



Appeal Decision

Site visit made on 26 April 2022

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/C1570/W/21/3272469

Land to the west of Radwinter Road, Ashdon CB10 2ET

- 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 Michael White on behalf of White Roofing Services Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/2009/FUL, dated 8 August 2020, was refused by notice dated 24 February 2021.
 - The development proposed is 5 new family dwellings with private road access from Radwinter Road, gardens, landscaping and new wild planted shared green space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The accuracy of the depiction of the adjacent property "Little House" within the submitted plans has been questioned. From observations at my site visit I consider it likely that "Little House" does project closer to the appeal site than shown in the plans. My conclusions in this regard are consequently based on the situation observed at my site visit rather than the plans.

Main Issues

3. The main issues are the effect of the appeal proposal on:
 - Flood risk elsewhere in the village;
 - The character and appearance of the Ashdon Conservation Area and the setting of nearby listed buildings; and
 - The living conditions of the occupiers of Little House and other nearby properties with regard to outlook.

Reasons

Flood risk

4. The appeal site lies in Flood Zone 1 and as a result the development would be located in an area with a lower risk of flooding. Policy GEN3 of the Uttlesford Local Plan (2005) (the ULP) states that development at such locations must not increase the risk of flooding through surface water run-off.
5. The submitted drainage strategy summary of January 2021 states that the site is underlain by clay, causing rainwater to run off rather than soaking into the

ground. It sets out that rapid run-off can cause land at a lower level to flood. The submission of the parish council supports this, stating that groundwater flooding is a problem for properties which lie downhill from the site. The Ashdon Neighbourhood Plan Steering Group (SG) has concerns about the potential increase in water discharged into the river which would result from an additional house at the site, stating that the river can cause flash flooding. Furthermore, an Ashdon Flood Group exists to address the issue. Thus, flooding is evidently a pre-existing problem in the area.

6. The scheme proposes the collection and storage of water from the development in an underground tank within the garden to plot 5. The tank would be created from plastic crates and sealed. This would discharge to the nearby river Bourn by means of either a pipe or a new ditch crossing neighbouring land.
7. Outline planning permission (Local Planning Authority Ref: UTT/18/1429/OP) exists for the construction of 4 detached dwellings at the site. Whilst all matters except access are reserved in that case, an indicative site plan shows a similar layout of properties within the site to that currently proposed, and there is no reason to assume this is unrealistic. I saw at my site visit that some development is already underway at the site, and as a result I consider the approved scheme to comprise a realistic fallback position.
8. The drainage strategy summary indicates that rainwater flows downhill from the site towards the adjacent property "Little House". Both the extant and proposed schemes at the site include the provision of an access road with an alignment which would be likely to allow for such run-off. However, the existing permission proposes the retention of a ditch along the site's boundary with "Little House", whereas the appeal scheme proposes the removal of this feature. The SG and interested parties raise concerns about the potential for the removal of this feature to increase flood risk at properties downhill from the site. The ditch is likely to allow for a reduction in run-off to such properties and as a result, and in view of the flooding problems already experienced in the area, I consider that the removal of the ditch as part of the appeal scheme may increase the risk of flooding on other land, in the absence of an adequate drainage scheme.
9. The submitted drainage strategy documents are, however, limited in scope and consequently they do not provide sufficient assurance on matters such as the suitability of the proposed storage tank arrangement and long-term maintenance for me to be satisfied that the system would function effectively. Thus, the appeal fails to demonstrate that the presence of an additional house to those already permitted would not exacerbate identified flooding problems in the area.
10. I have considered whether the proposed development could be made acceptable through the imposition of conditions concerning the drainage system. The Planning Practice Guidance (the PPG) advises that, if some detail (or lack of detail) given in a planning application is unacceptable, where this involves significant changes this may result in the need for a fresh planning application. It further states that the use of conditions to modify the development so as to make it substantially different from that set out in the application would not be appropriate.
11. Thus, as my concerns arise in part from the loss of the ditch which forms a significant feature of the site, conditions would be unlikely to acceptably reduce

the harm without resulting in substantial revisions to the application which should be consulted upon. The use of such conditions would consequently not be appropriate, in accordance with the PPG.

12. In view of these considerations I conclude that the appeal fails to demonstrate that the proposal would not have a harmful effect on flood risk elsewhere in the village. Thus, the proposal conflicts with Policy GEN3 of the ULP, the aims of which are set out above.

Conservation Area and listed buildings

13. The appeal site lies outside but close to the Ashdon Conservation Area (the CA). This covers an area encompassing parts of Ashdon, and Church End nearby. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
14. A combination of older and more modern dwellings lies within the CA, including a number of thatched properties. Paths lead out from the village streets to the countryside at regular intervals and these, together with roadside trees, hedgerow and gardens contribute a spacious and rural quality. Given this, I find that the significance of the CA, insofar as it relates to this appeal, is primarily associated with its spacious and rural appearance.
15. A group of Grade II listed buildings lies to the north of the appeal site, and is separated from it by the property Little House and an adjacent barn. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed buildings.
16. Whilst the Council's statement of case refers to concerns regarding the effect on The Old Smithy and the barn only, it provides listing descriptions for Tudor Croft, Tudor Barn and The Old Smithy. These set out that the buildings are 16th to 18th century and are all timber-framed. Their spacious and rural setting contributes a sense of relative tranquillity to their significance. Together the buildings suggest the likely agricultural history of the settlement and consequently they have a functional context.
17. The current development at the site will result in a less rural appearance and consequently the question before me is whether the additional development now proposed would result in unacceptable harm to the setting of the heritage assets.
18. The scheme proposes the retention/planting of boundary hedging and the chestnut tree to the front. Furthermore, the location of the additional dwelling and garage currently proposed at the lower end of the site would limit their prominence. Moreover, the relatively set back position of the proposed buildings behind an area of planting and an access road would reduce any visual competition of the proposed development with the heritage assets to an acceptable level. These factors, together with the presence of intervening development, would result in only a limited level of visibility of the additional built form of the proposed development within views of the heritage assets.
19. Thus, any additional loss of countryside views which would result from the scheme would be so limited as to cause no unacceptable harm to the significance of the heritage assets. The scheme would consequently have an

acceptable effect on the character and appearance of the CA and the setting of nearby listed buildings. The proposal therefore complies with Policy ENV2 of the ULP, which requires development affecting a listed building to be in keeping with its scale, character and surroundings. Further compliance exists with the historic environment provisions of the National Planning Policy Framework (2021) (the Framework).

Living conditions

20. A gap of a moderate size between the proposed dwelling and car port at Plot 5 and the property "Little House" would be retained. Whilst the proposed development would retain a slope between the site and that property, the gradient would not be so dramatic that the scheme would create an unacceptable sense of enclosure at the property. Thus, the development would have an acceptable effect on the living conditions of the occupiers of "Little House" with regard to outlook.
21. Concern is additionally raised regarding the proposal's effect on the living conditions of occupiers of properties to the east of the site (and on the other side of Radwinter Road) with regard to outlook. Nevertheless, as the proposed dwellings would be set well back within the site and furthermore would lie across intervening highway and front garden areas with boundary treatments, I am satisfied that the separation between the dwellings would allow for an acceptable effect on the issue.
22. As a result, the proposal would have an acceptable effect on the living conditions of the occupiers of Little House and other nearby properties with regard to outlook. It consequently complies with Policy GEN2 of the ULP, which states that development will not be permitted unless it would not have a materially adverse effect on the reasonable occupation and enjoyment of a residential property as a result of an overbearing impact. Further compliance exists with paragraph 130 of the Framework, which sets out that planning decisions should ensure that developments create places with a high standard of amenity for existing users.

Other Matters

23. I have had regard to other matters raised, including concerns about the proposal's effect on highway safety, noise and the privacy of nearby occupiers. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.
24. The lack of objection of some consultees is a neutral matter which does not weigh in favour of the proposal. Accordingly, it does not attract any particular weight in my determination of the appeal.
25. Furthermore, although officer recommendations were to grant permission in this case, planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view to officers on the effects of the proposal. As such, I attach only minimal weight to this matter in determining the appeal.

Conclusion

26. The Government's objective is to significantly boost the supply of housing and the proposal would provide modern homes in a location with some access to

services, on a site with the potential to be built-out quickly. The scheme would also lead to a small and time-limited economic benefit during the construction phase, which may give rise to extra local employment. Given the small scale of the proposal and the fallback permission for four houses, these benefits attract modest weight.

27. The appeal fails to demonstrate that the proposal would not have a harmful effect on flood risk elsewhere in the village. I consider flood protection to be a matter of central importance within the development plan, and accordingly I attach significant weight to the identified conflict with Policy GEN3, the relevant provisions of which are broadly consistent with the Framework. The proposal would consequently conflict with the development plan taken as a whole.
28. The appellant considers that the Council can demonstrate a 3.11-year supply of deliverable housing sites and consequently that it cannot demonstrate a 5-year housing land supply (5YHLS), and this is uncontested by the Council. Whilst the shortfall is consequently substantial, the appeal would provide only one additional house when taking the existing permission at the site into account, and so its contribution to delivery would be minimal. Thus, I attach full weight to the identified conflict with development plan policy.
29. As the Council cannot currently demonstrate a 5YHLS and this is an application for the provision of housing, the development plan policies which are most important for determining the application are considered to be out-of-date in accordance with paragraph 11 d) of the Framework. I am therefore required to consider, as set out in Framework paragraph 11 d) i, whether the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusal.
30. As the appeal fails to demonstrate that the proposal would not have a harmful effect on flood risk elsewhere in the village, significant conflict exists with paragraph 167 of the Framework, which states that local planning authorities should ensure that flood risk is not increased elsewhere when determining planning applications. The application of the footnote 7 Framework policies consequently provides a clear reason for refusing the development proposed. As a result, the proposal does not benefit from the presumption in favour of sustainable development.
31. The appeal scheme would give rise to some limited benefits, as identified above. Conversely, it would have a harmful effect on flood risk. This matter attracts significant weight and outweighs the benefits associated with the proposal. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that indicate that the decision should be taken otherwise than in accordance with it.
32. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR