



Appeal Decision

Site visit made on 5 January 2023

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/C1570/W/22/3305178

Bakers Field, May Walk, Stansted CM24 8ST

- 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 Martin, Susan and Stephen Baker against the decision of Uttlesford District Council.
- The application Ref UTT/22/1488/FUL, dated 25 May 2022, was refused by notice dated 4 August 2022.
- The development proposed is formation of earth bunds and timber gates to secure land.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address above is taken from the application form rather than the appeal form or decision notice as this is the address to which the planning application was made.

Main Issues

3. The main issues are:
 - (a) The accuracy of the submitted plans;
 - (b) The effect of the development on the character and appearance of the area; and
 - (c) The effect of the development on protected species.

Reasons

The submitted plans

4. The appeal site at Bakers Field is located to the east of May Walk, a public bridleway that connects the B1051 to the south with a public footpath along the edge of Alsa Wood to the north. The site location plan (drawing no 001) shows a red line boundary along the length of May Walk from the B1051 to the site, indicating access from the south. The red line boundary around the site, which is also shown on the proposed site plan (drawing no 002), stops short of the junction between May Walk and the public footpath and is set back from the public footpath. The red line then returns to May Walk along the boundary of the adjoining land at May Tree Farm to the south.
5. The proposed site plan shows an earth bund up to 3m high around the red line boundary for the site and states the bund is to be planted up with trees, shrubs and ground cover plants. The plan also shows existing trees remaining along

the aforementioned boundary with May Tree Farm. In the north-west corner of the site, the plan shows 2m high gates and an access point off May Walk. A separate unnumbered drawing shows details of the gates as solid plywood doors 2.8m tall and 6m wide, hung off timber posts. There is a discrepancy between the two plans in terms of the height of the gates, but I have had regard to both options.

6. It was evident from my site visit that an earth bund has already been constructed at Bakers Field and plywood gates similar to those shown on the unnumbered drawing have been installed in approximately the same location shown on the proposed site plan. However, the earth bund extends beyond the red line boundary of the site. It continues further north to the junction between May Walk and the public footpath, and then along the edge of the public footpath next to Alsa Wood. No planning permission exists for these works.
7. The Council's decision notice refers to a retrospective application for the bunds and gates. However, I can only make a decision based on the plans before me and so I have assessed this appeal on the basis of a proposed scheme. If planning permission were to be granted, any discrepancies between the approved plans and what exists on site would be a matter for the Council to address. I note the appellants' intention to submit an application for the whole of Bakers Field in due course, but my decision can only relate to the area within the red line boundary.
8. In conclusion, while paragraph 43 of the National Planning Policy Framework (NPPF) states that the right information is crucial to good decision-making, I am satisfied that I can consider the development on the basis of the plans before me.

Character and appearance

9. The site is located within the countryside between Stansted Mountfitchet and Elsenham. To the west is a large open field that borders May Walk without any boundary treatment. The field provides extensive views across the countryside to Stansted Mountfitchet. Further to the west is the woodland of Aubrey Buxton Nature Reserve. To the north is Alsa Wood containing a sizeable area of trees either side of the M11. To the east is scrubland and the embankment screening the M11. To the south is May Tree Farm and beyond that Eastfield Stables.
10. The boundary between May Tree Farm and May Walk is a mixture of hedging and conifers planted at the same level as the bridleway along with post and rail fencing. The access from Eastfield Stables onto May Walk is enclosed by solid timber gates on brick piers. For the remainder of the boundary along May Walk and almost as far as the B1051 there is an earth bund and mature vegetation planting. The bund is tall, but it is possible, in midwinter at least, to see the roof of a house that has recently been constructed at Eastfield Stables.
11. This bund was granted planning permission in 1990 with a condition that it should not exceed 3m above the existing ground level. The permission also required the approval of a landscaping scheme. The purpose of the bunds according to a letter from the Council dated January 1995 was for the security of horses and a rabbit rearing programme.
12. The character and appearance of the area surrounding the site is very rural, with few buildings and only narrow lanes or public rights of way. The landscape

is open to the west and more enclosed by woodland to the north and boundary planting to the south along May Walk. The bunding along Eastfield Stables is a well-established green edge to the bridleway that does not detract from the general character and appearance of the area.

13. From the evidence before me, I have little information on what the site looked like from the ground prior to the construction of the current bunds and gates. Aerial photographs in the appellants' final comments reveal that the site and the entire east side of May Walk in circa 1988 was open land with very little boundary planting. An aerial photograph in sales particulars produced in the last year or so indicates that until recently the site was scrub or pastureland nearer to May Walk, with more trees to the north alongside the public footpath as well as to the rear.
14. It does not appear that there was previously any significant boundary treatment or bunding along the site's May Walk boundary. The appellants have been looking to secure the site. Therefore, the site would have had a more open and natural edge here in general keeping with the surrounding area. In contrast, the current unauthorised bunding and gates present a stark edge and barrier to May Walk.
15. The development as set out in the proposed site plan would result in bunding along most of the May Walk boundary between May Tree Farm and the junction with the public footpath, as well as bunding along the northern and southern boundaries of the site. It is possible that a suitable landscaping scheme could be secured via condition. However, it is likely to take many years to establish and until then, the bunding would look stark and unnatural, resulting in harm to the character and appearance of the area. It would also appear impossible to retain the trees along the shared boundary with May Tree Farm as these trees have gone. This would prolong the negative effect of the development due to the absence of planting.
16. The gates shown in the unnumbered drawing would be very rudimentary with an expanse of unpainted plywood across a tall and wide surface area. They would be more akin to a temporary entrance to a building site and so would detract considerably from the countryside setting. There is no detail regarding the 2m high gates shown on the proposed site plan, so it is not possible to tell whether these would exhibit the same characteristics although they would still be a tall feature.
17. In summary, the development would cause significant harm to the character and appearance of the countryside. The appellants have argued that it is necessary to secure the land to prevent trespassing and fly tipping, both of which appear to have occurred in the recent past. However, it is not clear why better security could not be achieved with more sympathetic boundary treatments such as post and rail fencing or a native hedgerow, which have been used at May Tree Farm next door. The gates could be more appropriately designed too for a countryside location. The appellants also refer to potential housing development on the land between the site and the M11, but no planning permission exists to my knowledge and it is not clear what the risk would be to the appellants' land even if it was developed.
18. Unlike Eastfield Stables where there appears to have been a clear link between the bunding and the keeping of animals, I have little information from the appellants regarding the future use of the land and why that necessitates

bunding and gates. The appellants refer to a desire to discuss options with the Council, but this simply indicates that there is no clear plan for the land at present. Thus, it has not been demonstrated that the development is necessary for this countryside location.

19. Concluding on this main issue, the development would cause significant harm to the character and appearance of the area without sufficient justification for that harm. Therefore, it would not accord with Policy S7 of the Uttlesford Local Plan 2005 (ULP) which only permits development in the countryside if its appearance protects or enhances the countryside or there are special reasons why the development needs to be there in the form proposed. It would also not accord with ULP Policy GEN2 which, amongst other things, requires development to safeguard important environmental features and help reduce the visual impact of new buildings or structures. The development would also not follow NPPF paragraph 174 which recognises the intrinsic character and beauty of the countryside.

Protected species

20. As noted above, before the current bunds and gates were erected the site was scrub or pastureland with a number of trees further into the site. There is insufficient evidence of a natural spring or water course within the site but given the previously undeveloped nature of the site and the existence of trees and other vegetation, it is possible that the land provided habitats for protected species.
21. The Council's biodiversity checklist in Sections 1 and 2 asks whether development sites are within 100m of a national or local nature reserve and whether proposals are located within 50m of woodland. Alsa Wood is less than 50m to the north of the site and is described by the Council as a wildlife site. However, even if it is not a national or local nature reserve, it is undoubtedly woodland. Aubrey Buxton Nature Reserve is around 150m to the west of the site and so beyond the checklist's distances.
22. Answering yes to any questions in Sections 1 or 2 requires the submission of ecological assessments as part of any planning application or justification from an ecologist that no survey or assessment is required. It is not clear why the appellants answered no given the proximity of Alsa Wood. However, no ecological assessment or justification has been submitted as part of the application or appeal process. As a consequence, there is no ability to assess the effect of the development on any protected species.
23. It would not be appropriate to require such survey work by condition, as it is necessary to understand the likely effects before planning permission is granted. In this instance, works have already taken place on the site which makes it very difficult to establish any baseline or secure protection for any species that might have been present on site. It would usually be possible to secure biodiversity enhancements by condition through the submission of further plans. However, in the absence of an appropriate baseline, it is unclear whether any net gain would actually take place even with planting opportunities along the bunds. The lack of comments from the Council's ecological adviser does not mean the development is acceptable given the requirements of the checklist and the proximity of the woodland.

24. Concluding on this main issue, it has not been demonstrated that the development would have an acceptable effect on protected species. Therefore, it would not accord with ULP Policy GEN7 which seeks to protect wildlife and requires the submission of surveys for sites that contain habitats suitable for protected species. The development would also not follow NPPF paragraph 180 which, amongst other things, seeks to avoid significant harm to biodiversity. It would fail to adhere to Section 40 of the Natural Environment and Rural Communities Act 2006 which applies a duty on public authorities to conserve biodiversity.

Other Matters

25. Interested parties have highlighted concerns with a number of other matters. However, given my conclusions on the main issues, it has not been necessary to consider these matters in any detail.

Conclusion

26. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR