



Appeal Decision

Site visit made on 26 January 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/C1570/W/23/3317647

Levetts House, Bardfield Road, Thaxted CM6 2LR

- 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 Burns against the decision of Uttlesford District Council.
 - The application Ref UTT/21/3262/FUL, dated 1 November 2021, was refused by notice dated 30 December 2022.
 - The development proposed is described as Erection of 4 dwellings and associated work.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The 2022 Housing Delivery Test (HDT) results and the revised National Planning Policy Framework (2023) (the Framework) were published on 19 and 20 December 2023. I have given the Council and Appellant the opportunity to comment upon these and taken comments into account in determining this appeal. The references and numbering below reflects the revised Framework.
3. The Council's fourth reason for refusal refers to the social benefits of the proposal not outweighing the alleged harmful effects having regard to Framework paragraphs 8 and 11, and its appeal statement refers to other aspects of sustainable development. Such matters are to be considered in undertaking an overall planning balance, so I have considered these in my overall balancing exercise and not as a main issue.

Main Issues

4. The main issues are:
 - the effect of the proposal upon highway safety;
 - the effect of the proposal upon the character and appearance of the area; and,
 - whether or not the proposal would provide for a suitable mix of housing.

Reasons

Highway safety

5. The proposal would access the public highway via a section of privately owned access road. That access point would be onto a section of Bardfield Road with

- a 40mph speed limit. The access can clearly meet the 2.4m x 120m visibility splay standard to the west. However, to the east it is confined by a tall hedge and fence, resulting in an approximately 2.4m x 12m visibility splay, and very short sight stopping distance. Its use would give little reaction time if action were needed to avoid incidents and potential harm to highway users.
6. The existing lawful use of the appeal site land is a private garden¹ with few if any movements associated with it. Though the numbers are relatively limited, the provision of a development that it has been estimated may generate up to 32 additional movements, would significantly increase the use of the access with a very narrow visibility splay for viewing vehicles travelling on what appears a well-used route into Thaxted. Therefore, the proposed development has the potential to be significantly prejudicial to highway safety.
 7. My visit can only represent a brief snapshot in time, during which I could see the access is close to the 30mph signpost, but the approach is one with good width and forward visibility. I observed a steady flow of vehicles travelling past the access point at some speed, though this cannot provide conclusive evidence of regular vehicle speeds and flows. However, without an up-to-date speed or volume survey before me, there is no substantive detail of vehicle speeds or numbers. Therefore, my assessment should be based upon the 40mph speed limit, for which the design standards in the DRMB² should be applied. As a main route into a sizeable settlement with many services and facilities, it is not substantiated the route can be considered lightly trafficked.
 8. There are some dwelling accesses into the 40mph zone, although many appeared of a reasonable width and were bound by lower treatments. The access point was previously utilised by a business that was estimated could generate approximately 100 vehicle movements including at least 32 HGV movements, with no evidence of safety problems or recorded accidents. However, the use on that site no longer exists and is replaced by dwellings it is estimated would generate approximately 56 movements. The typical split of movements east-west from the previous use are not clear, neither is the full detail of non-car movements. Based upon the submitted evidence, the previous use and operation of the highway attracts moderate weight.
 9. The appellant advances that following extensive research MfS2³ found there is no correlation between reduced visibility and the number of accident collisions⁴. This doesn't appear to account for damage only collisions. It is also my understanding that MfS2 advice in respect of sight stopping distances is for where speeds are less than 40mph, and its reference to research of reduced visibility distance was in relation to high-risk urban sites. It has not been demonstrated speeds are less than 40mph and the access cannot be considered to be within an urban area. These factors advanced attract limited weight and MfS2 advice cited does not justify allowing the scheme using such a considerable reduction in visibility splay as proposed.
 10. The Highway Authority (HA) informs me a balanced view was taken in its response to other applications⁵ using the same access point. These have been in-part, based upon reducing trips using the substandard access subject of this

¹ Ref. UTT/22/1197/CLE.

² Design Manual for Roads and Bridges.

³ Paragraph 10.4.2 of Manual for Streets 2 (2010).

⁴ Page 3 of the Appeal Statement (Highways) by Bancroft Consulting (February 2023).

⁵ Ref. UTT/20/2624/FUL and UTT/22/1307/FUL.

appeal. This appeal proposal would significantly diminish the previous benefit which was understood to have in-part justified permitting that scheme to the north. The absence of objection by the HA to a refused scheme on a TNP allocation west of the appeal site⁶, I understand, was based upon a comparable or reduced number of vehicle movements to the permitted use. Therefore, the circumstances are not directly comparable to this appeal scheme, and do not justify allowing an increase in vehicle movements using a considerably below standard splay.

11. The first part of the Council's reason for refusal is in respect of the absence of direct access to the public highway. The land between the site access and the public highway access point is not within the appeal site and it is not expressly stated a right of access would exist for the new dwellings. Even if it does or would exist, no substantive evidence is provided there is any prospect of a sufficient interest being achieved that would permit works to improve the public highway access point junction layout. For this reason, I cannot conclude that conditions would meet the test of being reasonable, and therefore that it would be reasonably possible for planning conditions to mitigate or address the harm.
12. Therefore, for the reasons set out above, it has not been demonstrated that the proposed development would not be significantly prejudicial to highway safety. It conflicts with the aims of Policy GEN1 of the Uttlesford Local Plan (2005) (the ULP) which expects that development will only be permitted if the access is capable of carrying the traffic generated by the development safely, the design must not compromise road safety and must take account the needs of all users. It would conflict with the aims of paragraph 115 of the Framework which expects that development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
13. Given that there is no direct connection to the public highway, the visibility splays are not in accordance with the DRMB, and no means of cost-effective mitigation are advanced, the scheme would also conflict with the aims of paragraph 114 b), c) and d) of the Framework. These expect it is ensured safe and suitable access is achieved to developments, the design of transport elements reflect national guidance, and any significant impacts from a development upon highway safety can be cost effectively mitigated to an acceptable degree.
14. The Council has referred to what is now paragraph 126 of the Framework in its second reason for refusal. As it relates to allocated land in development plans, it does not appear directly relevant to highway safety.

Character and appearance

15. Though it includes part of a garage and driveway, much of appeal site is given over to lawn, within the countryside outside Thaxted. It is between rows or groups of dwellings due east and west, adjoins open land to its north, scrubland to its south, beyond which is Bardfield Road, and a construction site associated with a number of new dwellings. Even once these are complete the character and appearance of the area would be one of rows and groups of dwellings within a wider largely rural and open setting.

⁶ Ref. UTT/22/1579/FUL.

16. The appeal site might constitute previously developed land, could be further domesticated with paraphernalia and is viewed in semi-rural immediate surrounds. However, by virtue of its open verdant appearance, it makes a positive contribution to the character and appearance of the area, primarily visible from the open land to the north. I am informed outbuildings could be erected under permitted development rights⁷, but there are no plans before me of such buildings or a stated intention they would be erected were the appeal to fail. Therefore, I attribute that matter limited weight in my assessment.
17. Though located within an Area of Sensitive Rural Setting in the Thaxted Neighbourhood Plan (2019) (the TNP), it is not identified as forming a key view⁸ and as having a low-medium capacity for change. The Council does not appear to dispute the proposal could be considered to gain some support in principle from Policy TX LSC4 of the TNP. The views of the inspector in an unrelated scheme are not determinative⁹, but this appeal scheme would effectively infill between the linear development visible either side of it. However, that policy also requires that development should have regard to the character and appearance of the landscape.
18. I am mindful that land to the south is allocated as a rural exception site, so may well be developed in the future, although there is no detailed scheme before me for that site. Given the existing visibility and backdrop soon to result from dwellings under construction opposite, development of the frontage TNP allocation might not significantly change the visual context of the appeal site. From various vantage points the appeal scheme would be viewed in the context of the other dwellings off Bardfield Road.
19. Nevertheless, the provision of what are large dwellings, garages, hardstanding areas, associated parking, subdivision, enclosure, paraphernalia and activity would significantly urbanise the site and clearly erode its current contribution to the character and appearance of the area. However, given its surrounding context and the scope for a high-quality landscape scheme, the harm to the character and appearance of the area, including the countryside and landscape, would be relatively limited.
20. There is a mix of dwellings nearby with groups of similar characteristics. Those closest to the east being of 1.5 storeys and varying building lines, the host dwelling, Levetts Great Barn and those immediately west are of differing styles with some informality to their layout. However, the appeal scheme would also be partly viewed with the more rhythmic and consistent layout and appearance of dwellings further west. The plans suggest those under construction opposite would also have a consistent and formalised layout and appearance. For these reasons the consistent or formal layout would not be strident or harmful.
21. The scale and proportions of Levetts House, Levetts Great Barn, and the dwelling to the east are quite large. Though they are closest to the appeal site, the wider and prevailing visual context as a whole, is and would be, of relatively modestly scaled, simple and traditionally styled dwellings. In this context and regard the appeal dwellings would appear relatively deep and large, and at odds with the prevailing character and appearance of the area.

⁷ Class E of Part 1 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).

⁸ Maps 7 and 8 of the Thaxted Neighbourhood Plan (2019).

⁹ Ref. APP/C1570/W/19/3241822.

22. The new dwellings would integrate many materials and features reflective of existing and proposed buildings, sizeable ground floor rear glazing would not be an uncommon feature, and they would be setback from Bardfield Road. However, the large proportion and the shape of the first-floor glazed gable, would still be visible as a stark and strident feature. The approved schemes to the south¹⁰ do not integrate as extensive glazing or such features at first floor level, and I could not see such first-floor features on Levetts Great Barn. Given its scale and prominence, it would appear unlikely conditions could be imposed to address this feature within the scope of this appeal scheme. Even if this were the case, it could not address or mitigate all harmful effects from the appeal scheme.
23. The harm from the development would be visible from the landscape to the north and to a more limited and filtered degree, from parts of Bardfield Road and some properties to the east.
24. For the reasons set out above, the proposed development would be harmful to the character and appearance of the area. It would conflict with Policies S7 and GEN2 of the ULP and Policy TX HD10 of the TNP. In combination and amongst other things these policies require the countryside is protected for its own sake, proposals should protect or enhance the character and appearance of the area, must recognise and be compatible with the scale and appearance of surrounding buildings. It would also conflict with paragraphs 135c) and 180b) of the Framework which expect decisions to recognise the intrinsic character and beauty of the countryside and schemes be sympathetic to local character including the surrounding built environment and landscape setting.

Housing mix

25. Policy H10 of the ULP requires a significant proportion of 2 and 3-bedroom homes. The more recently prepared Policy TX HD2 of the TNP states that proposals shall be supported which meet the need for a housing mix including a significant proportion of 1- and 2-bedroom properties and single storey dwellings which accommodate the needs of the elderly. It is informed by responses to a housing needs survey from July 2016 to which 68% showed a need for 1- or 2-bedroom dwellings, with the remainder being for 3 (25%) or 4 bedrooms. The policy pre-text also refers to anecdotal experience from a local estate agent suggesting 2 and 3-bedroom homes were in demand.
26. As it does not refer to a minimum size of the development, Policy TX HD2 applies to this scheme. As a proposal for 3-bedroom dwellings, it does not include a significant proportion of 1- or 2-bedroom dwellings. Therefore, having regard to the policies of the development plan as a whole, the proposal would not secure a suitable housing mix, in conflict with Policy TX HD2 of the TNP, the relevant provisions of which I have set out above.

Planning Balance

27. Paragraph 8 of the Framework lists the social, economic and environmental objectives of sustainable development. The proposal would result in a limited temporary economic benefit during design and construction. Given their relatively accessible location, once complete the appeal scheme would be likely

¹⁰ APP/C1570/W/20/3265617 and UTT/17/3571/FUL.

to result in a limited on-going spend in the local economy, support the vitality of local communities and local services and facilities.

28. On 1 April 2023 the Council was of the view it could demonstrate an approximately 5.14-year housing land supply (HLS) based upon a 5% buffer. However, the latest HDT results indicate a 58% delivery, so the buffer should be 20% and delivery can be said to be low. In accordance with paragraph 11d) of the Framework, the most important policies for determining the application are considered out of date, and the tilted balance applies.
29. Though they are not of the specific mix sought by Policy TX HD2 of the TNP, the evidence suggests there is still likely to be some local need for 3-bedroom homes¹¹. Noting Framework policies for housing delivery, including that small to medium sized sites can be built out relatively quickly, though numerically small the provision of 4 dwellings to supply would be a moderate benefit.
30. Additional landscaping could provide some overall minor enhancements. Having regard to its existing relatively limited value, its surrounds, the measures indicated, and the potential long-term maintenance and management this appeal scheme could result in a comparatively significant gain to biodiversity. Noting the scope of areas and elements within the new development and the Council's suggested planning conditions, the likely net gain in the longer term is one that attracts moderate weight in favour of the scheme. Through a suitably designed scheme secured by planning conditions there might be the potential for a small overall benefit in respect of drainage.
31. A finding that the proposed development is, or subject to the imposition of suitably worded planning conditions could be compliant with, policies in respect of matters such as the living conditions of neighbouring and future occupiers, heritage assets, protected species, accessibility, parking, refuse storage and collection, renewable energy, resource and energy efficiency, would be neutral matters in the balance. That there is no conflict with Policy TX LSC1 of the TNP specifically referred to in the Council's decision notice, and support from Policy TX LSC4 of the TNP, could also be considered as neutral matters.
32. Framework paragraph 14 advises the adverse impact of allowing schemes that conflict with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the plan became part of the development plan 5 years or less before the decision is made, and it contains policies and allocations to meet its identified housing requirement. However, this is indicative, and the overall balance is a matter of judgement.
33. The proposed development has the potential to be significantly prejudicial and harmful to highway safety. Given the nature of the potential harm and policy conflicts, this is a matter that attracts significant weight against the appeal scheme. The scheme would not provide the dwelling sizes sought by Policy TX HD2 of the TNP and am provided with little up-to-date evidence on the delivery of those dwelling types. I see no reason the appeal dwellings could not be adapted to meet the needs of an ageing population, and the TNP states the need for 3-bedroom homes is greater than that of 1-bedroom homes. For these reasons, I attribute the conflict with the policy only moderate weight against the appeal scheme.

¹¹ 6.5.2, 6.5.3 and Figure 18 of the TNP.

34. The proposal would result in harm to the character and appearance of the area, in conflict with policies of the development plan and the Framework. I am provided with appeal decision letters¹² and Council decisions¹³ considering to the weight to be attached to conflicts with Policy S7 of the ULP. These are made for different schemes and sites in the context of different merits, effects, HLS positions and evidence. I have considered this appeal scheme upon its own merits based upon the evidence that is before me.
35. ULP settlement boundaries are over 18 years old and based upon old housing needs. A new local plan is some way off and the Council will be reliant upon windfall sites and some countryside development to meet housing needs. The approach to protect all countryside and strictly control new development in Policy S7 is not compliant with the more positive and flexible approach of the Framework. However, in recognising the intrinsic character and beauty of the countryside and seeking to protect and enhance the character of the area it is consistent with some Framework policies. Based upon the evidence before me the conflict with S7 attracts limited weight overall. However, the development also conflicts with the TNP and Framework in this regard. Overall, the harm I have found attracts moderate weight against the scheme.
36. Overall, the policy conflicts and harm from the proposed development are such that these significantly and demonstrably outweigh the benefits of the development, when considered against the policies of the Framework as a whole. Therefore, the appeal should not succeed.

Conclusion

37. The proposed development conflicts with the development plan taken as a whole. There are no material considerations, including the policies of the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

¹² APP/C1570/W/16/3166101; APP/C1570/W/19/3226302; APP/C1570/W/20/3256109; APP/C1570/W/19/3230897; APP/C1570/W/20/3265617.

¹³ UTT/17/3571/FUL; UTT/16/1830/OP.