



Appeal Decision

Site visit made on 12 December 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Appeal Ref: APP/C1570/W/22/3290492

Yew Tree Farm House, Tilekiln Green, Great Hallingbury, Bishops Stortford, Essex CM22 7TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Flying Trade Group against the decision of Uttlesford District Council.
 - The application Ref UTT/21/2971/PIP, dated 30 September 2021, was refused by notice dated 5 November 2021.
 - The development proposed is described as Permission in principle is sought to develop land for five dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Permission in Principle has 2 stages: the first (permission in principle, herein PIP) establishes whether a site is suitable in-principle. The second Technical Details Consent stage (TDC) is when detailed proposals are assessed. This appeal relates to the first stage. I have considered plans indicating the design and location of dwellings and access, as indicative only. I have considered them having regard to the appellant's confirmation during the determination of the application that the existing main building is to be retained.
3. The scope of considerations for PIP is limited to location, land use and amount of development. All other matters are considered as part of a subsequent TDC application if a PIP is granted. I have determined this appeal accordingly.
4. The Council's rebuttal to the costs application includes substantive reasoning in respect of the appeal case. This is submitted outside the time limits for the statement of case. Therefore, while it appears to largely duplicate the contents of its delegated report, I have disregarded it in relation to the appeal and only considered its contents insofar as of relevance to the costs application.

Application for costs

5. An application for costs is made by Flying Trade Group against Uttlesford District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are whether the location, the land use and the amount of development is suitable with particular regard to:
- policies for the location of new development;
 - the effect upon the character and appearance of the area; and,
 - access to services and facilities.

Reasons

Location

7. The appeal site lies outside any defined settlement boundaries in the open countryside designated by Policy S7 of the Uttlesford Local Plan (2005) (the ULP), and within a Countryside Protection Zone (CPZ) designated by Policy S8 of the ULP. Policies S7 and S8 aim to protect the countryside for its own sake, stating permission will only be granted for development that needs or is required to be there (respectively) or is appropriate to a rural area. Policy S8 imposes a strict control, and does not permit new buildings or uses that would, amongst other things, adversely affect the open characteristics of the CPZ.
8. There is no substantive justification for the proposal specifically being required to be, needing to be, or being appropriate in the countryside. Therefore, the proposal conflicts with these aspects of Policies S7 and S8. It is not explained whether the retained building would accommodate any new dwellings or how many. If I were to assume it would accommodate some, there would be less new built development on the appeal site.
9. However, having regard to the retained building and nature of the site, even were I to assume any new built development would be modestly proportioned, it is unavoidable that granting this PIP would result in a marked amount of the open appeal site area being developed. This would include by new buildings, enclosure, parking, circulation areas, and associated activity. While the detailed design is a matter for consideration at the TDC stage, it is inherent there would be a harmful incursion of new development into the open countryside and CPZ, adversely affecting its open characteristics.
10. Therefore, for the reasons set out above, the proposed location, land use and amount of development would not be suitable having regard to policies for the location of new development. It conflicts with Policies S7 and S8 of the ULP, the relevant provisions of which I have referred to above.

Character and appearance

11. The hotel buildings opposite and the 35 dwelling development are some of a few clusters of development south of Great Hallingbury in a largely rural and undeveloped landscape in the vicinity of the site. Great Hallingbury, the M11 and Stanstead Airport are in the wider area, although perception of them is generally as a consequence of either travelling to or from the appeal site, aircraft overhead or background road noise. The appeal site is surrounded by largely open countryside on three sides with fields. Therefore, its surroundings have a strongly rural character and appearance.

12. The appeal site includes a large attractive main building, a sizeable outbuilding, courtyard, parking area and a large, landscaped garden type area. The garden area is a mixture of what appeared to grassed and landscaped land, part of which had undergone some form of excavation and clearance. While it might constitute previously developed land, the appeal site makes a positive contribution to the character and appearance of the area and the countryside. From what I saw of it the main building it dates from 1646. While it has been the subject to some alterations it retains much of its historic external form and features. While its retention is highly desirable, there is nothing before me to suggest its retention would be anything other than a modest benefit in respect of this main issue.
13. Matters in respect of the design, layout and site configuration are for consideration at the TDC stage. However, it is inherent this proposal would result in a significant and harmful urbanising incursion of new development into the open countryside and CPZ. There would be new built development, some subdivision, intensification and domestication of land. I do not consider the surrounds to be strongly characterised by linear development, so I do not find the proposal at odds in that regard. However, a number of new dwellings, associated development and activity would be significantly harmful to the character and appearance of the area and the CPZ's open characteristics.
14. The site is relatively open on its north and part of its west side. Despite the scope for achieving a high quality design, appearance and landscaping scheme at the TDC stage, the proposal would be highly visible from neighbouring land in these directions, including certain vantage points along Tilekiln Green. Visibility would be more limited from other directions. However, there would be some filtered visibility through vegetation when not in leaf. There is no substantive evidence demonstrating the harm could be adequately mitigated.
15. For the reasons set out above the location, land use and amount of development would be significantly harmful to the character and appearance of the area. It would conflict with Policies S7 and S8 of the ULP. In combination and amongst other things these require that development protects or enhances the character of the countryside within which it is set and does not adversely affect the open characteristics of the CPZ. It would also conflict with paragraphs 130c) and 174b) of the National Planning Policy Framework (2021) (the Framework) which expect planning decisions ensure development is sympathetic to local character, protects landscape setting, and recognises the intrinsic character and beauty of the countryside.
16. Policy H4 of the ULP referred to in the Council's reason for refusal appears to only outline requirements of for backland development that does not have a road frontage. As this appeal site has a wide frontage that abuts the highway, I am of the view its criteria are not applicable to this proposal.

Services and facilities

17. There is little of substance before me in respect of the current or lawful use and transport movements, although there will be some generated. There is a pub/restaurant at the Hotel opposite the appeal site. Approximately 600m to the north is a petrol station with shop and bus stops nearby, and a church and village hall approximately 1.1km to the south. Based upon what I saw and the evidence before me many of the businesses in the wider area are commercial and would generally not cater for the day to day needs of future occupiers.

18. To access the limited services and facilities to the north and south future occupiers would have to use Tilekiln Green, which is an unlit 40mph speed limit highway with some bends, much has no footway and some areas of narrow verges. Therefore, it is not likely to be viewed as a particularly attractive, safe or convenient walking or cycling route to access the services and facilities.
19. A wide variety of services and facilities for day to day living are located at Bishops Stortford including retail, educational, medical, leisure and professional services and facilities, employment opportunities, and infrastructure for onward travel. Future occupiers would have to access these either via Tilekiln Green and a large junction with the M11 onto urban roads, or via shorter stretch of highway to public rights of way. To many services and facilities, the latter options would include a lengthy countryside journey on unmade paths.
20. Given the nature and length of the routes, walking or cycling to most services and facilities is highly unlikely to be viewed as particularly safe, attractive or convenient, particularly in colder, darker or wetter conditions. I have not been given details of the frequency or route of bus services, but there no substantive evidence demonstrating it would be viewed as an attractive or convenient means of accessing services and facilities.
21. Therefore, it is likely that occupiers of the new dwellings would be heavily reliant upon a motor vehicle for accessing most services and facilities. Opportunities to maximise sustainable transport solutions vary between urban and rural areas. However, the number of trips generated by the proposal and the distances to many services and facilities, means it would soon add up to a significant number of vehicular miles. While car dependency is not necessarily unusual in rural locations, this conflicts with a core planning principle of the Framework which encourages development to take place where the fullest use of walking, cycling and public transport can be made. Having regard to the likely number of journeys generated, the nature of the routes, and the distances, based upon the evidence before me, the harm would be significant.
22. The TDC could include requirements such as for electric vehicle charging points to encourage the use of such vehicles. Impacts from carbon emissions would diminish as combustion engines are phased out and replaced by ultra-low emission and electric vehicles. Nevertheless, the houses would be likely to be constructed in the shorter term, and it is not clear that future occupiers would use these vehicles. Accordingly, this cannot be relied upon as a means of mitigating the inaccessible location of the site in the short to medium term.
23. For the reasons set out, the location, land use and amount of development is not suitable for access to services and facilities. It conflicts with Policy GEN1 of the ULP which amongst other things states that development will only be permitted if development encourages movement by means other than driving a car. It also conflicts with paragraphs 8 and 105 of the Framework which seek to use natural resources prudently, minimise pollution, focus development towards locations that limit the need to travel, and offer transport choice.

Other Matters

24. Both parties have referred me to a development of 35 dwellings to the south of the appeal site. I do not have the full circumstances, merits and details of that proposal before me. However, I am informed it included 40% affordable housing, which was considered an exceptional circumstance for allowing the

proposal notwithstanding its location. The nature of that development is significantly different from this proposal, and its approval does not justify allowing this appeal.

25. I have noted the observations of the Council's ecological adviser in respect of the potential for suitable habitats and protected species, in relation to the advice in Circular 06/2005. However, as I am dismissing this appeal for other substantive reasons, I have not considered this matter further.

Planning Balance

26. The Council advises it can demonstrate a Housing Land Supply of 4.89 years. The appellant has questioned the merits of the evidence of this. However, even if I were to agree with the Council, it cannot demonstrate a 5 year HLS. Paragraph 11d) of the Framework states that in such circumstances, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. The proposal would result in a modest temporary economic benefit during design and construction, and once occupied a modest sustained benefit to the local economy. There would be a limited contribution to the vitality of rural communities, sustaining rural services and facilities consistent with the objectives of the Framework. Even if I were to consider the Council's HLS to be significantly lower, in line with the appellant's view, and it was acute, the benefit of the new dwellings to supply attracts moderate weight in favour of the scheme.
28. It is possible there might be an overall biodiversity net gain, however, there is nothing of substance to suggest this would be anything other than a small benefit overall. There is little substantive evidence in respect of the main building explaining its heritage significance and state of repair. From what I saw there is nothing to suggest it is not structurally sound and capable of a viable future use. On this basis, overall, I attribute its retention limited weight in favour of the scheme. Overall, the benefits attract moderate weight in favour of the scheme.
29. I see no reason why the development could not be designed to be made compliant with policies in respect of matters such as detailed design, access and parking, noise, construction management, archaeological considerations, arboriculture, landscaping, refuse storage, airport safety, flood risk and drainage, the living conditions of future and neighbouring occupiers, contamination, and resource and energy efficiency at the TDC stage. Compliance with these policies would be a neutral matter.
30. However, the proposal is not well located for access to services and facilities, in conflict with GEN1 and the Framework. Policy GEN1 is generally consistent with the sustainable transport policies and objectives of the Framework. Given the harm I have found this matter attracts significant weight against the scheme.
31. The development conflicts with policies for the location of new development and it would be harmful to the character and appearance of the area, in conflict with Policies S7 and S8 of the ULP, and the Framework. I have noted the findings of the Inspector for Ref APP/C1570/W/19/3242550 and the Council's

assessment of its policies against a previous version of the Framework¹. The plan was adopted when housing requirements were lower and is time expired.

32. The Council has not adequately reasoned why it considers the weight to Policy S8 should be substantial in the context of Framework policies. The blanket approach to protect all countryside and the designated CPZ area in Policies S7 and S8 respectively are not consistent with the more positive and nuanced approach of the Framework to development in rural areas, so the conflicts do not attract full weight. However, in seeking to protect and enhance the character and appearance of the area, they are consistent with the design and some countryside policies of the Framework. I attribute the conflicts with S7 and S8 moderate weight. However, the proposal also conflicts with the Framework and given the harm I have found the conflict attracts significant weight.
33. Overall, the harm from the proposal is significant and it significantly and demonstrably outweighs the benefits of the development when assessed against the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

34. The proposed development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

¹ Uttlesford Local Plan 2005 – National Planning Policy Framework Compatibility Assessment (July 2012).