



# Appeal Decision

Site visit made on 30 January 2023

**by M Chalk BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> February 2023**

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**Appeal Ref: APP/C1570/W/22/3304249**

**Ardoch House, Duck Street, Little Easton, Essex, CM6 2JG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by the McCarthy Family against the decision of Uttlesford District Council.
  - The application Ref UTT/22/1000/OP, dated 7 April 2022, was refused by notice dated 30 May 2022.
  - The development proposed is described as "outline application for the proposed erection of three detached dwellings and alterations to the existing access on land to the rear of Ardoch House (Revised scheme following determination of application UTT/21/2625/OP)."
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal seeks outline planning permission with appearance, landscaping and scale reserved for later consideration. I have accordingly treated the submitted plans as indicative with regard to these reserved matters.

## Main Issues

3. The main issues are:
  - The effect of the proposed development on the significance of the Grade II listed building Green Windows and its setting,
  - The effect on biodiversity,
  - The effect on the character and appearance of the area; and,
  - Whether the proposed development can provide safe access to the highway.

## Reasons

### *Heritage*

4. The appeal site comprises land immediately to the rear of houses on Duck Street, including Green Windows which is a Grade II listed building. Green Windows is a house dating from the 16<sup>th</sup> century or earlier, with later extensions. Its significance derives principally from its age and character, together with its relationship with the surrounding area including the land to its rear. The wider setting provides a rural context for the listed building as a worker's cottage surrounded by agricultural land.

5. Reference is made in submissions to the site having been historically used for a brickworks, but no evidence of this was visible during my visit. The site is largely a green paddock and orchard, with a shed adjacent to one boundary and a small glasshouse and the metal framework of a second structure located towards the middle of the site.
6. The layout of the development is not a reserved matter. The proposed houses would be to the rear of Green Windows, with Plot 3 immediately to its rear. The proposed houses would be prominent in the setting of the listed building and would obstruct outlook from that property into the surrounding countryside. This would be harmful to the significance of the listed building, given the contribution made by the relationship of the building to the wider area.
7. The land at present is used as a garden and orchard, and so is previously developed land in accordance with the definition given in the National Planning Policy Framework (the Framework). However, there are no substantial structures on the site comparable to 3 houses. Even allowing for appearance, landscaping and scale being reserved matters, there would be a greater visual presence from 3 houses and the associated landscaping on the site than the existing modest structures. However, as the nearest house would be set away from the shared boundary with extensive soft landscaping proposed within the appeal site the outlook from Green Windows would not be completely obstructed. This would therefore amount to less than substantial harm.
8. The Framework requires that, where a development leads to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appeal proposal would create 3 new family houses, supporting the Government's objective of significantly boosting the supply of homes. The Council acknowledges that it has a shortfall in its supply of deliverable housing land, and therefore the benefits of new housing attract additional weight. Little Easton benefits from some access to public transport, so occupiers would not be solely reliant on private cars. There would be economic benefits from the appeal proposal both during construction, and then from the ongoing occupation of the houses. Overall, these attract moderate weight in favour of the proposal, given the relatively modest scale of development.
9. The Framework requires that great weight be given to the conservation of a designated heritage asset, irrespective of whether any potential harm amounts to less than substantial harm to its significance. That great weight would, in this instance, outweigh the public benefits of the appeal proposal.
10. The appeal proposal would therefore conflict with Policy ENV2 of the Uttlesford Local Plan (the LP), which states that proposals that adversely affect the setting of a listed building will not be permitted.

### *Biodiversity*

11. Policy GEN7 of the LP states that development that would have a harmful effect on wildlife will not be permitted unless the need for the development outweighs the importance of the feature to nature conservation. LP Policy ENV8 states that, amongst other considerations, development that may adversely affect orchards will only be permitted if the need for the development outweighs the need to retain them for their importance to wild fauna and flora, and mitigation

measures are provided that would compensate for the harm and reinstate the nature conservation value of the locality.

12. The appeal site contains an orchard that is recognised as a priority habitat. This would be lost as a result of the development, replaced in part with a wildflower garden. While such a garden could provide a habitat for protected species, there is only limited information provided regarding potential benefits. It is therefore not clear that the proposals would provide an equal or better habitat. It has also not been demonstrated that the need for the development outweighs the need to retain the orchard for its importance to fauna and flora.
13. The appellant states that the development would include bat, bird and hedgehog boxes, new planting including permeable planting to support foraging and low-level lighting. However, given the loss of the orchard and the reported presence of mammals to the north of the site, it is not clear that there would be an overall biodiversity gain or neutral impact based on the evidence provided. Accordingly, the proposed development would conflict with the identified aims of LP Policies GEN7 and ENV8.

#### *Character and appearance*

14. The appeal site lies behind houses that face onto Duck Street in a linear pattern of development that is characteristic of the street. The appeal proposal would be backland development, which is supported in principle by Policy H4 of the LP. This is subject to criteria including that the land is significantly under-used, that the development would not have an overbearing effect on neighbouring properties and that access would not cause disturbance to nearby properties.
15. Policy GEN2 of the LP requires, amongst other criteria, that development be compatible with the form and layout of surrounding buildings. Policy S7 of the LP requires that development in the countryside will only be permitted if its appearance protects or enhances the particular character of that part of the countryside. The Council accepts that Policy S7 of the LP is out of date, as it also refers to the protection of the countryside for its own sake, which does not accord with the Framework. However, the aim identified above does accord with the aims of the Framework. Any conflict with Policy S7 therefore attracts moderate weight.
16. Based on the evidence before me, no definition of what amounts to significant under-use is provided in the LP. It is therefore a matter of planning judgment. The site at present is used as a garden and orchard for Ardoch House and is much greater in size than any neighbouring plot, so I am satisfied that it is significantly under-used at present.
17. I have found that the appeal proposal would be intrusive to Green Windows, but this related to its effect on its significance as a heritage asset. As the scale and appearance of the development are reserved matters, it would be within the Council's power to ensure that the development would not be overbearing to neighbouring properties.
18. The access would be to the side of the existing house, and alongside the driveway to the immediately neighbouring property, Easton House. While there would be some increase in noise from the use of the access, the disturbance

from 3 houses would be limited and could be controlled by the Council to an extent as scale is a reserved matter.

19. While there is some conflict with Policies S7 and GEN2 due to the proposed houses not according with the established pattern of development along Duck Street and the appeal site falling in the countryside outside of the village, Policy H4 does support backland development in principle. There is no conflict with the identified criteria of Policy H4, subject to the approval of details that would have fallen to be determined at reserved matters stage if I were otherwise minded to allow this appeal. Accordingly, the appeal proposal would not cause unacceptable harm to the character and appearance of the area.

#### *Access*

20. The Transport Statement provided by the appellant is based on a previous scheme submitted for this site. However, as the highways access and scale of development for 3 houses remain the same, I am satisfied that it remains reliable for the purposes of this appeal.
21. I saw during my visit that the accesses for the existing house and the neighbouring Easton House are separate. The access to the appeal site would involve widening the site entrance, but from the evidence submitted I am satisfied that this could be accommodated without conflict to the Easton House access given the width of the site frontage.
22. The existing property has a garage and a parking area to the front of the house capable of accommodating several cars. Based on the evidence before me, sufficient space would be retained for parking to the host dwelling.
23. The proposed site layout shows a refuse collection point between the existing and proposed houses. The site frontage is wide enough that, from the evidence before me, an access can be provided that would allow refuse vehicles to enter and exit the site without overrunning the verge. The tracking diagram provided for refuse vehicles within the site is for the previous scheme. However, there is sufficient space within the site that I am satisfied that larger vehicles such as refuse lorries could turn within it and not need to reverse into the highway.
24. The Council refers to a public footpath running alongside the northern boundary of the site. From the information before me, this footpath is wholly outside of the appeal site, so would not be affected by the proposed development.
25. On balance, therefore, the appeal proposal could provide safe access to the highway. It would therefore accord with Policy DM1 of the Essex County Council Development Management Policies and Policy GEN1 of the LP, which require that proposals not be detrimental to the safety of the highway network.

#### *Planning Balance*

26. The Council has a shortfall in its housing land supply, so paragraph 11d) of the Framework states that permission should be granted unless the application of its policies that protect assets of particular importance provides a clear reason for refusing the development proposed.
27. The proposed development would result in less than substantial harm to the significance of the Grade II listed Green Windows. This harm would not be outweighed by the public benefits of the development. Framework policies

relating to the conservation and enhancement of the historic environment therefore provide a clear reason for refusal. Furthermore, it is not clear that the appeal proposal would result in a neutral or positive biodiversity effect. This adds further negative weight in the determination of this appeal.

28. There are therefore no material considerations to indicate that this appeal should be determined otherwise than in accordance with the development plan.

### **Conclusion**

29. For the reasons set out above, the appeal fails.

*M Chalk*

INSPECTOR