



Appeal Decision

Site visit made on 8 October 2024

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2024

Appeal Ref: APP/C1570/W/24/3346221

**Land on the east side of Clatterbury Lane, Clavering, Saffron Walden
CB11 4QU**

- 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 Mr and Mrs Hitchcock against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/3135/FUL.
 - The development proposed is the erection of 5 no. single storey dwellings with associated cart lodge parking, landscaping and new vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 5 no. single storey dwellings with associated cart lodge parking, landscaping and new vehicular access at Land on the east side of Clatterbury Lane, Clavering, Saffron Walden CB11 4QU in accordance with the terms of the application, Ref UTT/23/3135/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. Following the submission of further information with this appeal, the Council has confirmed that they wish to withdraw reasons for refusal 1 and 3. Having regard to the information within the Transport Statement¹ and a revised Site Plan (Drawing No: 634 x PL01 P), I am satisfied that the development would not result in the loss of an ancient/veteran tree and has demonstrated adequate visibility splays in accordance with vehicle speeds along Clatterbury Lane. As such, these reasons for refusal are not main issues in this case.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area; and,
 - whether the site is in a suitable location for residential development, having regard to the proximity of facilities and services.

Reasons

Character and appearance

4. The appeal site forms part of a field off Clatterbury Lane, at the edge of Clavering. To the south of the appeal site, there are houses of varying design

¹¹ Pelham Structures, May 2024

and styles which are set back at differing distances from the road, but which generally contain a variety of planting and trees within front gardens and along boundaries. This built form, along with the presence of open areas of land at and around the appeal site provides for a semi-rural character.

5. The proposal would extend built development beyond the northern extent of the village. It would however follow the linear pattern of development in the village, as well as being sited back from the road which allows for the retention of existing vegetation with the provision of further planting to the northern and eastern edges of the site. Despite vegetation not being in leaf in winter months and new planting taking time to establish, I consider that the existing and proposed landscaping would provide effective screening.
6. The introduction of five dwellings would represent a change from the currently open nature and agricultural use of the site. However, the single storey form of the proposal would provide a smooth visual transition from the surrounding open areas of land to the two-storey form of neighbouring properties in the village of Clavering.
7. The design of the proposed dwellings, with their flat roof forms, and their low and horizontal expansion would differ from the common built forms found in Uttlesford. There would however be variation within the scheme, with different dwelling types that would reflect the variety of dwellings that exists locally in Clavering. The proposed brick, render and weatherboarding would all be materials that can be found in the locality and the development would not therefore have an overly urban appearance. The introduction of a small group of dwellings adjacent to the existing village would also have no harmful effects in terms of noise, light or movements.
8. It is clear that the proposed dwellings would be seen in more distant views, including from a number of public footpaths as well as along Clatterbury Lane. However, given the single storey form of the proposal, the linear arrangement of the dwellings proposed adjacent to existing development in the village, as well as existing and proposed landscaping, I do not consider that the proposed dwellings would be visually intrusive in the open countryside setting. I acknowledge that the impact of a development is not simply related to whether it can be seen or not, but in this instance, there would be no harmful change to the semi-rural character of the area for the aforementioned reasons.
9. I therefore conclude that the proposed development would not have an unacceptable harmful impact on the character and appearance of the area. As such, it would comply with Policy S7 of the Uttlesford Local Plan Adopted January 2005 (Local Plan) insofar as it seeks to protect or enhance the character of the countryside and Local Plan Policies GEN2 and ENV3. It would also comply with the National Planning Policy Framework (Framework), which seeks to ensure development is sympathetic to local character, including the surrounding built environment and landscape setting.

Location

10. The appeal site is situated in the Hill Green area of Clavering. I note the Council's concerns on the locational sustainability of the appeal site, with reference to most of the facilities and services being located in the southern part of the village. However, there are a range of local services in close

proximity to the appeal site, including the Village Hall, a Gym, a Public House and a number of employment and recreational opportunities.

11. The southern part of the village does contain important services that would be accessed frequently by future occupiers, such as a Primary School and a convenience store. There is a footway along most of the route from the appeal site to these services in the southern part of Clavering. Pedestrians would have to walk along Clatterbury Lane, which does not have a footway and is a classified distributor road where vehicle speeds exceeded the 30mph speed limit. However, from my observations and the traffic data provided by the appellant, there is a low level of traffic along this lane. There is also adequate visibility of passing traffic at the junction of Clatterbury Lane and the B1038, as well as the footway being of sufficient width to allow movements along it by a range of users. Although unlit, I do not consider that this would be an impediment in a rural location where it is common for such routes to not have lighting.
12. Other services such as a Doctor's Surgery, Secondary School and train station are further away, and I also note the limitations of the DART bus service. The Framework does however set out at Paragraph 109 that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As a Larger Village, Clavering is identified within the recent Settlement Services and Facilities Topic Paper² as amongst the most accessible to local facilities and services in this settlement tier.
13. I therefore conclude that the proposed development would be suitably located for residential development, having regard to the proximity of facilities and services. As such it would not conflict with Policies GEN1 and S7 of the Local Plan or Paragraph 114 of the Framework, which seek, amongst other matters, to promote sustainable transport modes.

Other Matters

14. Concerns have been raised about the impact of the proposed development on neighbouring occupiers living conditions in terms of loss of privacy. The proposed dwellings would be sufficiently distant from neighbouring houses to avoid any harmful overlooking. Given the distance between Clavering and Arkesden to the north, I do not consider there would be a loss of identity to either village. The site is at low risk of flooding and there is no substantive evidence that the scheme will be harmful in relation to drainage. Although concern has been raised on air quality, there is no evidence that there is a current problem in this regard or that a residential development of five dwellings would result in a harmful material increase in air pollution.
15. I have considered representations by interested parties including the loss of agricultural land, the site not comprising an infill site and comments in relation to the need for housing and affordability, but none of these matters nor ownership of the access would outweigh my conclusions on the main issues.
16. I note the concerns that the proposal would set a precedent and the references to other appeal decisions, but each case must be assessed on its own merits, as would any future planning applications to enlarge the proposed dwellings.

² Uttlesford District Council, July 2024

Conditions

17. I have considered the suggested conditions, having regard to the six tests set out in the Framework. For the sake of clarity, conciseness and enforceability, I have amended the wording of some of the suggested conditions as appropriate.
18. A condition requiring a Construction Management Plan is required in the interests of highway safety, as is a condition relating to potential contamination to protect human health and the environment. Conditions relating to a Biodiversity Method Statement for Priority Habitat and protective measures for the ancient/veteran oak tree are necessary to protect priority species and habitats, and to protect an existing tree. It is essential for these conditions to be pre-commencement to prevent adverse impacts on the highway, human health and protected species/tree.
19. I have attached a materials condition and a condition in relation to landscaping in the interests of the character and appearance of the area. A Construction Method Statement and an external lighting scheme is required to safeguard living conditions, as well as a Biodiversity Compensation and Enhancement Strategy and a lighting design scheme for biodiversity in the interests of priority species and habitats. It is also necessary for this same reason to require ecological mitigation and enhancement measures to be completed in accordance with the submitted details.
20. Conditions in relation to highway visibility, the formation of the proposed private drive access, gated access and vehicular and cycle parking are required in the interests of highway safety. A condition relating to accessible and adaptable dwellings is needed to ensure the homes are designed to be used by a variety of people.
21. Although a condition requiring an electric vehicle charging point has been suggested, this is addressed by the Building Regulations and is therefore not necessary.

Conclusion

22. The proposal would accord with the development plan as a whole, and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Drawing No: 634 X PL00 A), Proposed Site Plan (Drawing No: 634 X PL01 P), Plot 1 Plans and Elevations (Drawing No: 634 X PL02), Plot 2 Plans and Elevations (Drawing No: 634 X PL03), Plot 3 Plans and Elevations (Drawing No: 634 X PL04), Plot 4 Plans and Elevations (Drawing No: 634 X PL05) and Plot 5 Plans and Elevations (Drawing No: 634 X PL06).
3. (a) Prior to commencement of the development hereby approved, a Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination shall be submitted to and approved in writing by the Local Planning Authority. This report shall adhere to British Standard 10175:2011.

(b) If shown to be necessary by the Phase 1 Desk Study and prior to occupation of the development hereby approved, a Phase 2 Site Investigation adhering to British Standard 10175:2011 shall be submitted to and approved in writing by the Local Planning Authority.

(c) If shown to be necessary by the Phase 2 Site Investigation and prior to occupation of the development hereby approved, a detailed Phase 3 remediation scheme shall be submitted for approval in writing by the Local Planning Authority. This scheme shall detail measures to mitigate any risks to human health, groundwater, and the wider environment. Thereafter, the detailed measures/works approved as part of the Phase 3 remediation scheme shall be completed in full before any permitted building is occupied.

(d) Prior to occupation of the development hereby approved, a validation report shall be submitted to and approved in writing by the local planning authority to show the effectiveness of any remediation scheme. The validation report shall include photographs, material transport tickets and validation sampling. Any such validation should include effective responses to any unexpected contamination discovered during works.
4. Prior to commencement of the development hereby approved, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The approved CMP shall be adhered to throughout the construction period and shall provide for the following all clear of the highway:
 - i. The parking of vehicles of site operatives and visitors;
 - ii. Loading and unloading of plant and materials;
 - iii. Storage of plant and materials used in constructing the development;
 - iv. Wheel and underbody washing facilities.
5. Prior to commencement of the development hereby approved, a Biodiversity Method Statement for Priority Habitat (Veteran Trees, Hedgerows) shall be

submitted to and approved in writing by the local planning authority. The method statement shall contain:

- a) purpose and objectives for the proposed works;
- b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c) extent and location of proposed works shown on appropriate scale maps and plans;
- d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- e) persons responsible for implementing the works;
- f) initial aftercare and long-term maintenance (where relevant);
- g) disposal of any wastes arising from works.

Thereafter, the measures and/or works shall be carried out strictly in accordance with the approved method statement and shall be maintained as such at all times.

6. Prior to commencement of the development hereby approved, detailed protective measures for the ancient/veteran oak tree that is protected under a Tree Preservation Order shall be submitted to and approved in writing by the Local Planning Authority. The detailed protective measures shall comply with the recommendation of British Standard 5837:2012 and shall be implemented before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority. No fires shall be lit within 20 metres of the retained trees and shrubs.
7. Prior to any works above slab level, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The statement shall specify the provisions to be made for the control of noise and dust emanating from the site and shall be consistent with the best practicable means as set out in the Uttlesford Code of Development Practice. Thereafter, the approved CMS shall be adhered to throughout the construction period.
8. Prior to any works above slab level, a schedule of the types and colours of the materials (including photographs) to be used in the external finishes shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in full accordance with the approved materials.
9. Prior to any works above slab level, details of all hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in full

accordance with the approved details prior to occupation of the development hereby approved. The landscaping details shall include:

- a) proposed finished levels (earthworks to be carried out);
- b) means of enclosure of the land (boundary treatments);
- c) hard surfacing and other hard landscape features and materials;
- d) existing trees, hedges or other soft features to be retained;
- e) details of planting or features, including specifications of species, sizes, planting centres, number and percentage mix (these details shall include the replacement hedge to the front of the site behind the visibility splays);
- f) details of siting and timing of all construction activities to avoid harm to all nature conservation features;
- g) management and maintenance details.

10. Prior to any works above slab level, a Biodiversity Compensation and Enhancement Strategy for protected and priority species shall be submitted to and approved in writing by the local planning authority. The Biodiversity Compensation and Enhancement Strategy shall include:

- a) purpose and conservation objectives for the proposed compensation and enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations of the compensation and enhancement measures by appropriate drawings;
- d) persons responsible for implementing the compensation and enhancement measures;
- e) details of initial aftercare and long-term maintenance (where relevant).

Thereafter, the ecological works shall be implemented in accordance with the approved details prior to occupation of the development hereby approved.

11. Prior to occupation of the development hereby approved, the access at the centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 51.6 metres to the south, as measured from and along the nearside edge of the carriageway, and a 2.4 metre by 93.2 metres to the north, as measured from and along the nearside edge of the carriageway. The existing hedge shall be moved to a minimum of 1 metre behind the visibility splay envelope to the north to ensure that no obstruction occurs and for ease of maintenance. The existing oak tree is excluded from the above. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

12. Prior to occupation of the development hereby approved, the proposed private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate vehicular crossing of the verge. Thereafter, the access shall be retained as such at all times unless otherwise agreed in writing by the local planning authority.
13. Prior to occupation of the development hereby approved, the vehicle parking and turning areas indicated on the approved plans shall be provided. Thereafter, the vehicle parking and turning areas shall be retained as such at all times and shall not be used other than for the benefit of the occupants of the dwellings hereby approved.
14. Prior to occupation of the development hereby approved, secure, convenient and covered cycle parking shall be provided in accordance with the Essex Planning Officers' Association parking standards. Thereafter, the cycle parking facilities shall be retained as such at all times.
15. Prior to occupation of the development hereby approved, a lighting design scheme for biodiversity in accordance with General Note: 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The scheme shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

Thereafter, all external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and shall be maintained in accordance with the scheme at all times. Under no circumstances should any other external lighting be installed without prior consent in writing from the local planning authority.
16. Prior to first use, details of any external lighting to be installed on the site, including the design of the lighting units, any supporting structure and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, only the details thereby approved shall be implemented.
17. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
18. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway. Thereafter, the gates shall be retained as such in perpetuity.
19. All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal/Low Impact EcIA (Hybrid Ecology Ltd, October 2023).

Thereafter, the enhancement measures and/or works shall be carried out in full accordance with the approved details and shall be maintained as such at all times.

20. The development hereby permitted shall be provided in accordance with the guidance in Approved Document S 2021 and shall be built in accordance with Optional Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

End of conditions