



Appeal Decision

Site visit made on 13 December 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2023

Appeal Ref: APP/C1570/W/22/3312246

Land adjacent to The Willow Tree, Bedlars Green Road, Tilekiln Green, Great Hallingbury CM22 7TQ

- 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 and Mrs Trevor Mills against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0865/FUL, dated 25 March 2022, was refused by notice dated 1 June 2022.
 - The development proposed is erection of one dwelling with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework ('the Framework') was revised in December 2023. The content of the Framework has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties.

Main Issues

3. The main issues are:
 - whether the proposed development is in a suitable location for housing, having particular regard to access to facilities and services;
 - the effect of the proposed development on the character and appearance of the countryside;
 - the effect of the proposed development on the living conditions of its future occupiers, with particular regard to aircraft disturbance; and
 - the effect of the proposed development on highway safety, with particular regard to the provision of adequate visibility splays.

Reasons

Suitable Location for Housing

4. The appeal site comprises a part of a larger open field alongside Tilekiln Green, and incorporates an access drive across the field off an existing driveway. The proposal is for a detached 'shortened L' shape dwelling. It would be opposite a hotel and adjacent to a converted barn also forming part of the hotel. Two dwellings lie to the other side of the field.

5. Policy S7 of the Uttlesford Local Plan (LP) (2005) identifies that the site lies in an area of the countryside. There is consensus from recent appeal decisions that the subsequent first 2 elements of Policy S7 are not consistent with the Framework. These relate to protecting the countryside for its own sake, and restricting development only to that needed or appropriate to the countryside, whereas the Framework at paragraph 180 instead requires recognition to be given to the countryside's intrinsic character and beauty. Although as a unit of market housing I find that the proposal would conflict with S7, this conflict therefore carries very limited weight. I address the third element of Policy S7 below as it relates to character and appearance.
6. The nearest shop is very small, forming part of a petrol station 500m away, alongside the nearest bus stops. This is beyond the optimum distance, and Tilekiln Green is an unlit rural road, with stretches of narrow verges and predominantly with no footway. As such, this route would be unsafe and unattractive for pedestrians and relatively so for cyclists and electrically powered scooters, especially in darker or wetter conditions. Other shops and services are significantly further away also via rural roads. Given this distance, and the lack of safe routes or easy access to public transport, the proposed dwelling's future occupants would be heavily reliant upon the private car.
7. Overall therefore, the proposal would not be in a suitable location for housing due to the poor access to facilities and services. It would conflict with the LP Policy GEN1 whereby development will only be permitted where it encourages movement by means other than driving a car. It would similarly conflict with the Framework with regards to the sustainable development objectives in paragraph 8, and with paragraphs 108(c) and 114(a) whereby developments should promote the use of sustainable transport modes including walking, cycling and public transport use. The proposal would also conflict with the LP Policy S7, albeit I give this only very limited weight.

Character and Appearance

8. The site lies within a Countryside Protection Zone (CPZ) designated by the LP Policy S8, which provides additional protection around Stanstead Airport. The proposal complies with the first part of S8, in not promoting coalescence between the airport and existing development in the surrounding countryside. The second part of Policy S8 requires there to be no adverse effect on the CPZ's open characteristics. The third element of the LP Policy S7 similarly requires the appearance of development to protect or enhance the particular character of the part of the countryside within which it is set. Several recent appeals within the District have confirmed that this approach is generally consistent with the guidance within the Framework paragraph 180.
9. The local character around the site is distinctly rural, with a strong impression of an open countryside setting despite the cluster of built form. The hotel opposite the site is a large and relatively imposing building with a strong street presence. Its annex also lies to the site's south. This forms a simple rectangular building, single storey but with a somewhat substantial bulk due to its steep roof, plus a larger 2 storey farmhouse style building across a courtyard.
10. As such, the dwelling's built form would have a somewhat cohesive relationship with these existing buildings, with a bulk and massing which would not be incongruous in isolation, as well as appropriate materials. However, the site is

wide open on 2 sides and at a slightly higher elevation than the road and the hotel, as well as being on the bend. The proposal would thus be relatively visible from various points along Tilekiln Green and from the hotel, and would be prominent within the open countryside character.

11. The LP contains no specific infilling policy relevant to this location. This is therefore a matter of both fact and planning judgement, and I find the site is not a small gap within built development, but forms part of a wide open field. The dwelling would sit behind some existing trees, and further landscaping could be introduced, but this would not be sufficient to assimilate it within the wider open countryside.
12. Furthermore, there would be an urbanising effect beyond the dwelling's built form, including domestic paraphernalia and parked vehicles, boundary treatment, and a long access drive extending across an open field. The cumulative effect would be so intensive and prominent so as to harmfully affect the open character of this part of the countryside.
13. The development of isolated homes in the countryside is supported by the Framework Paragraph 84 in certain circumstances, including if the design is of exceptional quality, truly outstanding, and reflects the highest standards in architecture. While implicitly referenced, the appellants do not directly promote the proposal as a Paragraph 84 exception, and I find no compelling evidence of outstanding design has been presented in this regard.
14. Overall therefore, the proposal would cause harm to the character and appearance of the countryside, and would thus conflict with the relevant parts of the LP policies S7 and S8 to which I give full weight as described above. It would also conflict with the Framework paragraph 135 in not being suitably sympathetic to local character including the surrounding landscape setting, and paragraph 180 relating to conserving and enhancing the natural environment.

Living Conditions

15. The site lies directly under the flight path of the Stanstead Airport runway. The Council accepts that the proposed dwelling's internal noise levels would meet the national and local guideline standards, based on the building facade sound insulation and ventilation mitigation measures proposed in the technical noise evidence. I see no reason to conclude differently, as suitable conditions could be imposed to ensure this provision.
16. However, the main parties agree that the external area would be subject to noise levels above the BS 8233 guideline level, for a significant portion of the day. Numerous planes landed during my site visit, and their proximity and immediacy directly overhead caused significant disturbance. Although noise annoyance is subjective, noise above the guideline levels marks the onset of significant community annoyance in the Government's Aviation Policy Framework (APF) (2013), which would include the dwelling's future occupiers. Although they would be aware in advance of the site's noisy external environment, plus a noisy garden would be better than no garden, harmful living conditions should not be available as an acceptable choice.
17. There are no practical mitigation measures which could sufficiently reduce the aircraft noise within the garden. Potential design elements such as conservatories and glass box extensions may provide the feeling of being

outside while provide refuge from aircraft noise, but would not provide the equivalent experience. Children especially require access to useable outdoor play space, and may be expected to be likely future occupants of a 3 bedroom house. Moreover, the submitted plans do not show such design elements, which would also have a resulting impact on character.

18. The appellants' suggestion of precedents from the 8 most recently approvals of nearby dwelling sites, contrasts to some extent with the Council's examples of schemes refused due to aircraft noise. In any event, the appeal site's location in almost direct alignment with the runway is such that the majority of planes would be at close range almost directly above it. This is therefore a slightly different context to the comparison sites, as also experienced on my site visit. Even at site 1 as the closest, I perceived a slight reduction in noise and disturbance, in part due to the reduced proximity from the flight path not being directly overhead. I find similarly for site 2, despite the noise consultant identifying the same on-site noise levels as for the appeal site. Therefore overall, I do not find the examples to be determinative to the appeal site, which in any case is to be determined on its own merits.
19. Overall, the proposal would provide inappropriate living conditions for its future occupiers, with particular regard to aircraft disturbance. It would conflict with the LP Policies ENV10 and GEN2, which amongst other matters, require development to provide an environment which meets the reasonable needs of all potential users, and that the occupants of housing and other noise sensitive development must not experience significant noise and disturbance. It would also conflict with paragraphs 3.12 and 3.13 of the APF, which seek to limit the number of people significantly affected by aircraft noise, and to avoid significant adverse impacts on health and quality of life. It would further conflict with the Framework paragraphs 180(e) and 191, which also seek to avoid noise causing significant adverse impacts on health and quality of life.

Highway Safety

20. Tilekiln Green has a 40mph speed limit. The proposed western visibility splay is only approximately half that of the required length, and the proposed eastern splay would be even shorter, albeit both would also allow more distant partially obscured views of approaching vehicles. The use of the access for a new dwelling would therefore present a hazard for all highway users.
21. The appellants' Transport Note concludes there would be no intensification of vehicles using the site access. This is based on a fallback of the access being historically used for the stabling and grazing of 6 horses, which could be recommenced. Visits to the horses historically generated approximately 12 two-way daily movements, based on their ownership. The Council accepts that in this situation, this would be more than the up to 6 two-way daily vehicle movements generated from the appeal proposal. However, the Council identifies that there is no record of stabling/grazing being a lawful land use, and I have seen no evidence to the contrary. I therefore give this fallback only limited weight.
22. Furthermore, even if this use were lawful, it could continue alongside the appeal proposal, resulting in a more intensive use of the access overall. The appellants' suggested mitigation is the imposition of a condition for the stabling and paddock to only relate to horses owned by the owners of the associated house. However, I do not find that such a condition would meet the tests set

out in the Framework paragraph 56 and the Planning Practice Guidance. I have seen no land ownership details to give certainty that this could be enforceable. Moreover, restricting horse ownership in this way does not preclude the possibility of regular visits from other parties in relation to those horses. It would not be reasonable to impose a condition which would restrict any such vehicle movements.

23. I therefore find that the proposed dwelling would result in a more intensified use of the access point, which has relatively poor visibility below guideline standards. It would therefore cause harm to highway safety, with particular regard to inadequate provision of visibility splays. It would conflict with the LP Policy GEN1 which requires site design to not compromise road safety. It would also conflict with guidance in the Essex County Council Development Management Policies (2011), and the Framework paragraphs 114 and 115, which also seek for proposals to not have a detrimental effect on the safety of the highway network for all users.

Other Matters

24. The appellants place much emphasis on comparisons with other approved nearby sites, and consistency of decision making. With relation to character and sustainability of the countryside location, 5 sites were identified. Some elements of each site and proposal are similar to that of the appeal site, such as the composition of buildings, impact on character, or proximity to services. However, proposals are assessed in their entirety, and the circumstances for these sites were materially different.
25. For instance, example site 1 comprised 35 dwellings, which would provide more benefits than a single dwelling with regard to affordable housing, local spending, and support for local services. I find these factors sufficiently different despite its proximate location, for a different planning balance outcome to be reasonable. Two other sites are situated on previously developed land, and one is a residential garden, and also adjacent to the development limits. The built form context is also different as sites 3 and 4 are within a line of existing buildings, compared to the subject site's relationship with buildings on the other side of the road. Site 3 would have less reliance on the private car.
26. On the evidence before me I am therefore comfortable that none of the examples are so similar to the proposal before me that they are determinative. The use of the hotel to house displaced persons is also a very different context to a new build dwelling, and I also have no context for the wider circumstances surrounding the Council's decision in this regard.

Planning Balance

27. It is not in dispute that the Council is unable to demonstrate a 5 year housing land supply (5YHLS). The parties refer to a published supply of 3.52 years at the date of the application's refusal, with the Council subsequently publishing an increase to 4.89 years for the 2022-2027 period. In this situation, the Framework guidance within paragraph 11d) applies, whereby planning permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

28. I have also had regard to the 2022 Housing Delivery Test (HDT) results published in December 2023, which identifies the Council as having only a 58% delivery. This puts the Council in 'presumption' status in relation to paragraph 11d), but as this was already the case due to the lack of 5YHLS, I have not considered it necessary to return to the main parties for further comment. It is for myself as the decision maker, to determine the weight to give this level of undersupply. However, for the avoidance of doubt in this regard, I have assessed the proposal against a supply of 4.89 years, but in the context of a 'worst case scenario' of a substantial under delivery.
29. The proposal would result in one additional open market dwelling. The Framework seeks to significantly boost the supply of homes, and so additional housing is a benefit of the proposal. However, the benefits associated with the construction and occupation of a single additional dwelling would be limited. In recognising the recent low HDT result, I give each of these benefits moderate weight. There may also be modest ecological enhancements, which I give limited weight.
30. I found above that the proposal would not be in a suitable location for housing due to the lack of access to facilities and services, and would cause significant harm to the living conditions of its future occupiers due to aircraft noise, and to highway safety due to inadequate visibility splays. I give each of these areas of harm significant weight. It would also have a moderately harmful effect on the character and appearance of the countryside, which I give moderate weight. I further identified in my reasoning above the conflicts with the Framework resulting from this harm.
31. Taking the policies of the Framework as a whole, I therefore find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits in this case, even when taking a worst case scenario for housing need. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development as a material consideration outlined at paragraph 11 of the Framework.

Conclusion

32. The proposal would conflict with the development plan as a whole, including the provisions within the Framework. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR