



Appeal Decision

Site visit made on 30 October 2023

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/C1570/W/23/3320613

Happy Days, Chapel End, Broxted, Essex CM6 2BW

- 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 Castle Lane Securities Limited against the decision of Uttlesford District Council.
- The application Ref UTT/22/2927/FUL, dated 25 October 2022, was refused by notice dated 20 December 2022.
- The development proposed is the erection of 2 No. Detached Dwellings with Associated Hard and Soft Landscaping and Alterations.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No. Detached Dwellings with Associated Hard and Soft Landscaping and Alterations at Happy Days, Chapel End, Broxted, Essex CM6 2BW in accordance with the terms of the application, Ref UTT/22/2927/FUL, dated 25 October 2022, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are:
 - whether the site is a suitable location for the proposed development having regard to the development strategy and accessibility of services and facilities; and
 - the effect of the proposal on the character and appearance of the area, including nearby non-designated heritage assets.

Reasons

Location

3. The appeal site comprises land surrounding the property known as 'Happy Days' and its associated grounds. The proposal seeks permission to erect one dwelling to the north-east of Happy Days and a second dwelling to the south-west, between the adjacent Chapel and Poppy's Cottage. Poppy's Cottage is a non-designated heritage asset on the local list. An earlier scheme for three dwellings was dismissed at appeal¹ and this proposal seeks to overcome the previous Inspector's decision.
4. The site remains within the Countryside Protection Zone (CPZ) as defined by Policy S8 of the Uttlesford Local Plan 2005 (ULP). Development is strictly controlled within the CPZ and Policy S8 states that planning permission will

¹ APP/C1570/W/21/3285755

only be granted for development that is required to be there, or is appropriate to a rural area.

5. The Council has undertaken an assessment of saved policies of the ULP against the Framework and concluded that it does not provide any specific policy guidance or restriction in respect of the approach taken in Policy S8. The Council has indicated that the proposed development has not demonstrated the need for it to be located in the CPZ that Policy S8 requires. However, Policy S8 does not provide any guidance as to what forms of development may be acceptable in the CPZ. The NPPF does not recognise blanket requirements for development proposals to provide justification, and as such, this requirement would not be consistent with the Framework.
6. The appellant has not provided specific justification for the proposal, other than contributing to the supply of housing. However, this general justification would be insufficient and not accord with the policy in this regard. Policy S8 also states that development will not be permitted if new buildings or uses would promote coalescence between the airport and existing development in the surrounding countryside, and that development would adversely affect the open characteristics of the zone.
7. The CPZ Protection Zone study (2016) assessed the performance of the separate parcels within the CPZ against the CPZ's purposes. Despite having a generally high contribution to the protection of the CPZ, the study recognises that the parcel within which the site is located plays a limited role in protecting the rural settlement pattern of Mole Hill Green and Chapel End in preventing coalescence with the airport.
8. The proposal is for two detached dwellings within the frontage of the site. Plot 1 would be positioned adjacent to Ebenezer Chapel and would partially infill the gap with Poppy's Cottage whilst Plot 2 would be adjacent to 'Happy Days'. Given the positions of the proposed dwellings relative to the airport, the proposal would not result in coalescence between the airport and existing development in the surrounding countryside that point a) of Policy S8 seeks to avoid.
9. In respect of Policy S8 criterion (b), the site is enclosed by established hedgerows and vegetation, limiting views into the site from Mole Hill Green. The site does not have an open character and is visually contained. I therefore consider the proposal would accord with criterion b) of the policy.
10. The proposal would not result in coalescence with the airport and would not adversely affect the open characteristics of the CPZ. However, I conclude that due to the lack of justification for the development, the development would conflict with Policy S8 of the ULP, which seeks to strictly control development in the CPZ.

Character and appearance

11. The site is located in Mole Hill Green which consists of development on either side of the road. There are several detached properties opposite the site and pairs of semi-detached two-storey dwellings, primarily to the south of Poppy's Cottage. Poppy's Cottage is a diminutive thatched cottage with a white finish to the exterior walls. The cottage has a gable frontage and it is sited towards the rear of its broadly triangular plot and is in close proximity to the dwellings at

School Villas. The cottage makes a significant positive contribution to the character and appearance of the area due to its traditional aesthetic and position along the apex of the bend in this part of Mole Hill Green.

12. Plot 1 would sit comfortably between Ebenezer Chapel and Poppy's Cottage and reflect the loose pattern of development in the locality. The forward facing gable would mimic those of the neighbouring buildings. Plot 1 would be set away from Poppy's Cottage and with the retention of the intervening outbuildings and the proposed planting to the boundary, the development would not harm the significance of Poppy's Cottage and would preserve its setting.
13. The development includes the provision of parking areas to the rear of Plot 1 and the side of Plot 2, accessed via widened and new accesses respectively. Parking within the locality is typically to the front and side of properties, including to the side of Ebenezer Chapel. The parking area to the rear of Plot 1 would be unusual within the locality, however this would have a limited effect on the appearance of the street scene given its discreet position. Furthermore, the suggested surface material would be appropriate to the character of the area and a scheme of soft landscaping would further reduce the visual effect.
14. Although the scheme would result in an increase in built form at the site, including the new and widened accesses, there would be a loose feel to the development given the spacing between buildings. The gentle rhythm of the layout would retain the overall openness of the site. The proposal would retain and supplement the existing planting, ensuring that the development would not have an urbanising effect on the street scene.
15. I conclude that the proposal would not harm the character and appearance of the area and would not harm the significance of the non-designated heritage asset. The development therefore accords with Policy GEN2 of the ULP which seeks to ensure that development is compatible with the scale, form, layout, appearance and materials of surrounding buildings. In addition, the scheme complies with the Framework, which requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.

Planning Balance

16. The proposal would deliver economic benefits through the creation of jobs during construction and as future occupiers would utilise nearby services and facilities and engage in community activities generating some social benefits. Although additional planting is proposed the removal of existing trees and hedgerows would limit the environmental benefits. The proposal would make a positive contribution to the supply of housing land, which weighs in favour of the development.
17. The proposal would not be in a suitable location for a new dwelling in accordance with Policy S8. However, due to the policy being inconsistent with the Framework and the fact that I consider the proposal would accord with criteria a) and b), the conflict with Policy S8 would carry limited weight. I have identified that the proposal would not harm the character and appearance of the area and in respect of the setting of the non-designated heritage asset and would not conflict with Policy GEN2.

18. There is no dispute that the Council cannot currently demonstrate a five year supply of housing land. Paragraph 11 of the Framework explains that in these circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. I conclude that the adverse impacts of the proposal's conflict with Policy S8 of the ULP would not significantly and demonstrably outweigh the benefits.

Conditions

19. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty. I have not included the council's suggested condition in respect of external materials as these details are provided on the approved plans.
20. The quality of the environment would be protected by conditions in respect of hard and soft landscaping, biodiversity matters, an ecological strategy and external lighting.
21. A condition is included to ensure that the development meets sufficient water efficiency standards in the interests of securing a sustainable form of development. Adequate parking would be secured by a condition.
22. A condition removing permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse and development within the curtilage of the dwellinghouse is included as it is necessary and clearly justified to safeguard the amenities of the occupants of neighbouring properties and to prevent the proliferation of buildings within the CPZ.

Conclusion

23. The proposal would not accord with the development plan as a whole, however there are material considerations, which indicate that a decision should be made otherwise. For the reasons given above I conclude that the appeal is allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: FXR – 102c – 01 revision D, FXR – 102c – 11 revision D, FXR – 102c – 12 revision C, FXR – 102c – 13 revision C, FXR – 102c – 14 revision C, FXR – 102c – 21 revision B, FXR – 102c – 22 revision B, FXR – 102c – 31, 2022/3813/001 Rev P1, 2022/3813/002 Rev P1, and 2022/3813/003 Rev P1.
- 3) Prior to the erection of the development hereby permitted (not including footing and foundations), full details of 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. full tree protection measures; and
 - vi. 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.
- 4) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Tim Moya Associates, October 2022), Great Crested Newt Assessment (Tim Moya Associates, October 2022) and Aerial Tree Bat Inspection report (Tim Moya Associates, October 2022).

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.
- 5) A Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Tim Moya Associates, October 2022), shall be submitted to and approved in writing by the Local Planning Authority. This is to include the height and aspect the products will be installed at. The enhancement measures shall be implemented in accordance with the approved details prior to first occupation and all features shall be retained in that manner thereafter.
- 6) The proposed development shall not be occupied until such time as the vehicle parking areas indicated on the approved plans, have been provided. The vehicle parking areas and associated turning areas shall be retained in this form at all times. The vehicle parking areas shall not be

used for any purpose other than the parking of vehicles that are related to the use of the development.

- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, E and F of Part 1 of Schedule 2 and Classes A and B of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.
- 8) The dwellings shall be constructed and fitted out so that the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day as measured in accordance with a methodology approved by the Secretary of State (as specified in Regulation 36 of Part G of the Building Regulations 2010). The dwelling shall not be occupied unless the notice for the potential consumption of wholesome water per person per day required by Regulation 37 of Part G of the Building Regulations 2010, or any successor thereto, has been submitted to the local planning authority.
- 9) Prior to the installation of external lighting, a lighting design scheme for biodiversity 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 shall any other external lighting be installed without prior consent from the local planning authority.