal's siting would result in the continuation of the linear development in this part of School Lane. Furthermore, the proposal would not extent built development further than White House Farm opposite. Whilst the proposal would increase the amount of built development on the site, the extent of additional building resulting from the proposed dwelling would not be harmful. I consider that due to the presence of an existing building, there would not be any coalescence between the airport and existing development in the surrounding countryside. As a result, the proposal would not result in a conflict with criterion (a) of Policy S8.
9. Having regard to Policy S8 criterion (b), the site itself is currently occupied by a single storey garage with a verdant frontage of mature hedging. The rear of the site is bounded by further hedging and there would be no long-range views into or out of the site. As such, I do not consider the site has an open character. Whilst the proposal would result in some frontage hedging being removed, additional native hedges are proposed to the side and rear boundaries of the appeal site which would provide adequate screening. As a result, the proposed development would be self-contained and would not form part of a wider piece of land or a more open part of the landscape limiting any impact. As such, I consider it would accord with criterion b) of the policy.
10. The appeal proposal would be located adjacent to Yew Tree Cottage and opposite White House Farm. As a result, it would not result in the creation of an isolated dwelling that paragraph 80 of the NPPF seeks to avoid.
11. From the evidence submitted with the appeal, the village appears to contain few services or facilities albeit there is a Public House present. The appellant has indicated that the village is well served by public transport albeit there is no evidence before me of the times and frequency of such services. The presence of the airport nearby would provide a significant employment opportunities; however, despite the close proximity of the village to the airport there is no footpath albeit it would be possible to gain access to the airport by

bicycle. Nonetheless, future occupants of the proposed development would be reliant on private vehicles in order to access other services and facilities in larger settlements such as Bishop's Stortford, which, over time, could result in a cumulatively significant number of vehicle trips.

12. In light of the above, whilst I find that the proposal 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 not accord with Policy S8 of the ULP for the reasons set out above.

Other Matters

13. The proposed development would be located to the east of Yew tree Cottage which is a Grade II Listed Building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving the building or its setting, to which I attached considerable importance and weight.
14. The appeal proposal would be separated from Yew Tree Cottage by a garage building and planting. Due to the distance between the appeal proposal and the cottage, the intervening garage building of Yew Tree Cottage, the fact that the proposed development would replace an existing building and the proposed development would not be higher than the cottage, in my view the proposal would not adversely affect any views to or from the Listed Building. This is also the view of the Councils consultees on this matter. Considering all of the above, I therefore consider that the development would not affect the setting of the Listed Building.
15. Concerns have been raised by third parties in respect of the compliance of the proposal with Essex County Council's parking standards. The plans indicate that the proposed dwelling would have two bedrooms and provide two parking spaces to serve future occupants whilst two further spaces are proposed for White House Farm opposite the site. Essex County Council's parking standards (2009) require a minimum of 2 vehicle parking spaces for dwellings of 2 bedrooms and above. Furthermore, Uttlesford District Council's local parking standards require a minimum of 2 spaces for dwellings of 2 bedrooms and above. I am therefore satisfied that the number of parking spaces provided would accord with the relevant parking standards.
16. Concerns have also been raised about local drainage and the character and appearance of the area. The Strategic Flood Risk Assessment (SFRA) indicates that whilst the site has a generally low or very low risk of surface water flooding, there are areas of high risk shown to the south and east of the site. However, I consider such drainage matters are capable of being addressed through the imposition of a suitable condition which I have imposed. Matters relating to the character and appearance of the proposal were not in dispute between the parties and I am satisfied that there would be no harm in this regard.
17. The proposed development would result in a number of benefits. Economic benefits would be created through construction jobs and in the accompanying supply chain. Social benefits would arise through future occupants utilising

services and facilities in the wider area. Environmental benefits would arise as additional planting is proposed, albeit their effect would be neutralised as some of the mature vegetation to the frontage of the site is proposed to be removed. The proposal would also make a contribution to meeting housing need in the area through the addition of a further dwelling.

Conditions

18. The Council has suggested conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the NPPF and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.
19. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.
20. In the interests of ensuring the satisfactory appearance of the proposed development, a condition is imposed to secure details of the materials to be used, as well as details of all hard and soft landscape works.
21. The strategic flood risk assessment recognises the potential for some areas of high risk of surface water flooding along the south and east of the site. Therefore, in order to effectively control and manage surface water drainage, a condition is required for the submission and implementation of details relating to proposed drainage, including assessing whether sustainable drainage systems would be appropriate and feasible, and the subsequent implementation of drainage measures prior to the occupation of the development.
22. In the interests of preserving the historic character and appearance of the adjacent Listed Building and its setting, pre-commencement conditions which have been agreed are required to provide samples and details of the materials to be used in the external finishes of the dwelling, and to require the cladding of the roof in slate.
23. A pre-commencement condition was sought to provide drawings that show details of proposed new windows, doors, eaves, verges and cills, to secure windows to be timber and painted with appropriate detailing. A condition is necessary in order to ensure that appropriate external materials and finishes are utilised, however, I have amended the condition to restrict development above slab level as the details sought relate only to aspects of the development that would take place above slab level. A further condition is necessary to require rainwater goods to be cast metal and retained as such in the interests of preserving the historic character and appearance of the adjacent Listed Building and its setting.
24. In the interests of highway safety, conditions are required to ensure the vehicle access, visibility splays and parking provision have been provided.
25. Although I find that the proposal would be in a suitable location for a residential development, there remains a need to minimise the use of private vehicle movements. Therefore, for this reason conditions are required in order to secure cycle parking and the provision of a Residential travel information pack for sustainable transport.

26. In the interests of the living conditions of future occupiers, a condition is required to secure a scheme of noise mitigation having regard to the effects of aircraft noise from nearby Stanstead Airport.
27. A condition is required to ensure the dwelling is constructed to meet accessibility and adaptability standards which I have amended to reflect the proposed development is a single dwelling.
28. A condition was sought in relation to the installation of an Electric Vehicle (EV) charging point. However, Circular 01/2022 introduced the requirement for EV charging points in new homes as an amendment to the Building Regulations. However, these regulations do not come into force until 15 June 2022, and as such, the suggested condition is necessary in the interests of reducing vehicle emissions.
29. In the interests of biodiversity, in order to conserve protected and priority species, a condition is required to secure a programme of works as set out in the biodiversity enhancement strategy, and a further condition relating to the securing of matters in the preliminary ecological appraisal. I have amended the wording of part of the Council's suggested condition to remove text relating to matters previously agreed in principle with the Council as this is not necessary. For the same reason, a condition is also required to control lighting particularly in relation to avoiding harm to bats.

Conclusion and planning balance

30. As set out above, whilst the proposal would conflict with Policy S8 of the ULP which is a most important policy for the determination of this proposal, there is no dispute that the Council cannot currently demonstrate a 5 year supply of housing land that the Framework requires with the latest position being 3.52 years. Furthermore, the requirement in policy S8 for blanket justification would be inconsistent with the Framework. As such, the policy is considered out of date and the tilted balance set out at paragraph 11(d) is engaged.
31. Paragraph 11(d)(i) requires consideration of policies that protect assets of particular importance. There is no dispute between the parties that the proposed development would not result in harm to the setting of the nearby Listed Building.
32. Paragraph 11(d)(ii) requires that there is a presumption in favour of development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
33. Policy S8 has the effect of restricting residential development within the CPZ, albeit due to the absence of the required land supply, it is out of date, and its weight is significantly reduced. The proposal is for residential development in a rural area which is a type of development clearly recognised in section 5 of the NPPF as being appropriate in certain circumstances. I consider that despite the absence of justification, the proposal would otherwise accord with the policy and the extent of the conflict with Policy S8 is therefore limited.
34. Whilst the provision of a single dwelling makes a limited contribution to supply, in light of the extent of the shortfall, I afford the provision of an additional dwelling significant weight. I also afford the other economic and social benefits

identified moderate weight. I consider these factors would outweigh the limited conflict with the Development Plan when read as a whole.

35. I conclude that the proposal would accord with the NPPF when considered as a whole and I do not consider there to be any adverse impacts which would otherwise significantly and demonstrably outweigh the benefits identified.

36. For the reasons given above I conclude that the appeal should be allowed.

Philip Mileham

INSPECTOR

Annex 1

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Floor Plan - FXR-116-12 E
Other - 2019/4916/001 P1
Combined Plan – FXR-116-01 D
Floor Plan (proposed) – FXR-116-11-D
Elevations (proposed) – FXR-116-21 E
- 3) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 4) No development shall commence until full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include: -
 - a) proposed finished levels
 - b) means of enclosure
 - c) car parking layout
 - d) vehicle and pedestrian access and circulation areas
 - e) hard surfacing, other hard landscape features and materials
 - f) existing trees, hedges or other soft features to be retained
 - g) planting plans, including specifications of species, sizes, planting centres, number and percentage mix
 - h) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
 - i) details of siting and timing of all construction activities to avoid harm to all nature conservation features
 - j) location of service runs

- k) management and maintenance details.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.
- 6) No development shall commence until samples and details of the materials to be used in the external finishes of the dwelling as approved, including brick bonding, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be permanently maintained as such unless otherwise agreed in writing by the LPA.
- 7) The roof to the dwelling as approved shall be clad in natural slate, a sample of which (or alternatively manufacturer's specification details) shall be submitted to and approved in writing by the local planning authority prior to development taking place. The roof shall be clad in accordance with the approved details and shall be permanently maintained as such unless otherwise agreed in writing by the LPA.
- 8) No development shall take place above slab level until additional drawings that show details of proposed new windows, doors, eaves, verges and cills to be used by section and elevation at scales between 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be permanently maintained as such.
- 9) All rainwater goods shall be of cast metal and permanently maintained as such.
- 10) All new casement windows shall be in painted timber, flush meeting within the frames, with matching joinery for opening and fixed casements, and without trickle vents or surface mounted glazing bars and shall be permanently maintained as such.
- 11) Prior to occupation of the development the vehicular access shall be constructed, as shown on principle on DWG no. 2019/4916/001 Rev. P1 (Proposed Access Arrangement) with associated visibility splays and shall be provided with an appropriate vehicular crossing of the highway verge.
- 12) The proposed development shall not be occupied until such time as the vehicle parking area for the proposed dwelling and adjacent dwelling, White House Farm, indicated on DWG no. FXR-116-12 Rev. E (dated, 29/03/2021) shall be provided. The vehicle parking area and associated turning area shall be retained in this form at all times.

- 13) The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.
- 14) Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 15) No construction above ground level shall be undertaken until a scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority. Details shall be included in the scheme of the design, layout and acoustic noise insulation performance specification of the external building envelope, having regard to the building fabric, glazing and ventilation. The scheme shall be based on insulation calculations provided in British Standard 8233:2014 and shall be designed to achieve the following noise targets:

Bedrooms (23.00-07.00 hrs) 30 dB LAeq and 45 dB LAm_{ax}.

Living Rooms (07.00-23.00 hrs) 35 dB LAeq.

The scheme as approved shall be fully implemented prior to occupation of the residential units and shall be retained thereafter and not altered without prior approval.

- 16) The dwelling hereby 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.
- 17) Prior to dwelling occupation, the dwelling shall be provided with electric vehicle charging points. The charging points shall be fully wired and connected, ready for first use and retained for occupant use thereafter.
- 18) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Tim Moya Associates, December 2019) and Bat Survey Report (Tim Moya Associates, June 2020). This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW,) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 19) Prior to occupation, 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 in the Preliminary Ecological Appraisal (Tim Moya Associates, December 2019) and Bat Survey Report (Tim Moya Associates, June 2020). The contents 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).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 20) Prior to occupation, 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.