



Appeal Decision

Site visit made on 30 March 2023

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/C1570/W/22/3305506

Land adjacent to Bury Farm, Bury Chase, Felsted, Essex CM6 3DQ

- 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 P Stonham and family against the decision of Uttlesford District Council.
 - The application Ref UTT/21/1897/FUL, dated 4 June 2021, was refused by notice dated 27 June 2022.
 - The development proposed is a four bedroomed dwelling with associated landscaping and garaging.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of development set out above is taken from the application form. It differs slightly from the description in the Council's decision notice.

Main issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of nearby residents; and
 - the nature and extent of any economic and social benefits resulting from the proposals.

Reasons

The effect of the proposal on the character and appearance of the area

4. The appeal site comprises an approximately rectangular plot of land containing a hard-surfaced tennis court. To the east of the site there are two large span agricultural buildings, forming part of an equestrian complex known as Felstead Equestrian. The site is bounded on its southern side by a public footpath, beyond which there is a substantial detached house known as Bury Farm. There are open fields to the north and west. Although a boundary hedge provides a degree of screening on the western side, the land is generally open to views from the north. There are views across the appeal site from the public footpath out over open countryside.
5. The appellant argues that, whilst the site is "technically" outside the limits to built development, it is visually part of Felstead. I disagree. The appeal site is

well outside the development limits defined in the Felstead Neighbourhood Plan¹ (FNP). Bury Farm, and the extensive complex of buildings comprising Felstead Equestrian, are also outside the development limits. The site is separated from Bury Farm by the intervening footpath and dense planting along the northern boundary of that property. It has a limited visual relationship with Bury Farm and little, if any, relationship with the village of Felstead which is further to the south.

6. Notwithstanding the hard-surfaced tennis court, the appeal site is open in character. It is contiguous with open fields to the north and west. The site and its surroundings therefore have a rural character. Although there are large buildings adjoining to the east, these former agricultural buildings (now in equestrian use) form part of an essentially rural scene.
7. The proposal is for a substantial detached dwelling with a width of around 16m and a detached double garage. I would not describe the proposal as “isolated” as that term is used in paragraph 80 of the National Planning Policy Framework (the Framework) because there are other buildings in the locality. However, it would be isolated in visual terms for the reasons discussed above. Whilst it would be seen in the context of the buildings at Felstead Equestrian, it would have no visual or functional relationship with those buildings.
8. The appellant argues that the proposal should be regarded as infilling. However, to my mind it would not have that character because there is open land on two sides. Instead, it would extend built form into the countryside, creating a somewhat suburban character which would be harmful to the established rural character of the area. This would be particularly apparent in views from the public footpath, where the proposed house and garage would block views of open countryside to the north.
9. I conclude that the proposal would be harmful to the character and appearance of the area. It would conflict with Policy S7 of the Uttlesford Local Plan (ULP), which seeks to protect the countryside. It would also conflict with FNP Policy FEL/HN5 which states that residential development outside the development limits will only be supported if certain criteria are met. It is not suggested that any of the relevant criteria apply in this case. Moreover, the proposal would conflict with FNP Policy FEL/ICH1 which states that new buildings outside the development limits must not harm the landscape setting.
10. No objection has been raised to the detailed design of the proposed dwelling and I find no conflict with ULP Policy GEN2 in this respect.

The effect of the proposal on the living conditions of nearby residents

11. The Council is concerned that the traffic generated by the proposal would cause disturbance to residents within the former Bury Farm complex. Much of the complex is now occupied by Felstead Equestrian. Some buildings at the eastern side of the complex have been converted to residential use. I saw that vehicular access to the appeal site would be from the north, using the same route as Felstead Equestrian. This would not require traffic to pass through the residential part of the complex. Future residents of the appeal site would have a more direct pedestrian route to Felstead via the public footpath that adjoins

¹ As shown in Map 13 - Felstead Village Inset Map

the southern boundary of the site. However, this would not materially affect the living conditions of existing residents.

12. I conclude that there would be no harm to the living conditions of nearby residents. The proposal would not conflict with ULP Policy GEN4, which seeks to avoid disturbance to neighbouring occupiers.

The nature and extent of any economic and social benefits

13. The Council accepts that it cannot currently demonstrate the five-year supply of deliverable housing sites that is required by the Framework. Consequently, the approach to decision making set out in paragraph 11(d) of the Framework is engaged. I shall comment further on that approach in the conclusion to my decision.
14. The Council's latest housing land supply statement identifies a supply of 4.89 years. The shortfall against the requirement is therefore very small. In this context it is also relevant to note that Felstead has a neighbourhood plan which is delivering housing in the settlement on an allocated site. On the other hand, the appeal scheme would contribute just one dwelling to the supply. That would bring some economic and social benefits, albeit of limited scale.
15. Whilst I take account of the Framework's general objective of boosting the supply of housing, in the circumstances of this appeal I attach only modest weight to the contribution that the appeal scheme would make in that regard.

Other matters

16. Bury Farm Barn is a Grade II* listed building located around 60m or so from the south-east corner of the site. There would be limited intervisibility between the proposed house and the listed barn due to intervening modern agricultural buildings. There are views of the gable end of the barn along the footpath that passes the southern edge of the appeal site. The proposed garage would be visible in such views but would not affect the ability to appreciate the listed building. The Council has not suggested that there would be any harm to the significance of the barn through development in its setting. Nor does the Council identify any harm to the Felstead Conservation Area, which covers the historic core of the village and extends as far as the listed barn. I agree that the setting of the listed building would be preserved and that there would be no harm to the conservation area.
17. Effects on ecology have been assessed in the application documents. These could be managed satisfactorily through appropriate conditions.
18. The appellant argues that the site comprises previously developed land, in the terms of the Framework, on the basis that it was previously within the curtilage of the dwelling Bury Farm. Although the Framework states that significant weight should be attached to the use of suitable previously developed land within settlements, the appeal site is not within a settlement. The Framework also makes clear that it should not be assumed that the whole of the curtilage of a permanent structure will be suitable for development.

Conclusion

19. I have found that the proposal would be harmful to the character and appearance of the area and would conflict with ULP Policy S7 and FNP Policies

FEL/HN5 and FEL/ICH1. Although I have not found conflict with ULP Policies GEN2 and GEN4, I consider that the proposal would conflict with the development plan as a whole because of the significance of the policy conflicts that I have identified.

20. In view of the housing land supply position described above, these policies are to be regarded as out-of-date by virtue of paragraph 11(d) and footnote 8 of the Framework. However, it does not follow that the policies carry no weight at all. I consider that moderate weight should be attached to the conflict with the policies of the development plan that I have referred to above because they are consistent with the Framework in that they seek to protect the character and beauty of the countryside.
21. The Framework recognises the intrinsic character and beauty of the countryside and states that developments should be sympathetic to local character, including the landscape setting. The proposal would be harmful to the character and appearance of the area and would not accord with the Framework in these respects. I attach significant weight to this factor.
22. For the reasons given above, I attach only modest weight to the social and economic benefits that would flow from the appeal scheme, notwithstanding the general objective of boosting the supply of housing. I conclude that the adverse effects of granting planning permission in this case would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development set out in paragraph 11 of the Framework.
23. In conclusion, the proposal would conflict with the development plan. The application of paragraph 11 of the Framework does not provide a reason for granting planning permission contrary to the development plan. I have not identified any other factors that indicate a decision other than in accordance with the development plan. It follows that the appeal should be dismissed.

David Prentis

Inspector