



Appeal Decision

Site visit made on 19 November 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/C1570/W/24/3344328

Clarendon House, Wicken Road, Clavering, Essex CB11 4QT

- 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 Samuel and Claire Bampton and Cattermole against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/0438/FUL.
 - The development proposed is the erection of 4 no. dwellings including 2no. single storey, 1no. one and half storey and 1no. two storey, with associated cart lodge/ garage parking and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Preliminary Matters

3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. The publication version of the Uttlesford Local Plan 2021 – 2041 has reached the Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage. I have little information to suggest when the plan is likely to be adopted, or if any policies have been modified, or if there are any unresolved objections. Accordingly, I attribute limited weight to this plan.

Main Issues

5. The main issues are whether the proposal is appropriate:
 - having regard to local and national planning policies that seek to manage the location of new development together with effects on the character of the countryside; and
 - having regard to sustainable means of transport and the access to facilities and services.

Reasons

Location of the development

6. The appeal site is located to the rear of a linear pattern of development on the outskirts of the settlements of Clavering and Hill Green in Uttlesford. The appeal site is largely undeveloped consisting of an undulating piece of land with paddocks and open areas bounded by post and rail fencing and vegetated boundaries that provide a degree of screening. There is a strong linear arrangement in respect to the existing development with residential properties fronting the roadside and exhibiting large gardens at the rear. To the rear of the appeal site is Jojacks Farm currently providing small scale sawmilling services in a small commercial yard. The surrounding area consists of mainly open verdant fields with a strong rural feel.
7. Policy S7 of the Uttlesford Local Plan (ULP), adopted January 2005 relates to development in the countryside, being those areas beyond the Green Belt that are not within a settlement or other site boundaries. It seeks to protect the countryside, stating planning permission will only be given for development that needs to take place there, or is appropriate to a rural area, which can include infilling. It goes on to add that there will be strict control on new building and development, which will only be permitted if its appearance protects or enhances the particular character of the part of the countryside in which it is set, or there are special reasons why the development in the form proposed needs to be there.
8. In regard to the first limb of policy S7, the proposal would be located outside any identified settlement boundary, with the closest settlements being Hill Green and Clavering to the southwest of the site. There is little evidence before me in respect to the need for the development to take place in a rural location. Paragraph 2.2.8 of the ULP highlights that the countryside should be protected, but also lists examples where certain types of development¹ maybe permitted. The proposal before me does not meet any of these categories. As such, given the appeal site is outside of the defined limits of the settlements, there is a presumption against development in this location.
9. With regard to infilling, paragraph 6.13 of the ULP referred to in the policy, highlights that outside settlements there may be limited opportunities for infilling. The paragraph further indicates that this is due to no gaps left for development or approaches to villages being too loose in character for development to be appropriate. From the details before me, the existing property of Clarendon House² has already infilled a gap in the linear arrangement between the existing development in this peripheral location.
10. The proposal would provide four additional properties at the rear of Clarendon House as a back land development. Whilst it is acknowledged that the scheme has been designed to line up with the rear gardens of the adjoining properties, the scheme would provide a significant increase in built development in an area which is largely devoid of such. Whilst not appearing to form a distinct agricultural purpose the relatively undeveloped and open nature of the site, sits well in the surrounding rural locality, contributing positively to the

¹ Examples of development that may be permitted in principle include appropriate re-use of rural buildings, suitable farm diversification, outdoor sport and recreation uses, and affordable housing and other facilities to meet local community needs.

² Uttlesford District Council Planning Ref: UTT/21/2016/FUL

character of the countryside. As such the introduction of the four properties would disrupt the pattern of development providing a denser form of development in a tandem arrangement, which would negatively impact on this visually important space.

11. It is acknowledged that the existing commercial development of Jojacks Farm already occupies a back land position, however this does not provide an overriding influence over the character of the area. Furthermore, the positioning of the development between Clarendon House and Jojacks Farm would provide additional built structures increasing the sprawl of development into the countryside, contrary to the existing linear arrangement. The appellant has provided wire frames³ to show the proposed impacts of the development when viewed from key visual receptors outside the site. Whilst I appreciate that the proposal would be experienced within an existing cluster of development, there is a significant increase in the quantum of built development in the area and this would have a negative effect on the character and beauty of the countryside.
12. In regard to the second limb of the policy, the properties have a traditional design with appropriate materials varying between 1, 1.5 and 2 storeys in height. Taken in isolation the design and appearance of the units proposed would be seen as in keeping with the existing vernacular given the variation of architectural styles locally. However, it is the additional built development that in combination with the existing structures would not accord with the pattern of development and would neither protect or enhance the particular character of this part of the countryside, providing a more urbanising appearance harmful to the area.
13. There is dispute between the parties regarding the use of the site and its status as previously developed land (PDL), however whether the existing use is agricultural or residential is not before me, as this would be a matter dealt with under a certificate of lawfulness application. Nevertheless, the submitted historic photos show the land as predominantly open and free from permanent structures. From my site visit, despite some minor accessways and delineation, the area appears relatively undeveloped, with any structure remains having blended into the landscape. Even if I was to consider that the site was PDL, the harm that I have identified above highlights that the location does not represent a suitable opportunity for development.
14. I appreciate that policy S7 is partially consistent with the Framework, given it is more prescriptive in its requirements to protect the countryside for its own sake. Nevertheless, it also seeks to protect and enhance the natural environment, which is consistent with paragraph 180 of the Framework that requires development to contribute to and enhance the natural environment through the recognition of the intrinsic character and beauty of the countryside. Consequently, the development would therefore be harmful to the character and appearance of the locality, thus conflicting with policy S7 of the ULP and the relevant provisions of the Framework. The scheme would also conflict with ULP policy ENV3, as whilst not removing any trees and not representing traditional open space, the site nevertheless provides a visually important space within the countryside.

³ Appendix A – Appellants Statement of Case

Sustainable means of transport

15. The Framework, amongst other things, advises that housing development in rural areas should be located where it will enhance or maintain the vitality of rural communities and identify opportunities for villages to grow and thrive, especially where this will support local services. The Framework also seeks to promote alternative forms of transport other than the private car. Criterion e) of ULP Policy GEN1 encourages movement by means other than driving a car, which reflects the aims and objectives of the Framework in regard to sustainable transport.
16. The proposal would provide a limited benefit to the vitality of the rural community, given that future occupiers could access local services and facilities thus providing modest economic benefits. However, day to day services and facilities at the closest settlement of Hill Green are limited. The parties identify the services and facilities in Hill Green as a pub, a gym, an animal feed store, a village hall, children's playground, sports facilities and two employment sites. Thus, for access to a wider range of services and facilities, such as shopping, education and healthcare, future occupiers would need to travel further afield.
17. To access these facilities future occupiers would need to travel to either Clavering or Newport. Both of these settlements are accessible via short car trips. However, access to these settlements via alternative means, such as on foot or by bicycle would require future occupiers to negotiate a significant distance along country lanes that are predominately unlit, with speed limits of 30mph, which would be less attractive particularly travelling to school, carrying shopping, in the dark or during inclement weather conditions. I also note that there is currently no footpath outside the appeal site, however were the scheme to be found appropriate, a negatively worded condition and/or a planning obligation could be used to secure the works are undertaken before the scheme is occupied.
18. I have limited substantive evidence before me to indicate that the site is well served by public transport, although there is a Demand Responsive Transport (DART) bus service in operation. From the details before me, this provides a booked service (available 0600-2200 Monday-Saturday), and thus does provide an available alternative to the private car. However, there are limited details in regard to the reliability of this service. This leads to uncertainty that it would be a realistic substitute to the convenience of a private car. Therefore, there would be negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford significant weight.
19. Several appeal decisions have been cited by the parties in regard to the sustainability of the rural location. Based on the limited information before me, in regard to the allowed scheme at Manuden⁴, the Inspector found that Manuden had access to a comparatively good range of day to day services locally, unlike the scheme before me. Furthermore, the scheme was for 22 dwellings when the Council was unable to demonstrate a 5-year supply of deliverable housing sites which the Inspector weighted accordingly. As such I find that this example is not directly comparable.

⁴ PINS Ref: APP/C1570/W/20/3242024

20. In regard to the two dismissed schemes at Eldridge Close⁵, the first Inspector despite dismissing the scheme, found that the site was positioned in a sustainable location. The second Inspector also found the scheme would harm the character and appearance of the area, however reached an alternative view on location finding it unsustainable, thus conflicting with ULP Policy GEN1. Given my reasoning above I find that the second decision would be more relevant here given the consistency with my findings above.
21. The appeal scheme at Quicksie Hill⁶ also found the scheme would harm the character and appearance of the area and was not located in a sustainable location. However, in applying weight the Inspector found that the lack of a 5-year supply of deliverable housing sites, outweighed the harm he identified above. Nevertheless, in exercising my planning judgement, for the reasons set out below, I have reached an alternative conclusion as I must determine the appeal based on the evidence before me.
22. The appellant cites an appeal decision at Clatterbury Lane⁷. A late third party representation⁸ has been received in respect to advice being taken on a potential Judicial Review (JR) against this decision. I note the comments of this party, particularly in regard to the consideration of the sustainability of its location. Nevertheless, from the details before me, this is only a potential challenge at this stage and I have no further details in respect to whether the JR has been submitted, or indeed any prospect of its success. As such, I have given this limited weight.
23. In regard to the appeal decision itself, the Inspector at Clatterbury Lane allowed the scheme, as they found that the proposed development would not impact on the character of the countryside and was suitably located for residential development having regard to the proximity of facilities and services. I appreciate that these findings diverge from my own, however appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me, my own experience and the particular circumstances of the case.
24. Overall, the proposed development would not provide a suitable location for housing, having regard to the accessibility of services and facilities. In this respect, it would not accord with ULP policies S7 and GEN1 which seeks to promote sustainable transport modes and suitably located developments. The development would also conflict with paragraph 109 of the Framework which seeks to maximise sustainable transport solutions.

Other Matters

25. Reference has been made to several decisions taken by the Council to demonstrate consistency in decision making. However, I have not been provided with suitable details or plans and in any event, I am not bound by other decisions of the Council, and consequently I give these limited weight.

⁵ PINS Refs: APP/C1570/W/21/3267624 and UTT/23/2616/PINS / S62A/2023/0025

⁶ PINS Ref: APP/C1570/W/19/3225516

⁷ PINS Ref: APP/C1570/W/24/3346221

⁸ Email dated 20/11/2024 from Keep Clavering Rural

Planning balance and Conclusion

26. There is dispute between the parties in regard to whether the Council is currently able to demonstrate a 5-year supply of deliverable housing sites, or indeed if they would only need to demonstrate a 4-year supply. The Council highlight that they are able to demonstrate a housing land supply of 4.12 years⁹. Given that the Council has an emerging local plan that has reached the Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, it is likely that a 4-year supply would be required under paragraph 226 of the Framework. However, the appellant highlights that the Council has under achieved in meeting its Housing Delivery Test (HDT), and subsequently the 4-year supply would not apply given the requirements of paragraph 77 and footnote 43 of the Framework.
27. Nevertheless, even if I was to consider that the Council is not meeting its 5-year target, I have found there would be negative environmental and social effects arising from the unsuitable location in terms of the lack of accessibility to local services and facilities and that there is harm to the character of the countryside. Harm which I apportion significant weight.
28. I acknowledge that the proposal would result in some small social and economic benefits, including the support future occupiers would give to local businesses and services. The proposal also benefits from sufficiently sized units which would provide a modest increase in meeting the Government's objective of significantly boosting the supply of homes. I also note the benefits identified by the appellant in providing some bungalow units to meet local demand, which could be brought forward relatively quickly. To these benefits I apportion modest weight given the limited scale and nature of the proposed development. However, these benefits would not outweigh the harm that I have identified above.
29. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

Robert Naylor

INSPECTOR

⁹ Uttlesford District Council 5-Year Housing Land Supply Statement – Published 20 August 2024