



Appeal Decision

Site visit made on 28 February 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/C1570/W/22/3308532

Start House, Bedlars Green Road, Tilekiln Green, Great Hallingbury, Essex CM22 7TH

- 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 Jason Hector on behalf of W and J Developments Limited against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0861/FUL, dated 24 March 2022, was refused by notice dated 8 August 2022.
 - The development proposed is the erection of 2 residential dwellings on land to the rear of Start House.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area; and,
 - the living conditions of the occupiers of neighbouring properties with particular regard to; noise, vibration, fumes and light pollution.

Reasons

Character and appearance

3. The appeal site is an open parcel of land situated behind Start House. The appeal site is largely bordered by mature trees and hedgerows as well as fencing from the rear garden of Start House and other neighbouring properties. A communication tower is also located next to the site, with a trackway which leads up to it. Access to the site would be via an existing access which is a steep incline from the main road.
4. Existing houses in the area are well spaced and sporadic in a linear form along the road. Houses tend to occupy large plots which combined with the mature hedgerows and trees that line the road, give the area an open and rural character and appearance.
5. The appeal site falls outside development limits and, as such, is located within the countryside. In this regard, Policy S7 of the Uttlesford Local Plan Adopted January 2005 (LP) applies which advises development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set. Furthermore, the site is located within the

countryside protection zone (CPZ) which is designed to maintain a belt of open countryside around the airport, Policy S8 of the LP, whilst not cited in the Council's reasons for refusal, is therefore relevant as it relates to development within the CPZ, these are matters to which I will return.

6. The appeal site previously formed part of the garden of Start House and has since been separated, and as such, is considered to be previously developed land. Notwithstanding this, the land is free from any built development and therefore its open and rural nature contributes positively to the open, rural character and appearance of the area.
7. The proposal would introduce 2 dwellings on the land located to the rear of Start House, and the neighbouring house, Hill View. It would be back land development which would be at odds with the predominant linear pattern of development in the area. The main part of the site where the dwellings would be located is several metres higher than the road and existing properties. Due to the 2-storey nature of the proposed dwellings, they would be visible from the road, resulting in a prominent back land development.
8. The overall plot sizes of the proposed dwellings would be significantly smaller than those in the surrounding area. For these reasons, and in context of existing dwellings, the appeal proposal would appear cramped, eroding the open character and appearance of the area.
9. The proposal would also introduce an access drive for the dwellings to the side of Start House. Due to the site being at a higher level than the road, this would be steep and therefore prominent in the street scene. It would introduce an overly domestic and engineered feature which would further erode the rural character and appearance of the area.
10. The appellant refers to Policy S8 of the LP in support of the proposal. Policy S8 of the LP relates to development within the CPZ whereby development will not be permitted if it would adversely affect the open characteristics of the zone. For the reasons outlined, I have found that the development adversely affects the open character and appearance of the area.
11. I conclude that the proposal would result in harm to the character and appearance of the area. It would therefore be contrary to Policies S7, S8 and GEN2 of the LP, which amongst other things, seek to protect and enhance the character of the countryside and ensure development is compatible with the scale, form and layout of surrounding buildings.
12. In reaching this conclusion I note that the Council have assessed the private amenity space provided for the proposed dwellings, as well as that which would be retained for the existing dwelling, and have found that sufficient space would be provided. I have no reason on the basis of the evidence before me, to reach a different conclusion. However, this provision does not outweigh the harm that I have found to the character and appearance of the area, nor would it mitigate against the cramped appearance that the development would result in.

Living conditions

13. The proposal would be located close to neighbouring dwellings. In particular, the access would run very close to the side of Start House, as a result, vehicles leaving and entering would be noticeable for the occupiers of Start House and

could occur at any time. Start House also has a side garden, the users of which would be affected by the car movements. In particular, the proximity, vibrations, noise, and light spillage from cars entering and exiting the site would be detectable.

14. In respect of the car parking area, which is adjacent to the boundary of Hill View, cars manoeuvring within the site would be particularly noticeable due to this proximity. This would be exacerbated by the difference in ground levels, as the appeal site is at a higher level, light from vehicles manoeuvring would spill into the 1st floor windows of Hill View and also Start House.
15. In view of this, cars manoeuvring in, out and around the site would lead to unacceptable noise, vibration and light spillage particularly at night when background noise levels would be lower. The proximity of the car parking area to the boundaries of Hill View and Start House, combined with the higher ground levels, could also have the potential for fumes from manoeuvring cars to cause harm to the occupiers of these properties.
16. Policy H4 of the LP, whilst not cited in the Council's reasons for refusal, has been highlighted by the appellants. That policy concerns back land development and therefore has some relevance to this appeal particularly since it is a criteria-based policy which, amongst other things, deals with the effect of development on neighbouring properties and the effects of access. Issues which I have considered in my earlier findings. I have therefore had regard to it in reaching my decision.
17. For the above reasons, the proposal would cause harm to the living conditions of the occupiers of neighbouring properties. The proposal would therefore be contrary to Policies GEN2 and H4 of the LP, which amongst other things, seek to ensure development does not have a materially adverse effect on the reasonable occupation and enjoyment of a residential property or cause a disturbance to nearby properties.

Other Matters

18. Several planning permissions have been referred to which relate to development which has been approved within the CPZ. Furthermore, the appellant has referred to a number of planning permissions granted in order to demonstrate their densities when compared with the appeal proposal. I have been provided with some information concerning these developments but not the full details. Even so, I note that they all do not relate to back land development, instead they appear to follow the existing pattern of development in their locality making them distinctly different to the appeal proposal before me such that they do not influence my findings.
19. The appellant has provided examples of other submissions allowed on appeal or consented locally which draw comparisons with this appeal submission, where they consider layouts show dwellings that are adjacent to other dwellings and suggest this is a common feature of the vast majority of housing developments. In this particular appeal however, the Council have identified that the proposal would cause harm to the living conditions of neighbouring occupiers and I too have identified those concerns. The examples of other planning submissions provided by the appellant provide little detailed information, though I note that in respect of Old Cottage, Start House, Dunmow Road, Sunrise / Chapel End and Land to the South East of Old Elm

these do not relate to back land development and each has their own new access proposed. Consequently, they are not directly comparable with the appeal scheme such that they would lead me to a similar conclusion.

20. The appellant has also referred to two appeal decisions in support of the proposal. Land adjacent to Three Horseshoes Pub¹ is not back land development, and in that case, there is limited effect on the living conditions of neighbouring properties. In regard to Heritage Cottage², whilst this is an example of back land development, only the site plan has been provided with no car parking details. In any case, this proposal is for a single dwelling and therefore the vehicle movements, and disturbance associated with it would be significantly less.
21. The appellant has referred to a planning application on land south of Stortford Road and within the grounds of a hotel nearby. The appellant has also provided a plan of developments approved in the CPZ. However, no specific information has been provided. And I cannot be certain that the circumstances would be comparable to the appeal scheme before me.
22. I have no reason to conclude against the Council's assessment of the principle of development, in that the site is located in a sustainable location however this does not outweigh the harm I have identified.
23. I acknowledge that no technical objections were received from statutory consultees, that there is a need for housing in the district which a windfall proposal such as this could contribute to, however, these matters in themselves are not reasons to allow this appeal, not do they outweigh the harm identified.
24. I note that the Council have included Policy ENV1 within the officer report which relates to design of development within Conservation Areas. The appeal site is however not located within a Conservation Area and, as such, reference to this Policy does not appear relevant. In any case, the Council do not appear to have specifically assessed any of the proposal against this particular Policy and I have not therefore considered the appeal against that policy.

Planning Balance

25. In taking account of the compatibility assessment³, I find that Policy S7 is not wholly consistent, particularly due to its blanket approach to protecting the countryside which is not consistent with the more positive approach of the Framework. I also find that Policy S8 of the LP is not wholly consistent, due to the further blanket approach to protect all of the designated CPZ which is inconsistent with the more positive approach of the Framework. I therefore afford only moderate weight to the conflict with Policies S7 and S8.
26. Paragraph 130 of the Framework seeks to ensure development maintains a strong sense of place and is visually attractive as a result of good layout whilst also providing a high standard of amenity for neighbouring occupiers. I see no fundamental conflict between these aims of the Framework and those of

¹ APP/C1570/W/21/3266785

² APP/C1570/W/20/3259360

³ Uttlesford Local Plan 2005 - National Planning Policy Framework Compatibility Assessment July 2012 Adopted by Cabinet for Development Management Purposes September 2012

Policies GEN2 and H4 of the LP, as such the conflict between the proposal and these policies should, be given significant weight.

27. The Council have provided an updated 5-year housing land supply with the appeal which is increased from that which was relevant at the time of the application. However, in either case, the Council is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework and even if I take the appellants figure of 3.5 years that is a modest shortfall. As such, relevant policies for the supply of housing should not be considered up-to-date and paragraph 11d ii) should therefore be applied.
28. The provision of two additional dwellings would make a positive, albeit modest, contribution towards boosting housing supply in line with the Framework and in view of the shortfall I attribute this moderate weight.
29. Nonetheless, I have found that the proposal would lead to harm to the character and appearance of the area as well as harm to the living conditions of the occupiers of neighbouring dwellings. In this regard there would be conflict with Policies S7, S8, GEN2 and H4 of the LP. These harms attract significant weight against the scheme.
30. Consequently, when assessed against the policies in the Framework when taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

31. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

D Wilson

INSPECTOR