



Appeal Decision

Site visit made on 19 December 2024

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th January 2025

Appeal Ref: APP/C1570/W/24/3343058

Land East Of Oaklea, Causeway End Road, Felsted, Essex, CM6 3LU

- 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 Hambleton Luxury Developments Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/22/2743/FUL.
 - The development proposed is erection of 1 no. dwelling complete with all related works including access.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 1 no. Dwelling complete with all related works including access at Land East Of Oaklea, Felsted, CM6 3LU in accordance with the terms of the application, Ref UTT/22/2743/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Hambleton Luxury Developments Limited against the decision of Uttlesford District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the consideration of the appeal the Council have determined another application on the appeal site, UTT/24/1445/FUL, for the erection 1 no. dwelling complete with all related works including access. This decision was also refused for two reasons.. However, this proposal is not before me for consideration, and I have determined the appeal on the basis of the Council's evidence for this appeal.
4. The latest update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The changes which are the most relevant to the consideration of this appeal are minor and therefore, I have not found it necessary to seek views from the parties in this instance.

Main Issues

5. The Council have confirmed that the third reason for refusal has been addressed following submission of revised plans in connection with the proposed access. The fourth reason for refusal has also been addressed following the submission of a unilateral undertaking.

6. The main issues in this appeal are whether the proposed development would provide a suitable location for housing, having regard to the spatial strategy and the effect of the development on the character and appearance of the area.

Reasons

Spatial Strategy

7. The site is outside of any defined settlement boundary and is therefore in the countryside for planning policy purposes. I have taken account that there are a number of dwellings located along Causeway End Road and therefore given its grouping with other dwellings the site is not isolated in the context of paragraph 84 of the Framework.
8. Policy FEL/HN5 of the Felsted Neighbourhood Plan (NP) states that residential development outside development limits will only be supported where the circumstances set out in paragraph 84 of the Framework apply or where a number of other criteria apply.
9. The NP was made on 25 February 2020, and is therefore less than five years old, but I have nothing before me to indicate that the NP contains policies and allocations to meet its identified housing requirement as the NP sets out that the Council were unable to identify the number of units that Felstead would need to accommodate within its plan. Therefore I can not be certain that paragraph 14 of the Framework applies.
10. Therefore, whilst the proposal conflicts with FEL/HN5, noting the development limits are based on the 2007 Local Plan I have given this conflict limited weight.
11. Whilst Policy S7 of the LP is only partially consistent with the Framework as it is more restrictive in that it seeks to protect the countryside for its own sake, it also seeks to protect and enhance the natural environment, which is an important part of the Framework. Therefore, I consider it should be afforded moderate weight when considering development proposals in the countryside.
12. The site has been subject to an earlier appeal for a larger scheme¹ and matters pertaining to whether the appeal site was an appropriate location for housing was considered. The Inspector concluded that the site was directly adjacent to existing residential areas of Felsted where alternatives to the private car to access services would not be so inconvenient or unpleasant to deter those as viable means of accessing services and facilities, particularly in the context of a rural settlement such as Felsted.
13. Whilst the Council maintain that the proposal is in an unsustainable location as it is not within the settlement boundary, paragraph 83 of the Framework sets out that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It goes on to state that development in one village may support the services in a village nearby. Given the site's location close to the village of Felsted and the services within it, I consider that the development accords with the aims of paragraph 83.
14. Considering the evidence before me, there are several bus stops within walking distance of the appeal site with a regular bus service operating, therefore it would

¹ APP/C1570/W/20/3252134 – Construction of 5 dwellings and new access, outline with access considered.

be possible for services beyond Felsted to be accessed via means other than the private car. Therefore, I consider that the site is reasonably well located in terms of access to services, facilities and amenities and this would ensure sufficient choice of travel by modes other than the private car. These findings are consistent with the previous Inspector.

15. In conclusion, whilst the proposal would conflict with policy FEL/HN5 to a limited degree, the appeal site is a suitable location for housing having regard to access to services and facilities. Therefore, in this regard the development accords with policy S7 of the LP, which seeks to direct development to appropriate locations and the Framework.

Character and appearance

16. The site is located at the end of a row of houses at the edge of the settlement and there would be a degree of urbanisation and countryside encroachment through additional housing. However, the development would be located adjacent to the existing linear form of development which exists along both sides of Causeway End Road. Thus, the resultant change to the character and appearance of the area would be limited.
17. The Council sets out within their officer report that the proposed dwelling would be of an acceptable size and design and would be in keeping with the character and appearance of the properties along the road, where a number of the dwellings are substantial and fill the widths of the plots. The Council also confirm that the proposal would not appear incongruous or unduly dominate the road or street scene. I have no reason to disagree with these findings and concur that the proposed dwelling would be appropriate within the street scene.
18. Furthermore, the previous Inspector in considering a dwelling in a similar position within the wider proposal before him, found that the proposal would not unduly or harmfully extend built form eastwards along the lane. The existing housing directly to the south of the site, together with the village name sign and speed limit signs provided a visual counterbalance to an additional dwelling on the appeal site. The Inspector also concluded that there would be no harm arising from this element of the proposal.
19. A third party has directed me to policy LC4 of the NP, which I am advised states that the areas of open countryside between Causeway End, Cobblers Green and Cock Green are sensitive to development due to the function of this land in preventing coalescence between the areas of existing settlement. As part of my site visit I was able to see the area between Causeway End and Cobblers Green and there are spaces between the two settlements which clearly perform a function of maintaining the separation between the two and ensuring they remain distinct from one another. However, the appeal site does not contribute to this function, partially due to it being opposite existing development and therefore it is only beyond the appeal site that you experience the open countryside between the two settlements. As such I am content that there is no conflict with policy LC4, and also note that the Council have not referenced it in their evidence.
20. In conclusion, the proposed development would provide a suitable location for housing having regard to the character and appearance of the area. The development accords with policy S7 in this regard.

21. The Council's reason for refusal cites policy FEL/HN5 in relation to failing to protect or enhance the character of the countryside, however the policy sets out a spatial strategy and therefore has been considered in relation to the first main issue.

Other Matters

22. I have also taken into account the range of matters raised in the representations received including issues such as flooding, highway safety, design and scale of the proposal, impact on residential amenity and impact on wildlife. However, there is no substantive evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council or statutory consultees in regard to these matters. Therefore, none of the concerns raised provide a compelling reason why planning permission should not be granted.

Blackwater Estuary Special Protection Area and Ramsar site and the Essex Estuaries Special Area of Conservation

23. The site is within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) zone of influence for the Blackwater Estuary Special Protection Area and Ramsar site (SPA) and the Essex Estuaries Special Area of Conservation (SAC). The Essex coastline is one of importance for birds and their habitat. It is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
24. The proposed development falls within the scope of the RAMS as relevant development. Given that the proposal is for additional housing, and its proximity to the designated sites there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of this development. This additional activity would have the potential, either alone or in combination with other development in the area, to have a likely significant effect on the European sites.
25. The Conservation of Habitat and Species Regulations 2017 require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPA and SAC. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
26. The Essex Local Planning Authorities within the Zones of Influence have developed a mitigation strategy to deliver the measures to address direct and in-combination effects of recreational disturbance on SPAs and SACs. The RAMS sets out a strategic approach to mitigation by several councils across the wider area. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling. Since these include a range of habitat-based measures such as education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the SPAs and SAC.
27. A tariff to fund the mitigation, which is payable for all additional new dwellings is set out within the RAMS. The appellants have submitted a Unilateral Undertaking for the per dwelling contribution to fund the Essex Coast RAMS. Given the evidence before me I am satisfied that the mitigation measures have been secured and would be used for their intended purpose.

28. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.

Planning Balance

29. It is not disputed that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites, with the appellant's evidence putting current supply at 3.51 years. Therefore, paragraph 11 of the Framework is engaged, whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
30. Footnote 9 explains that the policies referred to, which are relevant to this appeal are paragraphs 84, 110, 129, 135 and 139.
31. The proposal accords with paragraph 84 and 110 as the proposal is not isolated and located in a sustainable location. The proposal would also achieve the aims of paragraphs 129, 135 and 139 which together support development that makes efficient use of land taking into account the desirability of maintaining an areas prevailing character and setting, is visually attractive as a result of good architecture and layout and accords with the National Design Guide.
32. I have taken into account that there would be modest social benefits arising from an additional dwelling, in an accessible location, that would contribute to housing supply in the area. Noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. The economic benefits arising from construction would be short term and similarly limited.
33. Although the proposal would not fully comply with policy FEL/HN5 of the NP, this would result in only limited environmental harm noting that the provisions of paragraph 14 of the Framework are not engaged.
34. Therefore, the identified adverse impacts of the development in respect of this conflict with the development plan would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development applies which points towards the grant of planning permission.

Conditions

35. The Council has suggested 21 conditions and I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.

36. In the interests of the character and appearance of the area conditions in respect of materials are necessary due to the lack of detail on the approved plans, and details of hard and soft landscaping.
37. It is also necessary to ensure that the mitigation and enhancement measures outlined within the Preliminary Ecological Appraisal are carried out and that relevant protections are in place for Great Crested Newts
38. The submission and implementation of a construction management plan is necessary to minimise detrimental effects to the living conditions of neighbouring residents and ensure highway safety during the construction phase.
39. To manage the surface water environment of the scheme a condition is necessary that secures a detailed surface water drainage scheme to be submitted to and agreed by the Council. Although the appellant considers this is overly onerous, noting the concerns raised locally with regard to surface water flooding it is necessarily detailed to ensure that measures are appropriate designed and implemented.
40. In order to ensure an appropriate level of parking provision, I have imposed a condition requiring parking spaces to be provided and in order to ensure appropriate standards of highway safety, the access to be constructed in accordance with the approved plans in terms of visibility splays, surfacing and drainage. This has to be implemented prior to the development being first brought into use.
41. In order to ensure the amenity of future occupiers I have required details of any unexpected contamination to be appropriately assessed and remediated.
42. I have not found it necessary to restrict the appellants permitted development rights and no exceptional circumstances were advanced by the Council as to the necessity for this condition.
43. I have not considered it reasonable, noting the size of the scheme to require the submission of a residential travel pack.

Conclusion

44. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it.
45. For the reasons given above the appeal should be allowed.

G Pannell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with
 - Drawing 2984 20 Rev A - Proposed Floor Plans and Elevations
 - Drawing 2984 21 - Proposed Street Scene and Roof Plan
 - Drawing 2984 P01 Rev D - Existing Site Plan and Location Plan
 - Drawing 2984 P02 Rev G - Proposed Site Plan
 - Drawing DR7 Revision d (Proposed Access and Visibility on Topographical Survey)
- 3) No development above ground level shall take place until details of all external and internal facing materials, including window and door openings, have been submitted to and approved in writing by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - 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) measures to control the emission of dust and dirt during construction;
 - v) a scheme for recycling/disposing of waste resulting from construction works;
 - vi) management of traffic to reduce construction;
 - vii) details of consultation and complaint management with local residents;
 - viii) details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures;
 - ix) schedule to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works and prevent pollution;
 - x) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged

from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 6) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development [or relevant phase of development] shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) All mitigation and enhancement measures and or/works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Hybrid Ecology, October 2022) as outlined below:

Before and During Construction

- Impact avoidance measures in respect of nesting birds and reptiles;
- Precautionary measures in relation to badger during construction.
- A repeat ecological walkover survey prior to development to account for changes;

Prior to occupation of the development

- replacement planting;
 - habitat boxes for roosting bats/nesting birds.
- 8) Development shall not take place until a Precautionary Working Method Statement has been submitted to and approved in writing by the local planning authority. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newts, and other small animals during the construction phase. The measures and/or works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.
 - 9) Development shall not take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Hybrid Ecology, October 2022), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in

accordance with the approved details and thereafter maintained and retained.

- 10) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- means of enclosure and retaining structures;
 - boundary treatment[s];
 - vehicle parking layouts;
 - hard surfacing materials;
 - lighting, floodlighting and CCTV;
 - an implementation programme.

The landscaping works shall be carried out in accordance with the approved details in accordance with the agreed implementation programme. The completed scheme shall be maintained in accordance with an approved scheme of maintenance.

- 11) Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be 4.5 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 12) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay as shown on DR7 Revision d (Proposed Access and Visibility on Topographical Survey). 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.
- 13) 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.
- 14) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no 2984/P)2 Rev G. Thereafter those spaces shall be retained for the parking of vehicles only.

-END-