



Appeal Decisions

Site visit made on 13 December 2022

by C Harding BA(Hons) PGDipTRP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal A Ref: APP/C1570/W/22/3297855

The Vale, Great Canfield Road, Takeley CM22 6SZ

- 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 & Mrs John Strutt against the decision of Uttlesford District Council.
 - The application Ref UTT/21/3299/FUL, dated 22 October 2021, was refused by notice dated 9 February 2022.
 - The development proposed is construction of single detached dwelling.
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Appeal B Ref: APP/C1570/W/22/3297857

The Vale, Great Canfield Road, Takeley CM22 6SZ

- 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 & Mrs John Strutt against the decision of Uttlesford District Council.
 - The application Ref UTT/21/3300/FUL, dated 22 October 2021, was refused by notice dated 7 February 2022.
 - The development proposed is construction of single detached dwelling.
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Decision

Appeal A

1. The appeal is allowed, and planning permission is granted for the construction of 1no. dwelling and garage at The Vale, Great Canfield Road, Takeley CM22 6SZ in accordance with the terms of the application, Ref UTT/21/3299/FUL, dated 22 October 2021, subject to the conditions in Schedule A to this decision.

Appeal B

2. The appeal is allowed, and planning permission is granted for the construction of 1no. detached dwelling and garage at The Vale, Great Canfield Road, Takeley CM22 6SZ in accordance with the terms of the application, Ref UTT/21/3300/FUL, dated 22 October 2021, subject to the conditions in the Schedule B to this decision

Preliminary Matters

3. The conjoined appeals relate to proposals by the same appellant for two sites located broadly opposite each other at The Vale, Great Canfield Road, Takeley. Both applications raise similar issues, although unlike Appeal B, Appeal A was not refused on the grounds of access to facilities and services.

4. I have amended the description of development for both appeals in my decisions to include the proposed garages, and omitted words that do not describe acts of development, in order to accurately capture the scope of the proposals. These amended descriptions of development were agreed between the parties at the point of validating the planning applications.
5. The address of the appeal sites is referred to variously within the evidence as Great Canfield Road and Canfield Road, and is identified on provided plans as Canfield Drive. However, I am satisfied that the location of the appeal sites is clear, even if the nomenclature is not. I have used Great Canfield Road in my decision, as this appears on the application form.

Main Issues

6. The main issues in both appeals are:
 - whether the appeal sites are an appropriate location for the proposals having regard to their effect on the character of the countryside, and local and national policies;
 - whether the appeal proposals would be accessible by means other than driving a car, and;
 - the effect of the proposals upon biodiversity and the natural environment.

Reasons

Location of new housing development

7. Although not specified within the reasons for refusal for Appeal A, the Council has raised concern within its evidence with regard to the location of the appeal proposals for both Appeals A and B being outside of settlement limits. I have therefore considered both appeals within this main issue.
8. The sites adjoin a narrow road which serves a number of existing dwellings, which are generally characterised as detached dwellings within expansive plots and with large gardens.
9. It is agreed that the sites lie outside of any defined settlement boundary, and they are therefore in the open countryside. Uttlesford Local Plan ('ULP') Policy S7 seeks to protect the countryside for its own sake by restricting new development to that which is required to be there or is appropriate to a rural area, and that development will also only be permitted where it protects or enhances the particular character of the countryside within which it is set.

Appeal A

10. Appeal Site A ('Site A') relates to an area of garden located to the side of The Vale. It is currently predominantly lawn, but also contains a number of trees and shrubs. The western boundary of Site A adjoins the rear boundaries of the elongated rear gardens associated with properties located further to the west.
11. Appeal A would result in a new dwelling within The Vale's garden. The existing garden at The Vale is generous and would remain so even after being subdivided. However, the proposed development would introduce additional built form into the area and in close proximity to the road.

12. At present, Site A is substantially screened by dense vegetation and a fence along the road frontage. Further substantial screening in the form of groups of trees is located immediately to the west. As a result, the proposed development subject to Appeal A, although it would require the removal of some vegetation to create a suitable means of access, would be located in a largely self-contained position, and accordingly, despite its size, would not be prominent within the streetscene.
13. Furthermore, Site A is located amongst other dwellings, and the proposal would be located within and amongst residential gardens. It would not, therefore, represent an incursion into open countryside beyond the current envelope of built development. Whilst the garden of The Vale is large and verdant, and this would be eroded to some extent as result of the proposal, there would not be an unacceptable urbanisation of the wider countryside following the development. In coming to this view, I have taken into account that the proposed development would be visible from some adjoining gardens.
14. The specific design of the proposal is not a matter of dispute between the parties, and I have been presented with no evidence that would lead me to reach a different conclusion.
15. For these reasons I consider that the proposal subject to Appeal A would not harm the character of the countryside. However, no acceptable justification has been provided to demonstrate that the appeal proposal is required to be located in the countryside. With the proposed dwelling, having regard to ULP Policy S7, also not constituting an infill scheme given that undeveloped space would remain to one side of it, neither could it be reasonably described as being appropriate to a rural area. Accordingly, the proposals conflict with ULP Saved Policy S7.

Appeal B

16. Appeal Site B ('Site B') relates to a fenced and uncultivated area of land to the north of the road and contains a variety of vegetation and groups of trees. This side of the road hosts significantly less built development than the side opposite. However, the proposal subject of Appeal B would be located immediately adjacent to a dwelling¹ which was under construction at the time of my visit.
17. At present, Site B forms part of a wider mixed area of grassland and thin woodland which separates the road from a large open field, beyond which, further to the north, lies Takeley. This stretch of land between the road and the open field provides a visual buffer and by allowing longer, filtered views, reinforces the character of the immediate area as a grouping of dwellings within the countryside. By introducing development here, Appeal B would erode this character.
18. However, the modest scale of the development, and its location adjacent to another new dwelling, would mean that it would not appear as incongruous, and it would not represent a significant incursion into the countryside. Furthermore, a substantial amount of the remaining stretch of land between the road and the field would remain and would continue to retain the existing character of the area.

¹ Planning permission UTT/17/2431/FUL

19. I therefore conclude that the proposal would cause a modest degree of harm to the character of the countryside. With no acceptable justification provided as to why the appeal proposal needs to be in the countryside and on the basis that it would also not constitute an infill scheme, neither could it be reasonably be described as being appropriate to a rural area. Accordingly, the proposal conflicts with ULP Saved Policy S7. There would also be some conflict with Paragraph 174 of the National Planning Policy Framework ('the Framework') which states that planning decisions should recognise the intrinsic character and beauty of the countryside.

Accessibility by means other than driving a car

20. In terms of accessing services and facilities, I acknowledge that although the Council has raised concern in this respect with regard to Appeal B, it did not raise such concerns with regard to Appeal A. Whilst each proposal should be considered on its merits, as both appeal sites are located in close proximity, broadly opposite each other and both appeal proposals are similar in terms of quantum of development, there is a degree of inconsistency in the Council's approach.
21. I am aware that a previous Inspector, in considering an appeal² relating to a proposal for the erection of two dwellings at a nearby site elsewhere on the road considered that Takeley offers a range of service and facilities, and that whilst the walking route to such services would be unlit and without a footway, that the observed low vehicle speeds would not be a barrier to future residents walking to such services and facilities. Although the services and facilities are somewhat limited in Takeley, I nevertheless agree with these conclusions, which are applicable to the appeals before me, and I note that both Site A and Site B are also located marginally closer to Takeley than the site to which the previous appeal related.
22. Furthermore, the evidence indicates that Takeley is served by bus services. Even if the buses are infrequent, this would nevertheless provide future occupiers with a means of accessing larger settlements and employment centres such as Bishops Stortford, Colchester and Stansted Airport, without having to rely on private vehicles.
23. Accordingly, and taking into account the Parish Council's observations, the location of both appeal sites would not lead to future occupiers having to rely solely on private vehicles to meet their day-to-day needs. Furthermore, the level of private vehicle usage generated by the appeal proposals, both separately and cumulatively would be modest. I am also mindful that the Framework sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and acknowledges the support to nearby settlements that can result from rural development.
24. For the reasons stated above, I conclude that the appeal proposals would accord with ULP Saved Policy GEN1 which states that development will be permitted, amongst criteria, where it encourages movement by means other than driving a car. The proposals would also be consistent with the relevant provisions in the Framework in relation to rural housing and promoting sustainable transport.

² APP/C1570/W/190/3238120

Biodiversity and the natural environment

25. The appellant has provided a Preliminary Ecological Appraisal³ (PEA) and a Preliminary Roost Assessment⁴ which were not available to the Council at the time it made its decision. However, these documents are now before me, and although the Council has not provided comment upon them, it has been afforded opportunity to do so. Accordingly, I consider that no party would be prejudiced by my consideration of them.
26. The PEA identifies that both sites are unlikely to be suitable for hosting protected or priority species and habitats. The Preliminary Roost Assessment identifies that no trees that would be suitable for use by roosting bats would be lost as a result of either of the developments proposed.
27. These documents have been produced by a suitably qualified individual, and I have no reason to disagree with the conclusions reached within them. Subject to the mitigation measures set out in the PEA being implemented, the proposed developments would be unlikely to harm protected species or habitats, or the natural environment with regards to on-site factors.
28. The evidence identifies that both appeal sites lie within the Impact Risk Zone of Hatfield Forest Site of Special Scientific Interest and National Nature Reserve ('the SSSI'). I have sought further views on this from the parties, as well as from Natural England (NE).
29. In determining the appeals, I have had regards to the duty imposed by Section 28G of the Wildlife and Countryside Act 1981 to take reasonable steps to further the conservation and enhancement of the features by which the site is of special scientific interest.
30. The SSSI supports an ancient forest mosaic of wood pasture, coppice, old grassland plains and wetlands, which support a variety of habitat features, notable assemblages of veteran trees, invertebrates, fungi, lichen and breeding birds. NE consider it to be arguably unique in a European context as an example of a surviving mediaeval forest. Although I understand that there are no public rights of way within the Forest, there is permissive access under the ownership of the National Trust, and is therefore subject to recreational pressures.
31. The PEA states that the proposed developments would be unlikely to have an adverse effect on the SSSI, due to the relative distance, absence of connectivity, and the location of the proposed developments within a managed residential location. There is no substantive evidence before me that would lead me to disagree with these conclusions, and NE has not raised any objections to the proposed developments.
32. For these reasons, I consider that the appeal proposals would not have an adverse effect upon biodiversity and the natural environment. They would therefore be in accordance with Saved ULP Policy GEN7 which states that development that would have a harmful effect on wildlife features will not be permitted unless the need for the development outweighs the importance of the feature, and that measures to mitigate or compensate potential impacts will be required. They would also accord with Paragraph 174 of the Framework

³ Preliminary Ecological Appraisal, Land at The Vale, Canfield Drive, Takeley, Essex, CM22 6SZ: T4 Ecology Ltd

⁴ Preliminary Roost Assessment, Land at The Vale, Canfield Drive, Takeley, Essex, CM22 6SZ: T4 Ecology Ltd

insofar as it advises that planning decisions should minimise impacts on biodiversity.

Planning Balance

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires me to determine the appeals in accordance with the development plan unless material considerations indicate otherwise. In this instance, the Council cannot demonstrate a five-year supply of deliverable housing sites. However, whilst the shortfall is not significant, Framework footnote 7 means that paragraph 11 d) ii. of the Framework should be applied.
34. The appeal proposals would accord with ULP Saved Policies GEN1 and GEN7. However, they would be located within the countryside, and in the case of Appeal B also lead to modest harm to the character of the countryside. Therefore, both proposals would conflict with ULP Saved Policy S7, as well as in the case of Appeal B, Paragraph 174 of the Framework where it advises that the intrinsic character and beauty of the countryside should be recognised.
35. The appeal sites are located within a group of other residential dwellings and close to the village of Takeley. The proposed dwellings would therefore not be isolated or conflict with Paragraph 80 of the Framework. Furthermore, the appeal sites are located such that local services and facilities could be accessed by future occupiers by a range of means.
36. The appeals would both separately and cumulatively make a positive, albeit modest, contribution towards boosting housing supply in locations with some accessibility to services and facilities. They would also result in some economic benefits during the construction phase and through local expenditure by future residents. In view of the current shortfall in housing delivery, I give these considerations moderate weight.
37. In the case of Appeal B, the proposal would also provide suitable accommodation for, and allow the support of a disabled family member. I also afford this moderate weight as a benefit of this particular proposal.
38. In addition, both proposals would incorporate energy efficiency and low carbon measures, which are further, albeit minor benefits of the proposals.
39. ULP Saved Policy S7 is not wholly consistent with Paragraph 80 of the Framework in terms of its approach to rural housing, where it is advised that exceptional circumstance should only be required in the case of proposed new dwelling in isolated locations. As a result, the weight to which I afford the conflict with ULP Saved Policy S7 is only moderate. Nevertheless, having considered all of the policies brought to my attention, the conflict with Saved Policy S7 leads me to conclude that the proposals conflict with the development plan as a whole.
40. Having regard to Paragraph 11(d) of the Framework, and taking all matters into consideration, I conclude that the adverse effects of the proposed developments, including conflict with ULP Saved Policy S7 and, in the case of Appeal B, moderate harm to the area's character and also thus some conflict with Paragraph 174 of the Framework, would not significantly and demonstrably outweigh the benefits as set out above, when assessed against the policies in the Framework taken as a whole. The proposals therefore represent sustainable development, and the Framework advises that

permission should be granted in accordance with the presumption in favour of sustainable development.

Conditions

41. I have had regard to the various planning conditions that have been suggested by the main parties. Where necessary, I have amended the conditions in order to ensure that they meet the relevant tests as set out at Paragraph 56 of the Framework.
42. In addition to the standard time limit conditions, I have attached conditions requiring adherence with the approved plans in the interests of clarity, and securing a satisfactory form of development in the interests of the character and appearance of the area.
43. I have attached conditions relating to the provision of electric vehicle charging points in the interests of addressing climate change. I have also attached conditions in relation to the implementation and maintenance of proposed landscaping in the interests of the character of the area and the wider countryside, and conditions securing the mitigation set out in the PEA in the interests of enhancing biodiversity and mitigating the effects of the development.
44. Furthermore, I have attached conditions relating to the provision of adequate visibility splays, gates to be set back from the edge of the carriageway, and provision of vehicle access and parking of an appropriate size and specification in order to allow vehicles to enter the sites, park, turn and leave without prejudice to highway safety, given the narrow nature of the road. Conditions requiring the use of bound surface treatment for the driveway are also required in order to prevent loose material being carried onto the carriageway, in the interests of highway safety.
45. However, I have not attached the Council's suggested conditions in relation to impacts upon Great Crested Newts as these would duplicate the requirements of other legislation.
46. Furthermore, I have also not attached the Council's suggested conditions relating to land contamination as there is no substantive evidence before me which would indicate that such conditions are necessary. Accordingly, these conditions would fail the relevant tests set out within the Framework.

Conclusion

47. For the reasons given above, material considerations indicate a decision should be taken other than in accordance with the development plan. Accordingly, I conclude that the appeals should be allowed, subject to conditions.

C Harding

INSPECTOR

****Schedule A - Conditions relating to Appeal A
(APP/C1570/W/22/3297855)****

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Block Plan – Location Plan – 2599 08 Rev A
Proposed Block Plan – Plot 2 - 2559 07 Rev A
Proposed Plans and Elevations – 2599 10
Proposed Garage Plans and Elevations – 2599 12
Tree Constraints and Protection Plan, The Vale – MP/TV/02 Rev A
Arboricultural Report and Impact Assessment Rev A “The Vale, Cranfield Drive, CM22 6AZ”, 28/03/22, Moore Partners Ltd.
- 3) The development hereby approved shall only be carried out in accordance with the recommendations and enhancements set out at Section 5.2 of the Preliminary Ecological Appraisal (Land at The Vale, Canfield Drive, Takeley, Essex, CM22 6SZ – September 2021, T4 Ecology).
- 4) Prior to the first occupation of the development hereby approved, a single electric vehicle charging shall be installed and be available for immediate use and thereafter retained.
- 5) Prior to the first occupation of the development hereby approved, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 35 metres, as measured from and along the nearside edge of the carriageway. The visibility splay shall thereafter be retained free of any obstruction at all times.
- 6) Prior to the first occupation of the development hereby approved, the proposed private drive shall be constructed to a width of 5.5 metres for a minimum of 6 metres from the back edge of carriageway, and shall be available for use.
- 7) The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans has been provided. The vehicle parking area and associated turning area shall thereafter be retained in this form at all times.
- 8) All planting, seeding or turfing shown on the approved plans shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) No unbound material shall be used in the surface treatment of the proposed private drive within 6 metres of the back edge of the carriageway.
- 10) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway

****End of Schedule A****

****Schedule B - Conditions relating to Appeal B
(APP/C1570/W/22/3297857)****

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Proposed Block Plan – Location Plan – 2599 09 Rev A
Proposed Block Plan – Plot 1 - 2599 06 Rev A
Proposed Plans and Elevations – 2599 11
Proposed Garage Plans and Elevations – 2599 12
Tree Constraints and Protection Plan, The Vale – MP/TV/01 Rev A
Arboricultural Report and Impact Assessment Rev A "Land opposite The Vale, Cranfield Drive, CM22 6AZ", 28/03/22, Moore Partners Ltd.
- 3) The development hereby approved shall only be carried out in accordance with the recommendations and enhancements set out at Section 5.2 of the Preliminary Ecological Appraisal (Land at The Vale, Canfield Drive, Takeley, Essex, CM22 6SZ – September 2021, T4 Ecology).
- 4) Prior to the first occupation of the development hereby approved, a single electric vehicle charging shall be installed and be available for immediate use and thereafter retained.
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- 8) All planting, seeding or turfing shown on the approved plans shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) No unbound material shall be used in the surface treatment of the proposed private drive within 6 metres of the back edge of the carriageway.
- 10) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway

****End of Schedule B****