



Appeal Decision

Site visit made on 7 February 2023

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th February 2024

Appeal Ref: APP/C1570/D/23/3333926

The Fuschias, Old Mead Lane, Henham Essex CM22 6JJ

- 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 J Moggridge against the decision of Uttlesford District Council.
 - The application Ref UTT/23/1319/HHF, dated 29 June 2023, was refused by notice dated 7 September 2023.
 - The proposed development is S73A (retrospective) application for reduction in ground level at rear of site and installation of sleeper retaining walls to rear and side boundaries. Proposed single storey outbuilding with part pitched roof, part flat roof, to be used as domestic garage, gym and home office ancillary to main dwelling house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the impact on the character and appearance of the host dwelling and wider rural area.

Reasons

3. The appeal site lies towards the far eastern end of Old Mead Lane, a narrow country lane with no footways, within a row of detached dwellings set in large plots. It is located in a rural setting between the settlements of Elsenham to the south-west and Henham to the north-east. The properties along the eastern end of the lane predominantly front the lane but there is one recently constructed dwelling (The Cedars) which lies to the rear of the last five properties, of which the appeal site is located in the middle.
4. The Fuschias is a large two storey dwelling of a 'chalet' style design with steeply pitched roof with low eaves with front projecting gable, the first floor accommodation being served by pitched roof rear dormers. A large single storey extension to the rear of the dwelling already has the benefit of a consent under the prior approval process, the foundations and slab for which have already been installed¹. This and a first floor addition are also the subject of a current appeal². A detached double garage lies to the front of the plot, between the house and the front boundary and an extensive garden area lies to the rear, which slopes up gently to the rear boundary. The rear boundary marked by a 2 metre close boarded fence beyond which is the dwelling referred

¹ UTT/22/3130/PDE

² APP/C1570/D/23/3333936

to above which lies at a higher ground level. The row of properties along the lane is otherwise surrounded by open countryside.

5. The bulk of the engineering works to create a lower, level area at the far end of the rear garden have already taken place and a concrete hardstanding laid. It is about one metre below the natural ground level and around 1.5 metres lower than the garden land of the property to the rear. The Council has raised concerns regarding the impact of these works and necessary retaining walls. However, the siting of the proposed building would mean that the majority of these works would not be visible and, in these circumstances, they would not result in any detrimental impact on the character and appearance of the area.
6. However, the proposed outbuilding would be of substantial size and scale, extending across almost the whole width of the large plot and to a similar maximum depth albeit with an angled rear elevation with flat roofed rear element, though that would be 'hidden' behind the low sloping pitched roof over the main part of the building. It would have a greater footprint size than that of the existing dwelling and a comparable footprint if the rear extension is included. I note that the Appellant clarifies that it would be smaller than the total floorspace of the dwelling as extended but not by a significant amount. However, the physical dimensions of the building are only one factor to consider in assessing the impact of the proposal.
7. Policy S7 of the Uttlesford Local Plan 2005 (ULP) seeks to strictly control new buildings in the countryside to that which needs to take place there or is appropriate to a rural area and development will only be permitted if its' appearance protects or enhances the particular character of the countryside within which it is set. Whilst this policy is only partly consistent with the relevant policy of the National Planning Policy Framework (the Framework), to the extent that it does seek to ensure that development contributes to and enhances the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside, I consider that, due to the size and scale of the proposal, it would fail to accord with it.
8. Furthermore, whilst noting the intended use of the building and that, in principle, a home office and personal gym are uses that are typically incidental to a residential use, the extent of floorspace required to accommodate these and the Appellants' hobby uses appears disproportionately large and there is little evidence to support the need for these to be located at the site. For these reasons the proposal would fail to accord with ULP Policy S7.
9. Visually, whilst the building would be set at a lower level than the natural ground levels and would be of single storey height with low sloping pitched roof, it would nevertheless be seen as a very large outbuilding within an area that is generally open in character. Whilst the appeal site lies within a ribbon of residential properties, the bulk of the built forms are located towards the road frontage with only relatively small outbuildings evident within the large rear gardens which are characterised by established vegetation and mature planting. A condition could be imposed to secure a planting scheme to assist in screening the building, but this would not sufficiently mitigate the impact of what would be a considerably sized building within this rural garden setting. In this respect the proposal would fail to accord with ULP Policies GEN2 and H8 which seek development that is of a design that is compatible with and respects the scale and form of surrounding buildings.

Other Matters

10. The Appellants contend that the building is no larger than would be allowed under permitted development rights and that should this permission not be forthcoming, they would build something within the more central part of the garden. However, a recent application for a lawful development certificate for an outbuilding of a similar size to provide for a swimming pool, changing facilities, garage and home office has been refused by the Council³. The Appellant argues that the reasons for this decision are flawed in that the Council incorrectly stated that the outbuilding would be larger than the host dwelling, and thus not incidental, and that the limit on the size of the pool has been incorrectly applied. However, this decision does not appear to have been appealed and it is not a matter before me for consideration. Whilst a fall-back position provided by permitted development rights can be a material consideration, it is unclear in these circumstances exactly what size of building would comply with the relevant limits and conditions. Therefore, I can only give limited weight to this matter.
11. I note that there is a large outbuilding within the curtilage of the property to the rear, The Cedars, which the Appellant clarifies was allowed on appeal. However, I do not have the particular details of that permission and note that the siting of the outbuilding relative to the house is different. It does not therefore appear to be directly comparable to this appeal scheme.
12. The Appellant also contends that the site should be considered as previously developed land (PDL) and appropriate weight given to the Framework's policy which seeks to make as much use as possible of such land. However, the definition of PDL is clear that it should not be assumed that the whole of the curtilage (of the developed land) should be developed. Whilst I note that reference is made to the removal of previously existing outbuildings there are no details of the size and siting of those buildings, nor is it suggested that they were of comparable size or visual impact. In addition, in this case, for the reasons set out above, I have found that there would be harm arising from the proposal, in particular due to the effect on the open, rural character of the area. Thus, only limited weight can be given to this factor.
13. I have taken into account other relevant policies of the Framework and find, for the reasons set out above, that the proposal would fail to accord with its policies that seek well designed development that is sympathetic to local character and that recognises the intrinsic character and beauty of the countryside.

Conclusions

14. I find that the proposal fails to accord with the development plan and there are no material considerations that indicate a decision otherwise.
15. I therefore conclude that this appeal should be dismissed.

P B Jarvis

INSPECTOR

³ UTT/23/2316/CLP