



Appeal Decision

Site visit made on 1 September 2023

by S. Hartley BA(Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/C1570/W/23/3314576

Dunroamin, Old Mead Road, Henham, Essex CM22 6JQ

- 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 RHO Developments against the decision of Uttlesford District Council.
 - The application ref: UTT/22/1160/FUL, dated 25 April 2022, was refused by notice dated 11 November 2022.
 - The development proposed is the demolition of existing bungalows and outbuildings and the erection of 2 no. replacement dwellings, detached garages, and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of existing bungalows and outbuildings and the erection of 2 no. replacement dwellings, detached garages, and associated works on land at Dunroamin, Old Mead Road, Henham, Essex, CM22 6JQ in accordance with the terms of the application ref UTT/22/1160/FUL, dated 25 April and subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by RHO Developments against Uttlesford District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is described as the demolition of existing bungalows and outbuildings and the erection of replacement dwellings, garaging and associated works. The local planning authority (LPA) describes the proposed development as for the demolition of existing bungalows and outbuildings and the erection of 2 no. replacement dwellings, detached garages, and associated works. I have used the latter description in the determination of the appeal and in the banner heading above as it more precisely describes the proposed development.
4. The appellant considers that there are two dwellings currently on the site, and which includes the property known as 'R/O Dunroamin' or alternatively 'the Bungalow'. He has included with the appeal a Council Tax bill addressed to it for the year 2019/20 and refers to the property having 3 bedrooms, a lounge and other facilities, separate parking and a fence line separating it from the other property on the site.

5. The LPA considers that there is only one dwelling on the site and states '*a site visit showed that only one dwelling exists on the site and the other structure referred to as a dwellinghouse by the applicant is in fact a form of temporary, extended, ancillary building.*
6. I consider that there is evidence of residential use having taken place both with regard to 'Dunroamin' and also 'the Bungalow'. Given my reasoning below, it has not been necessary for me, when considering the appeal, to determine whether this constitutes two dwellings or one dwelling plus an outbuilding/annexe.

Main Issues

7. The main issues are the effect of the proposed development upon (i) the character and appearance of the area, (ii) the living conditions of the occupiers of the adjoining dwellings, particularly those known as Puddingstone House and George Cottage (also known as New Cottage) in terms of privacy, noise, and disturbance, (iii) highway safety, and (iv) the sustainability of the proposal.

Reasons

Character and appearance

8. Policy S7 of the Uttlesford Local Plan 2005 (LP) imposes strict control upon new development in the countryside. It states that '*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 or there are special reasons why the development in the form proposed needs to be there.*
9. The appeal site contains two main buildings, plus associated outbuildings, separately described as 'Dunroamin' and 'R/O Dunroamin' or 'the Bungalow'. The Bungalow is in a poor state of repair.
10. On my site visit, I was able to see considerable evidence of its residential use including kitchen units, carpets, a bathroom/w/c, curtains, a fireplace and a pavement pathway to the main entrance. It's current condition and the overgrown nature of its surroundings detract from the character and appearance of the area which is that of a linear cluster of properties which, despite the proximity of the M11 and the London to Cambridge railway line, is in a rural setting.
11. While the LPA considers that the proposed development would represent an inappropriate form of back-land development, out of keeping with the local urban grain, the site has been previously developed and I see no reason why its continuing residential use as proposed would adversely affect the character and appearance of the area.
12. The LPA makes no objection to the design and appearance of the proposed dwellings, and I have no reason to disagree.
13. Therefore, I conclude that the proposed development would accord with policy S7 of the LP in so far as it supports new development which protects the character of the area and with LP policy GEN2 which requires development to reflect the appearance and characteristics of the area.

Living conditions – privacy, noise and disturbance

14. There is evidence that both the two main properties on the appeal site have provided residential accommodation in the relatively recent past. Their use would have been accompanied by occupants and visitors coming and going in a manner which would have been likely to be similar to the appeal proposal. In my judgement, this would have been likely to have been the case whether 'the Bungalow' was a separate dwelling or an annexe.
15. While the LPA considers that the construction of two dwellings would lead to an adverse impact upon nearby residents in terms of additional noise and disturbance, I do not consider, after taking into account the past use of the premises on the site, that any such impact would be materially different. I appreciate that the construction phase might add to such noise and disturbance, but this would be for only a short period of time.
16. A third party representation has been made based on a loss of privacy by overlooking. While the proposed properties would differ from the existing buildings on the site in terms of design, their siting would not be significantly different to the existing properties, such that I consider that there would be no material or adverse additional effect on privacy when compared to the current situation. The LPA does not raise an objection based upon the loss of privacy.
17. Therefore, I conclude that the proposed development would accord with LP policies H4 and GEN2 which aim to prevent materially adverse effects of development upon neighbours through a loss of privacy or noise disturbance.

Highway safety

18. The Highway Authority, when it first considered that the existing use of the site comprised two dwellings, had no objection in principle to their replacement by two new dwellings. It was only when it was advised that the existing use was alleged to be one dwelling plus an outbuilding that it objected to the proposed development.
19. However, on the submissions before me, I consider that there is evidence of residential use having taken place both regarding 'Dunroamin' and also 'the Bungalow', whether this be in the form of one dwelling plus an annexe, or as two separate dwellings.
20. I saw on my site visit that the access to the appeal site is narrow with few, if any passing places, and with less than ideal sight lines. However, taking into account the previous residential use of the appeal site, even if the existing site had been confined to one dwelling only and with an annexe, given the very low traffic speeds likely along the access, I do not consider that its increased use by one additional dwelling would result in an unacceptable impact upon highway safety. Reference has been made by third parties to the restrictions of the access for larger vehicles, but the access is already used by existing property occupiers.
21. Therefore, I conclude that, in this instance, the proposed development would not conflict with LP policy GEN1 and paragraphs 110 and 112 of the National Planning Policy Framework 2023 (the Framework) which aim to ensure that development has suitable access which does not compromise highway safety.

Sustainability

22. The Framework states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways - economic, social and environmental.
23. The proposal would bring obvious economic benefits during the construction period of the development, creating work for builders and construction related workers. The Framework also establishes that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and where there are groups of smaller settlements, development in one village may support services in a village nearby. Given the distribution of settlements in the area, future occupants of the proposed development would contribute positively to the vitality of its nearby rural communities by using the various services and facilities available.
24. The proposal if, as the LPA alleges would lead to an additional residential unit, this would contribute towards boosting housing supply and is therefore a benefit in this regard. This would be in the context that the LPA cannot demonstrate a five year supply of housing sites and the engagement of paragraph 11(d) of the Framework. However, this benefit can only be afforded limited weight due to the scale of the proposal. However, it does further contribute to the significant weight that I have attributed to the social and economic benefits described above.
25. The proposal would also make a positive contribution in terms of environmental matters in that it would lead to an enhancement of the somewhat run down and neglected appearance of much of the previously developed land.
26. For access to services and facilities, future occupiers would be largely reliant on the private motor vehicle, though on my site visit I was able to see that Old Mead Road is on a bus route. However, I have no information before me as to the frequency of the service or the location of bus stops, if buses are not stopped by passengers along the route at any point.
27. The generally level topography would assist in cycling to facilities and the nearby railway station is approximately a mile away, giving public access via the London to Cambridge line and where the station has a large car park. In addition, any concern regarding this aspect of sustainability is limited by the present residential use attributable to the appeal site.
28. Moreover, paragraph 105 of the Framework advises that, while significant development should be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes, *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*.
29. When taking account of all such factors, I consider that, on balance, the appeal site would comply with the sustainability objectives of the Framework. Reliance on the private car would not be likely on all occasions as there would also be access to sustainable modes of transport, in the context of the site's rural location.

Conditions

30. I have taken as my starting point the conditions proposed by the LPA.
31. I have imposed the standard time condition and a condition to ensure the development is in accordance with the approved plans in the interests of certainty. In the interests of good design, it is necessary to impose a condition relating to landscaping and the external use of materials. It is necessary to include a condition regarding parking in the interests of avoiding on-road parking and highway safety.
32. I have also imposed conditions relating to biodiversity and ecology, including lighting, in the interests of enhancing and protecting conditions for protected and other species.
33. On my site visit I was able to assess the site in relation to potential noise from road and rail traffic. The site is in a tranquil area, at some distance from such noise sources, such that I do not consider it necessary to impose a noise condition relating to them.
34. Notwithstanding the previous and current use of the site, I have thought it necessary to include a condition relating to contamination, in the interests of the health and safety of the future occupants.
35. It is not necessary to include a condition for the provision of electric charging points as this is a matter adequately dealt with under the Building Regulations. For the same reason, I have not considered it necessary to include a condition, as suggested by the LPA, to limit the consumption of wholesome water as this is adequately covered by separate legislation.
36. Paragraph 54 of the Framework states that '*planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so*'. As I consider there is no such clear justification, I have not imposed such a condition.

Planning Balance and Conclusion

37. I have concluded that the proposal would enhance the character and appearance of the area and is in a sustainable location. It would not cause substantial or adverse harm to the living conditions of adjoining residents in terms of noise, general disturbance or privacy, and unacceptable harm would not be caused to highway safety compared to the current circumstances.
38. I conclude that for the above reasons, the appeal should be allowed.

S. Hartley

INSPECTOR

Schedule of Conditions

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;

220200 PL 001

220200 PL 002

220200 PL 003

220200 PL 004

220200 PL 005

220200 PL 006

3. Prior to above ground development, details of the external materials to be used in the construction of the development hereby permitted shall be submitted to, and approved in writing by, the local planning authority. The development shall proceed in accordance with the approved details.

4. Prior to the erection of the development hereby approved (not including footings and foundations) full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-

i. proposed finished levels or contours;

ii. means of enclosure;

iii. car parking layouts;

iv. hard surfacing materials;

v. soft landscape works including planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

5. Prior to first occupation, a Biodiversity Enhancement Strategy for protected and priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following: a) purpose and conservation objectives for the proposed enhancement measures; b) detailed designs to achieve stated objectives; c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where applicable); d) details of initial aftercare and long-term maintenance (where applicable). The works shall be implemented in accordance with the approved details prior to occupation and shall be retained in that manner thereafter.

6. 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 be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the local planning authority.

7. All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal Incorporating Bat Survey Inspection (T4 Ecology Ltd., May 2021) as already submitted with the planning

application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

8. A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal incorporating Bat Survey Inspection (T4 Ecology Ltd, May 2021), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

9. A lighting design scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting plans, drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

10. If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the local planning authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the local planning authority to ensure that the site is made suitable for its end use.