



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: 12.03.2024

Appeal Ref: APP/C1570/W/23/3326353

**Land north of The Forge, Cambridge Road, Ugley, Bishop's Stortford
CM22 6HY**

- 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 Mrs T Snow against the decision of Uttlesford District Council.
 - The application Ref UTT/23/1213/FUL, dated 11 May 2023, was refused by notice dated 12 July 2023.
 - The proposed development is demolition of buildings under class uses B1, B2 and B8; erection of 4 no. dwellings with associated car ports and landscaping works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An updated version of the National Planning Policy Framework (the Framework) was published in December 2023. The relevant parts of the Framework have not materially changed and therefore the parties were not consulted directly seeking further comments. In any event, I note that final comments were received after the date of its publication. Therefore, I do not consider that any party's interests have been prejudiced.

Main Issues

3. The main issues are:
 - whether the loss of employment land is justified;
 - the principle of residential development in this location;
 - the effect on the character and appearance of the area;
 - living conditions for existing and proposed occupants.

Reasons

Loss of employment land

4. The appeal site comprises an existing commercial site with a lawful use of B1, B2 and B8, a lawful development certificate having been granted in 2006¹. Vehicular access is gained from the main B1383, Cambridge Road, to the east via a track located just to the north of the commercial property known as The Forge. There are a couple of buildings, a single garage, a container and other

¹ UTT/0503/06/ACL

items located within the southern part of the appeal site adjacent to a large hardstanding. A gravel path extends northwards into the site which turns into a grass path. A small number of seemingly disused items were scattered either side of this path within the northern part of the site, together with two further containers and a caravan. A number of trees with low level vegetation are located along the western and southern boundaries.

5. The site lies in a countryside location albeit there is a small group of dwellings beyond The Forge to the south-east of the appeal site fronting the main road with a further row of dwellings fronting the opposite (eastern) side of the main road. The appeal site is adjoined to the east by wide woodland belt, an Ancient Woodland, which lies between it and the main road. A further area of woodland lies to the north and north-east of the appeal site with farmland adjoining the remaining boundaries. A public bridleway is located to the west some 500 metres from the site.
6. Policy E2 of the Uttlesford Local Plan 2005 (ULP) states that development of employment land outside the key employment areas will be permitted if the employment use has been abandoned or the present use harms the character or amenities of the surrounding area. The appeal site was last used for some years as a car garage / workshop though was vacated around April last year.
7. The Appellant contends that as the site is now vacant and the commercial purposes ceased, the employment use has been abandoned, citing the 'dictionary' definition of abandonment, meaning deserted, left or uninhabited, as being relevant in the context of Policy E2. However, the concept of abandonment has a specific meaning in planning. It involves the cessation of the use in such a way and over a period of time as to give the impression to a reasonable onlooker that it was not to be resumed, albeit the owner's intentions and physical condition of the land or building are also relevant factors. The Appellant has provided a structural survey which concludes that the buildings are in an advanced state of decay and therefore not suitable for refurbishment or conversion. Notwithstanding this, the fact that the site is currently vacant does not of itself demonstrate that the use has been abandoned in the context of this definition particularly given that the use of the site ceased relatively recently.
8. The Appellant also contends that Policy E2 is inconsistent with the Framework on the basis that it does not support the long-term retention of employment sites, whether abandoned or not. However, the Framework states that policies should help create conditions in which businesses can invest, expand and adapt, and enable the sustainable growth and expansion of all types of business in rural areas. Therefore, given that the policy seeks to ensure a supply of suitable employment land / sites it is consistent with the Framework.
9. In respect of the suitability of the site for continued employment use, the Appellant has provided a letter from a local agent regarding the 'commercial usefulness of the buildings and site' which notes the dilapidated state of the buildings and concludes that the condition of the main building and site generally make the whole property unlettable due to lack of suitable energy certificate and other electrical, building services, asbestos and contamination reports and fire risk assessment. It is further advised that the capital expenditure required to comply with these requirements make the refurbishment of the sub-standard property uneconomic. However, it does not

appear to consider the potential viability of a redevelopment of the site involving the provision of new buildings or other uses which fall within the lawful use of the site. Reference is also made to the UDC Employment Land Review Update (2017) and its recommendation that poorly performing sites should be considered for alternative uses. However, it is unclear whether the appeal site is one of those referred to.

10. The Appellant suggests that the Council would be likely to refuse an application for a commercial use due to the impact on the neighbours. However, I note that an application seeking permission for a residential development whilst retaining the existing employment use (in part) was recently considered by the Council². Whilst refused, it was not on grounds that the retained employment use was incompatible with the proposed residential use.
11. In terms of the effect on the character and amenities of the area, the site is reasonably well screened and given its low key use has little visibility within the immediate area from public viewpoints. The existing buildings, whilst currently in a rather dilapidated state, are relatively modest in size and occupy a fairly unobtrusive location in the south-east part of the site. The areas of hardstanding extend over a greater part of the site and their use for parking or storage could result in some increased visual intrusion but not to such an extent that the use appears harmful to the rural character of the area.
12. In terms of amenity, whilst a residential property is located to the south-east there is some distance between the uses with a tree screen in between. No evidence has been presented which demonstrates that otherwise the use of the site has caused any issues in respect of noise, odour or other disturbance such as to result in any harmful impacts on amenity.
13. Overall, I find that it has not been demonstrated that the employment use has been abandoned and the present use does not harm the character or amenities of the surrounding area. The proposal would therefore result in the unjustified loss of employment land in conflict with ULP Policy E2. It would also conflict with the relevant policies of the Framework which also states that significant weight should be placed on the need to support economic growth.

Whether the site and its location is appropriate for housing

Local plan strategy

14. Both parties agree that the site lies outside any development limits and within the countryside. ULP Policy S7 seeks, amongst other things, to strictly control new buildings in the countryside to that which needs to take place there or is appropriate to a rural area, including infilling, 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 seeks to 'protect the countryside for its own sake,' to the extent that it seeks 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, it is partially consistent with the Framework.
15. The Appellant does not appear to argue that the development would be infilling but suggests that residential development in general 'needs' to take place in the countryside as there are no other available sites to provide for such

² Council ref: UTT/23/2411/FUL

development, the Council having already built out all the local plan allocations. However, the Council has confirmed that it can now demonstrate a 5 year supply of deliverable sites, which the Appellant has not challenged. Whilst sites may need to be found in the longer term, the current 'need' for a countryside location is therefore considerably reduced.

16. The effect of the residential development on the character and appearance of the area is considered in detail below but I find that the proposal would have a harmful effect due to the introduction of significant built development across the whole site and resultant encroachment of the countryside.

Accessibility

17. The decision notice cites conflict with ULP Policy GEN1(e) which seeks to ensure that development encourages movement by means other than the car. The Appellant suggests that the site is within 'easy' walking distance of Stansted Mountfichet. However, the centre of the village where the majority of the facilities are to be found is about 3km from the site. There is a footway along the main road, but it is narrow and uneven in places and not conducive to encourage walking. Cycling would be an option though the B1383 which appears to be the only route linking to the village is a reasonably busy road with no separate cycleway. The prospect for active travel is therefore limited.
18. In terms of public transport, the Appellant's Transport Statement notes that there is a bus stop along the main road within walking distance of the site which is served by an hourly service to nearby villages. The Appellant has referred to a number of appeal decisions in other parts of the village, albeit closer to other larger villages, where a similar lack of alternative modes was noted. However, this did not of itself render the proposals unacceptable.
19. Given the above and that the Framework also states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, overall, the proposal would be acceptable in this regard.

Previously Developed Land

20. The site comprises previously developed land (PDL). The Framework encourages the use of such land both for economic and residential purposes seeking its effective use while safeguarding and improving the environment. However, the definition of PDL in the Framework's glossary states that it should not be assumed that the whole of the curtilage of such land should be developed and I conclude below that the effect on the character and appearance of the area resulting from the spread and extent of development proposed would be harmful. Thus, this factor provides only limited support.

Conclusion

21. Notwithstanding that the status of the site as PDL lends some support to the proposal, a need for residential development in this location has not been demonstrated; it would not comprise infilling nor would it otherwise be appropriate. The proposal would fail to protect the character of the countryside and therefore I find that there is conflict with ULP Policy S7 and with the Framework. I have taken into account the various appeal decisions relating to other developments within the area provided by the Appellant but find none of these are comparable circumstances or otherwise lead me to alter my conclusions on this matter.

Character and appearance

22. The existing site is generally open with the majority of its southern part comprising hardstanding with buildings and structures located towards the eastern part of the southern end of the site. The northern part predominantly comprises of overgrown areas with some items of equipment and a couple of containers and dilapidated caravan located within them.
23. The effect of the proposal would be to significantly increase the amount of built development over the whole site introducing buildings of much greater height and mass. The introduction of a hardsurfaced road with parking areas and associated works would add further to its built-up appearance. Whilst there would be an area of open space adjacent to the site entrance with a number of the mature trees retained and additional planting proposed, the overall effect would be to 'urbanise' the site resulting in a detrimental change to its current open and generally undeveloped appearance.
24. The spread of built development into the northern part of the site would be particularly harmful given that this area is predominantly natural in appearance with few 'structures' which themselves are unobtrusive. The Council suggests that the development would be seen from the public bridleway to the west of the site as the dwellings would extend above the retained hedgerow on the western boundary. I would agree that this additional built development would be evident though given the distance involved and the screening effect of the existing and proposed additional trees along this boundary, this would only be a moderately harmful impact.
25. Whilst the woodland to the east would screen the development from the main road, albeit in winter months its screening effect would be reduced, the intrinsically open and natural character of much of the site would be lost with built development clearly encroaching into the countryside. Overall, I find that the proposal would detract from the rural character of the site and its surroundings. This results in conflict with ULP policy S7.

Living conditions

26. A first floor bedroom window would be sited in the south (flank) elevation of plot 2 facing plot 1. However, it is a secondary window and could be conditioned to be obscurely glazed and high level opening only. The Council suggests that notwithstanding the use of obscure glazing the position of the window would still result in a 'perception' of being overlooked. However, such 'perception' would not be unacceptably harmful given that the use of obscure glazing would prevent any actual loss of privacy for plot 1 occupants.
27. With regard to the relationship with existing dwellings, the nearest dwelling on plot 1, would be located some distance to the west of the nearest adjoining property with no first-floor windows facing towards it. Rooflights to serve the room above the garage, the nearest building, would not enable any overlooking.
28. The proposal would not therefore result in any harm to the living conditions of either proposed or existing occupants and would thereby accord with ULP Policy GEN 2 which seeks, amongst other things, to ensure that development does not have a materially adverse effect on the reasonable occupation and enjoyment of a residential property as a result of loss of privacy.

Other Matters and Planning Balance

Housing Land Supply

29. The Council has confirmed that it can now demonstrate 5.14 years of deliverable housing sites (as of 9 October 2023). The Appellant does not dispute this though emphasises that sites such as the appeal site will continue to be required as the local plan allocations have all been 'built out'. However, the need for the site to provide for a residential development is reduced given that a five-year supply can currently be demonstrated.

Planning Balance

30. The parties agree that paragraph 11(d) of the Framework applies and I concur on the basis that 'the most important policies for the determination of the application are out of date' albeit weight can still be given to those policies having regard to their consistency with the Framework. It is also agreed that paragraph 11(d)(i) is not triggered, with which I also concur, and therefore as set out in paragraph 11(d)(ii), permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
31. I have found that the proposal would result in the unjustified loss of an employment site and a form of built development that does not need such a countryside location and which would adversely impact on the character and appearance of the area, resulting in conflict with policies E2 and S7 and with the development plan as a whole. Having regard to other recent appeal decisions, full weight cannot be given to Policy S7 as it is based on strategies which are considerably out of date, albeit they suggest that significant weight can be given to this policy in circumstances where there is a five year supply of housing. I also find conflict with the Framework, in particular its policies that seek to enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside and those that support a prosperous rural economy. Overall, significant weight is given to these adverse effects.
32. In terms of benefits, the Framework recognises the role that small to medium residential sites can make and I acknowledge that the proposal would contribute to local housing supply, albeit the weight given to this benefit is tempered in the situation where a five-year supply can be demonstrated. The Framework also supports the effective use of PDL and other under-utilised sites; however, given my findings in respect of PDL and the loss of employment use, the weight to be given to these factors in supporting a residential scheme is limited. The Framework also states that where there are groups of smaller settlements development in one village may support services in a village nearby; as such, economic benefits would arise, as well as those during the construction process. Overall, moderate weight is given to these benefits.
33. Having regard to the above and all other relevant matters, the adverse impacts would significantly and demonstrably outweigh the benefits and permission should not be granted.
34. I therefore conclude that this appeal should be dismissed.

P B Jarvis

INSPECTOR