

Appeal Decision

Site visit made on 16 January 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 5th February 2024

Appeal Ref: APP/C1570/W/23/3325053

Land to the north of Lavenir, Cambridge Road, Ugley, Essex CM22 6HT

- 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 Peter Chertnin against the decision of Uttlesford District Council.
 - The application Ref UTT/22/2037/FUL, dated 19 July 2022, was refused by notice dated 30 January 2023.
 - The development proposed is the construction of two self-contained 3-bedroom dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. On the application form, the site address is given as Lavenir. The occupier of that property objects to the use of the name Lavenir in the application. The appellant states that this was due to the system requirements of the Planning Portal. For the avoidance of doubt, the site lies between Lavenir and No 7 Smiths Cottages.

Main issues

3. Having regard to all the submissions before me, I consider that the main issues in the appeal are:
 - whether the appeal site is a suitable one for the proposed development, having regard to (i) the relevant development plan policies for the location of housing; and (ii) the site's accessibility to local facilities;
 - the effects of the development on the area's character and appearance;
 - the effects on highway safety;
 - and on the living conditions of neighbouring occupiers.

Reasons for decision

Housing location policy

4. The Uttlesford Local Plan (the ULP), adopted in January 2005, sets out the development strategy for the district. Housing and other development are to be focussed on the four largest settlements, and at three main strategic housing sites, with more minor levels of development at designated key villages and other villages. In all cases, such development is to be contained within the defined 'settlement limit' boundaries.

5. In the countryside, Policy S7 limits development generally to that which needs such a location, or is appropriate to a rural area. In addition, Policy S7 admits infilling, where this would accord with ULP paragraph 6.13. However, that paragraph refers only to infilling within settlements. In addition, paragraph 6.14 states that sensitive infilling may be acceptable within small groups of houses outside of development limits, but only where the site is close to a settlement, and where the impact on the countryside would be limited.
6. The stated aims behind Policy S7 include the protection of the countryside for its own sake. Whilst the ULP pre-dates current national policies, as expressed in the National Planning Policy Framework (the NPPF), nevertheless this particular aim seems to me broadly consistent with the advice in NPPF paragraph 180(b), that policies and decisions should recognise the countryside's intrinsic character and beauty.
7. In the present case, the appeal site comprises an unused rectangular parcel of land within a row of about eight or so existing properties. The latter comprise four terraced houses and two pairs of semi-detached, on plots ranging from about 4m to 12m in width, and between 37m to just over 60m in depth. The two new house plots now proposed would be just under 8m by 37m, and thus would be broadly commensurate with those of the existing properties. For this reason I agree that the appeal site could reasonably be considered an infill site.
8. But nevertheless, for the proposal to comply with the above ULP provisions, it would be necessary for the site either to be within a settlement, or at least to be close to one. To my mind, the appeal site fails on both of these counts. It is not disputed that the site lies well outside any of the settlement boundaries defined in the ULP. Paragraph 6.13 does appear to accept that, in some cases, the term 'settlements' could include settlements with no defined boundary, but the same paragraph also states that these are ones where no opportunities for infilling are considered to exist. Paragraph 6.14 acknowledges the possible scope within 'small groups of houses', but stops short of suggesting that such groups should be viewed as settlements in their own right. I can see nothing in the ULP that could be said to support the view that the group of existing dwellings around the appeal site should be treated as constituting a settlement. Furthermore, all of the nearest recognised settlements, Stansted Mountfitchet, Elsenham, and Quendon and Rickling, are around 2km away, or more; in the context of paragraph 6.14, the appeal site cannot realistically be described as close to any of these.
9. I note the appellant's submissions regarding the nature of the local settlement pattern, with a number of small, self-contained development clusters throughout the surrounding area. Looked at in this way, I agree that the appeal site lies within an existing cluster. However, a cluster does not amount to a settlement, nor does this override the policies of the adopted Local Plan. Consequently, none of the evidence presented changes my view that the site does not lie within or close to a settlement, for the purposes of those policies.
10. It follows from the above that the appeal proposal does not amount to the type of infilling permitted by either paragraphs 6.13 or 6.14; and in turn it also follows that it would not fall within the types of development that the plan sees as appropriate to a rural area, or needing to be located in the countryside.

11. For these reasons, I find that the proposed residential development at the appeal site would conflict with ULP Policy S7, and with the aims of the Local Plan's overall spatial strategy for the location of housing development.

Accessibility to local facilities

12. NPPF paragraphs 108 and 109 require that transport considerations are integral to planning decisions, and that patterns of growth be actively managed to enable more sustainable transport choices.
13. In the present case, the nearest day-to-day convenience shops are located at Stansted Mountfitchet or Elsenham, albeit that in both cases these are 'express'-style rather than full-size supermarkets. There are also primary schools at both of these settlements, and at Rickling Green. On the Council's figures, each of these local facilities are a minimum of 2.4 – 2.7 km from the appeal site. For most higher-order services, it is necessary to travel to Bishops Stortford or beyond. None of these details appear to be disputed. The distances involved are clearly well outside normal walking range. And in any event the nature of the route, along the fast-moving B1383, a former trunk road, through open countryside without lighting or shelter, would be a substantial deterrent to journeys either on foot or by cycle, for all but the most able and the most determined.
14. There is a bus stop adjacent to the appeal site, and others along the length of the B1383 between Quendon and Stansted Mountfitchet. There is no evidence that the bus service has been discontinued, or the stop taken out of use. But neither is there any information before me as to the frequency or the hours during which services operate, nor as to their routeing and length of journeys. On the information available, it seems likely that in this case the bus would provide a potential fall-back, for occasional use, but would not be seen by most as a convenient option for regular daily use.
15. In the absence of any other evidence, I conclude that the appeal proposal would lack good access to local services and facilities by sustainable transport modes, and would thus fail to promote a sustainable pattern of development, contrary to the aims of national planning policy.

Character and appearance

16. The proposed development would be laid out as a pair of semi-detached dwellings, of identical plan form, but 'handed' around the central axis. The main building element would comprise a 2-storey rectangular block, containing the main living rooms and two largest bedrooms, under a dual-pitched roof, with its ridge parallel to the street. To the front of this would be a further 2-storey element, containing the garages, entrance halls and third bedrooms of both properties, formed into a combined, forward-facing projection with a gabled front. At ground floor level, this forward projection would also extend further forward again, with a single-storey section housing the front part of the garages, including the up-and-over vehicle doors.
17. The Council argues that this would be an unattractive design, and I agree. The central, forward-facing gabled projection would be almost as tall as the main building, and indeed the slight difference in height would be imperceptible from ground level. The depth of this element would be greater than that of the main building. In terms of its width, the gable would take up about half of the front

elevation, leaving only two narrow sections of the main front wall visible on either side. This combination of height, width and depth would make the projecting gabled wing appear excessively bulky and badly-proportioned in relation to the main building, giving it an over-dominant, over-assertive appearance.

18. In addition, the positioning of the garage doors, set centrally and forward of both the house itself and the 2-storey gable, would add further unwanted emphasis to the forwardmost part of the building. The positioning of the windows to the kitchens and bedroom 2 above, hard up against the sides of this front projection, would add to the impression of a building bursting at its own seams. The very low roof pitches, on both the main roof and front projection, would appear incongruous in close proximity to the more conventional and traditional roof forms of the nearest surrounding properties. Overall, in my view, the result would be a poorly-composed building, to the extent that it would be conspicuous due to its bad design.
19. I note the various examples presented by the appellant, of other developments in the locality, but none of these seem to me to be a precedent for designs similar to that now proposed.
20. I appreciate that matters of design are necessarily subjective, and on any given issue, individuals may take opposing viewpoints. But nevertheless, the fact that my view on the appeal scheme aligns generally with that of the Council suggests that, on this matter at least, I am not entirely alone.
21. I agree that the appeal site, in its present undeveloped state, offers no view to the open country beyond. I also accept that, due to its containment between other built development, it contributes little to the character or appearance of the countryside. But these considerations do not outweigh the harm that would be caused by the present proposal due to its poor design.
22. In the present case, for the reasons stated, I conclude that the design now proposed would result in a development that would be incompatible with the form and layout of surrounding properties, contrary to ULP Policy GEN2 (a). It would also fail to meet the NPPF's aspirations, in paragraphs 131 and 135, to create visually attractive buildings, of high quality and beauty, which add to an area's overall quality. As such, due to its poor design, the development would cause unacceptable harm to the area's character and appearance.

Highway safety

23. Although the highway authority has withdrawn its original objection, matters of highway safety are also raised in other submissions.
24. The proposed scheme would provide one integral garage for each new property, plus a paved forecourt with one external parking space for each, and a further area intended for turning. However, the space would appear to be quite tight. Whilst turning movements are indicated for the garage, these do not appear to take account of the full swept path of both ends of the vehicle, or the restriction created by the garage door openings. In addition, no equivalent path is shown for the second parking space. It has therefore not been demonstrated that vehicles could enter and leave the site in forward gear; in my view it seems likely that reversing would be needed.

25. Speeds of up to 50mph are permitted on this section of the B1383. Even though visibility is good, and splays of 2.4 x 160 metres are said to be achievable, it seems to me that in these conditions reversing manoeuvres would be likely to cause danger. The scheme would therefore fail to achieve safe and suitable access for all users, as required by NPPF paragraph 114(b). The potential adverse effects on highway safety weigh against the development.

Effects on neighbouring occupiers' living conditions

26. The 2-storey flank wall of the new dwelling, annotated as 'house 2', would be close to the boundary of the existing property Lavenir, and would extend well beyond that property's main rear elevation. A new building of this height and depth, in such close proximity, would intrude into the angle of view from Lavenir's rear windows, especially at first floor level. To my mind, this would amount to a significant overbearing impact. In this regard I consider the occupiers' objections to be justified.
27. The new development would be to the north of Lavenir, and thus would not be likely to cause any significant loss of light. Overlooking from the side bathroom windows could be prevented by obscure glazing. And given the greater spacing on the opposite boundary, there would also be no undue impacts on No 7 Smiths Cottages.
28. But nevertheless, the overbearing impact that I have identified in relation to Lavenir would unacceptably harm the occupiers' living conditions, conflicting with ULP Policy GEN2(i), and contrary also to the advice in NPPF paragraph 135(f), which seeks to ensure a high standard of amenity for existing and future users. This adds further weight against the scheme.

Other matters

Housing supply

29. The Council acknowledges that, following the changes made to the NPPF in December 2023, it is unable to demonstrate the required 5-year supply of deliverable sites for housing development. It is also accepted that the Housing Delivery Test results for 2022 indicate a delivery rate of only 58%. Consequently, the benefit of adding two dwellings to the local housing stock carries some weight.

Wildlife and biodiversity

30. A preliminary ecological appraisal was submitted with the appeal, which identifies scope for a range of mitigation measures and enhancements. In the light of this information, the Council has withdrawn its third refusal reason, relating to lack of ecological information. In view of the evidence now available, I am satisfied that any impacts on wildlife or biodiversity could be dealt with by way of conditions.

Conclusion

31. For the reasons explained above, I have found that the proposed development would conflict with ULP Policy S7 due to its location in the countryside, and also with Policy GEN2 due to its adverse effects on the area's character and appearance, and on living conditions. The scheme therefore fails to accord with the adopted development plan. In addition, the development would fail to

promote a sustainable development pattern, due to its poor location in relation to local facilities, and it would also impact adversely upon highway safety, contrary to national policies.

32. In view of the shortfall in the local housing supply, NPPF footnote 8 and paragraph 11(d)(ii) are applicable. The development would provide two new dwellings, and in the circumstances, this benefit to the local housing stock carries significant weight. But nonetheless, in my view this benefit is clearly outweighed, significantly and demonstrably, by the several adverse impacts that I have identified.
33. I have taken account of all the other matters raised, but none changes this conclusion. The appeal is therefore dismissed.

J Felgate

INSPECTOR