



Appeal Decision

Hearing held on 9 July 2024

Site visit made on 9 July 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2024

Appeal Ref: APP/C1570/W/24/3343330

Land Off Deynes Road, Debden, Saffron Walden

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ravendene Holdings Ltd against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/0707/FUL.
 - The development proposed is the erection of 9 bungalows with associated works.
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Decision

1. The appeal is dismissed.

Application For Costs

2. An application for costs was made by Ravendene Holdings Ltd against Uttlesford District Council. This application is the subject of a separate decision.

Preliminary Matters

3. At the hearing interested parties indicated that a new local plan and neighbourhood plan are in the early stages of preparation. The main parties agreed they carry limited weight. I have considered the appeal on that basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the setting of a nearby Grade II listed building;
 - whether the appeal site is a suitable location for housing, having regard to the Council's spatial strategy;
 - the effect of the proposal on highway safety, including the Public Right of Way (PRoW) networks; and
 - the effect of the proposal on the loss of agricultural land.

Reasons

Character and appearance

5. The appeal site comprises an agricultural field off Deynes Road which lies at the edge of the village of Debden. Deynes Road is relatively narrow, which at the appeal site location has houses on one side of varying design and appearance,

with open countryside on the other. The area has an eminently rural character and the appeal site's openness is an important characteristic at the edge of the village. The area also has tranquil qualities owing to the pattern of development, there being no through road and the open views of the countryside, which together provide a restorative feel which contributes positively to the character and appearance of the area.

6. There are several PROWs, including along Deynes Road and running adjacent to the site's western boundary, which connect to a wider network of PROWs in the area. They provide a demarcation between the built form of the village and the agricultural fields beyond. The open, undeveloped nature of the appeal site and its relationship to the countryside surrounding the village can clearly be appreciated by those using the PROWs. I was told by local residents at the hearing that the PROWs are a highly valued part of the recreational rural landscape and provide health and well-being benefits.
7. The appeal site is also in proximity to a Grade II listed building known as Deynes Farmhouse. The special interest and significance of this asset primarily stems from its architectural and historic interest and associated appearance. However, pertinent to the appeal, it is also derived from its open and agrarian setting, including the appeal site. As an open parcel of agricultural land, the appeal site makes a positive contribution to the setting of the listed building.
8. The introduction of 9 dwellings and a new access road at the appeal site would inevitably change its character and appearance. The proposed dwellings would be single storey with pitched roofs and materials to match nearby properties, including the use of locally distinctive paving as a decorative feature on some of the dwellings. While these design features would help to assimilate the development into the surroundings, the proposal's layout and associated infrastructure would have an urbanising effect, permanently altering the rural and tranquil character and harmfully eroding the restorative feel of this section of Deynes Road.
9. As a result of the topography, with ground levels falling away from the site from north to south, the proposal would be prominent in views from numerous vantage points on the PROW network, particularly along route number 22 to the south, route number 16 to the south west and route number 24 to the south east of the site. In these views the proposal would draw the eye and be an unwelcome intrusion that would not relate positively to the prevailing character and appearance of the area. It would harmfully interrupt the agrarian scene viewed from the surrounding PROWs to the detriment of the enjoyment of its users. While I acknowledge that access to the PROWs would remain, the users of the routes would have a different experience from the increase in built form and activity associated with the dwellings which would erode the area's existing tranquil character.
10. The appellant's Landscape and Visual Impact Assessment (LVIA) establishes a visual envelope covering the appeal site and surrounding area, with viewpoints and sensitive receptors. I am satisfied that the selected viewpoints are representative of the visual effects of the development. The LVIA concludes that overall, there are no potentially important adverse landscape and visual effects. However, while some of the viewpoints had minor potential for visual effects, users of the PROWs at viewpoints 1, 2 and 3 would experience moderate adverse effects upon completion of the development.

11. As shown on the corresponding photomontages and observed at my site visit, the users of the PROWs would have a clear view of the proposal at several vantage points, even allowing for additional landscaping to soften the proposal. The existing open views would be urbanised and given the topography of the locality, the proposal would be particularly prominent when seen from viewpoint 3. While domestic paraphernalia in the rear gardens of properties that front Thaxted Road can be seen from the PROWs, this forms a clear boundary to the village, whereas the proposal would encroach into the countryside bringing development conspicuously into view.
12. Bungalows have been chosen with lower eaves and extended roof forms, comprising smaller blocks to break down the perceived massing and to give a unique character to each property. However, the proposal would result in a marked visual change, diminishing the contribution the site makes to the open surroundings, undermining its intrinsic rural character. At the hearing the appellant suggested that the proposal would only extend a modest distance along Deynes Road. However, in views from the PROWs the urban intrusion into the open countryside would be readily apparent, even though the site is enclosed by development on two sides and so would not be isolated or disjointed with the existing village envelope. Moreover, the 'L-shaped' layout would not reflect the linear development to the north of Deynes Lane.
13. Despite spacings between the proposed dwellings being carefully considered to 'frame the view' along Deynes Road, the increased quantum of development would disrupt the gradual transition from the village's built-up area to the open countryside. In particular, the introduction of a new road running parallel to Deynes Road, and the new access in the northeastern corner of the site extending beyond the existing track would harmfully erode the rural character.
14. There is an existing gate where Deynes Road changes to having development only on one side which I observed to be open and was told by residents at the hearing that it has remained open for several years allowing the free flow of vehicles and pedestrians. Even acknowledging that the final design of the access strategy is not set, and could take a number of different forms, the proposed infrastructure, including that to regulate the one-way system would, nevertheless, have a detrimental urbanising effect.
15. It is common ground that the presence of the ha-ha in front of Deynes Farmhouse indicates that the view in and out of the listed building was designed and that topography in the locality enhances the presence of the listed building in views from the south. Plot 9 lies to the west of the listed building, however the land directly in front of Deynes Farmhouse would not be free from development as suggested by the appellant given the presence of the proposed access road, which would have a clear visual impact. Views of the countryside would remain, however the 'corridor like view' would diminish the current open views, to the detriment of the setting of the listed building and how it is experienced from the PROW network.
16. Despite the design features and proposed landscaping to mitigate the proposal's effect on the setting of the listed building, the built form would still have an urbanising effect on the open agricultural field, and the landscaping would do little to screen the access road. Consequently, given the location, extent and nature of the proposal in relation to Deynes Farmhouse, the setting of this asset would not be preserved and the contribution it makes to the

assets' significance would be harmed. The main parties agree that the harm in the context of the National Planning Policy Framework (the Framework) is 'less than substantial' harm, and I concur with this view.

17. To conclude on this main issue, the proposal would be harmful to the character and appearance of the area, failing to preserve the setting of Deynes Farmhouse and harming its significance. It would conflict with saved Policies S7, GEN2 and ENV2 of the Uttlesford Local Plan (2005) (ULP) which require, amongst other things, that development protects or enhances the character of the countryside within which it is set, reduces the visual impact of new buildings and that development affecting a listed building should be in keeping with its character and surroundings. Saved Policy ENV2 does not require any harm to a listed building to be weighed against public benefits, however it otherwise broadly accords with the aims of section 16 of the Framework and attracts moderate weight. The second part of saved Policy S7 in relation to protecting the character of the countryside has limited weight, for the reasons set out below under the second main issue.
18. In addition, the proposal would fail to recognise the intrinsic character and beauty of the countryside, contrary to Paragraph 180 of the Framework. It would also not meet the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 or the provisions in the Framework regarding the conservation and enhancement of the historic environment.

Location

19. Saved Policy S7 of the ULP defines the countryside as those areas outside of settlement boundaries and the Green Belt. It is not disputed that the proposal would be located within the countryside. It is also common ground that the first part of saved Policy S7 which seeks to protect the countryside for its own sake with planning permission only given for development that needs to take place there or is appropriate to a rural area is more restrictive than the Framework's approach to development in the countryside. This is the view that other Inspectors have taken¹ and I agree. The first part of the policy is therefore inconsistent with the Framework.
20. The second part of the policy, on which the Council largely relies, seeks to protect or enhance the particular character of the part of the countryside within which it is set, which is in accordance with the Framework's requirement to recognise the intrinsic character and beauty of the countryside. Nevertheless, the policy as a whole is based on a housing demand that is no longer applicable and therefore attracts limited weight. Given my findings above in relation to the harmful effect of the proposal on the character and appearance of the area, it follows that the appeal site is not a suitable location for housing, having regard to the Council's spatial strategy. The proposal would therefore conflict with the second part of Policy S7 of the ULP.

Highway safety

21. Subject to the imposition of appropriately worded planning conditions to secure details of the one-way system at the site, the local highway authority is content that in highway and transportation terms, the proposal would be acceptable.

¹ Appeal Ref: APP/B1605/W/22/3310455, and Application Ref S62A/2023/0027, provided by the appellant.

Nonetheless, it is the Council's view that there would be practical usability issues that would increase conflict and the risk of collision.

22. The appellant explained at the hearing that the proposal would not result in a gated community, with the only restriction being at the site egress, not at the site's access as suggested by the Council. Consequently, all vehicles would be free to travel along the full extent of Deynes Road and there would be a right of access for existing residents. In these circumstances, vehicles would not be lining up along Deynes Road to enter the site. The PROWs would not be obstructed as a result and a shared surface arrangement would ensure the safety of users of the PROWs. There would also not be vehicle emissions from waiting cars or such an increase in vehicle movements that the scheme would have a significant effect on air pollution.
23. While it is permissible for the Council to come to a different conclusion to the highway authority, I have not been presented with any substantive evidence to support the Council's view that the scheme would be detrimental to highway safety for all highway users. The conditions proposed by the highway authority are not 'Grampian style' and I am satisfied that they would be appropriate to secure details of technical design and an access strategy and that such conditions would meet the relevant tests set out in the Planning Practice Guidance. Consequently, I have no clear reason to come to a different view to the local highway authority that a safe and suitable access can be achieved at the site.
24. Objections have also been raised from interested parties concerned with highway safety which I have carefully considered. It is indicated that there are existing problems with parking, delivery drivers, refuse collections and access for those with mobility issues along Deynes Road. I have no reason to doubt residents' experiences. Nonetheless, the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The appeal scheme would not add to the existing traffic levels to the extent that it would adversely affect highway safety or have a severe impact on the network, even if there is no separate footpath for pedestrians.
25. For the reasons above, I conclude that the proposal would not be harmful to highway safety, including the PROW networks, in accordance with saved Policy GEN1 of the ULP. Amongst other things, this policy requires that design must not compromise highway safety, taking account of the needs of all users. In addition, the proposal would be in line with guidance in relation to protecting the safety and efficiency of the public highway set out within the Development Management Policies (2011) prepared by Essex County Council as a supplementary planning document.

Agricultural Land

26. It is agreed that the appeal site is best and most versatile agricultural land (BMVAL) and that it is not extensive in size. Saved Policy ENV5 of the ULP states that development of BMVAL will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where the development of agricultural land is required, developers should seek to use areas of poorer quality land. While the policy is broadly consistent with the Framework, the

emphasis on an assessment of alternative sites irrespective of the site size is inconsistent with the Framework², which indicates that areas of poorer quality land should be preferred to those of a higher quality where significant development of agricultural land is necessary.

27. Nevertheless, the appellant has considered areas of poorer quality land and explained at the hearing that save for an area that is also subject to a high flood risk, there were no alternative sites because most of the agricultural land within the District is classed as BMVAL. The Council do not dispute this and given the large proportion of BMVAL in the District I have no clear reason to come to a different view.
28. Interested parties have concerns regarding the loss of agricultural production and food security. However, the appellant confirmed at the hearing that access to the remaining agricultural land outside of the appeal site would remain. This could be secured through a planning condition, and I have no substantive evidence that the loss of the site would be detrimental to the viability of the agricultural landholding of which it forms a part. As such, the loss of agricultural production at the appeal site would not be significant.
29. The proposal would therefore not have a detrimental effect on the loss of agricultural land and accords with saved Policy ENV5 of the ULP.

Heritage Balance

30. The harm to the significance of the setting of Deynes Farmhouse would be less than substantial harm. The Framework requires that great weight should be given to the conservation of heritage assets, irrespective of the level of harm. Any harm to the significance of a designated heritage asset should also require a clear and convincing justification. Nevertheless, the Framework also requires such harm to be weighed against any public benefits.
31. It is common ground that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites and it is agreed that the housing land supply position is around 4.5 years. The proposal would deliver nine homes on a windfall site which the appellant indicates could be delivered quickly. In doing so it would contribute to the supply of housing in a relatively accessible location and deliver 2- and 3-bedroom bungalows, meeting an identified need in the District. All the dwellings would be accessible for a range of occupants, and some properties could be made adaptable for wheelchair users. Taking account of the extent of the shortfall, the scale of the proposal and the delivery of housing for specific groups I give these benefits moderate weight.
32. There are also likely to be modest, time-limited economic benefits from the construction stage and some limited economic benefits arising from council tax income and expenditure by future occupiers, albeit there is limited guarantee of the extent to which this would be directed to local businesses or services or contribute to sustaining the village. In addition, the use of pargeting on some of the proposed dwellings would preserve local skills during the construction stage which attracts limited positive weight.
33. There is no clear evidence that the proposal's sustainable design and construction would deliver over and above what is already required by policy or building regulations. Similarly, the design of the scheme and use of local

² Footnote 62 of the Framework

materials, the inclusion of a sustainable drainage system, landscaping and the ecology enhancements would mitigate the proposal's effect. These matters are therefore neutral factors which weigh neither for nor against the proposal.

34. Taking the above into consideration and having special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, the public benefits are insufficient to outweigh the great weight attached to the harm to the designated heritage asset.

Conclusion

35. I have not found the proposal to be harmful to highway safety and the loss of agricultural land, but I have found harm in respect of the proposals effect on the character and appearance of the area and the significance of the setting of Deynes Farmhouse, in conflict with the development plan and the Framework.
36. Despite the current lack of a 5-year housing supply and the latest Housing Delivery Test, part i. of paragraph 11d) and footnote 7 of the Framework clarifies that permission should not be granted if the application of the Framework's policies that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusing the proposed development.
37. As I have explained, I have found harm in respect of the effect of the proposal on the significance of the setting of Deynes Farmhouse which is not outweighed by the public benefits. Accordingly, this provides a clear reason for dismissing the appeal and the proposal would not benefit from the presumption in favour of sustainable development in this instance. The circumstances are therefore different to the housing scheme in Takeley³ where there was no clear reason for refusal, and so in that case the Inspector applied the presumption set out in part ii. of paragraph 11d) of the Framework.
38. In conclusion, my above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations, including the Framework, that indicate that I should take a decision otherwise than in accordance with it. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR

³ Application reference S62A/2023/0027, provided by the appellant.

APPEARANCES

FOR THE APPELLANT:

Danielle St Pierre BSc (Hons) MRTPI	Director, Hybrid Planning & Development
Jonathan Levey BA (Hons) Dip Arch King RIBA	Director, @Architect (UK) Ltd
Elsa Palmer MSc MIHBC	Director, Palmer Heritage Ltd
David Thomas McMurtay BA (Hons) MCIHT	Technical Director, Motion Consultants Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mark Sawers BA (Hons)	Senior Planning Officer, Uttlesford District Council
Emma Sharp BA (Hons) MSc PGCert MIHCB	Principal Built Heritage Consultant, Essex County Council

INTERESTED PARTIES:

Councillor Luck	District Councillor, Debden and Wimbish
Stephanie Watson	Chairperson, Debden Parish Council
Jessica Hayes	Resident
Jane Pearce	Resident
Jeannette O'Brien	Resident
Michael Fairchild	Resident
David Rose	Resident
June Thomson	Resident
Councillor Emanuel	Vice Chair of Planning Committee, Uttlesford District Council

DOCUMENTS SUBMITTED AT THE HEARING:

1. -Statement by Cllr Luck
2. - Statement by Stephanie Watson
- 3 - Decision notice application reference S62A/2023/0027 Jack's Field, Warish Farm, Smiths Green Lane, Takeley, Essex CM22 6NZ