



Appeal Decision

Site visit made on 5 December 2024

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th January 2025

Appeal Ref: APP/C1570/W/24/3343021

Land East of Chelmsford Road, Felsted, Dunmow CM6 3ET

- 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 Felsted Place Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/22/3513/FUL.
 - The development proposed is a mixed-use development comprising a relocated and improved village convenience store, incorporating a Post Office, together with area for farmers market, cafe, three first floor offices with dedicated parking facilities and multi-use overspill area. Together with nine dwellings comprising a 1 bedroom apartment, two 2 bedroom houses, two 3 bedroom apartments, two 4 bedroom semi-detached houses, one 4 bedroom detached house, and a 5 bedroom chalet style bungalow with dedicated 2m footpath routes.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form and decision notice cite the applicant as 'Linsells of Felsted and Felsted Place Limited'. The appeal was submitted only in the name of Felsted Place Limited, and I have therefore used that within the heading above.
3. The appellant's appeal evidence includes revised and additional plans which reduce the convenience store ridge height by 2m, and its single storey rear extension by 0.5m. Parties have had the chance to comment on these amendments, which would reduce the impact of the proposal overall. Therefore, no parties would be prejudiced in the interests of natural justice, and accepting these plans meets the substantive and procedural tests in accordance with the Holborn Studios Ltd judgement¹.
4. The appellant has provided numerous Appendices as part of their Final Comments (FC) evidence. Appendix 1 is a Planning Committee report dated 26 June 2024² which identifies an up to date position on the Council's housing supply. This could not have been submitted alongside the appeal submission, and I do not find it necessary to seek further Council comments on its own publicly available document. I therefore accept this into the evidence. Appendix 11 directly responds to the Council's Statement of Case comments about a specific planning application, and so again could not have been submitted earlier.
5. However, the majority of the appendices, and some elements within the FC document contain information which was readily available at the time of the appellant's appeal submission in April 2024. The FC stage is not an opportunity to

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² UTT/23/2707/FUL, Land to the North Of Stewarts Way, Manuden

present new evidence. This information does not directly respond only to appeal representations from interested parties or matters arising from the Council's Statement of Case. In accepting them interested parties may be prejudiced, and I thus have not taken them into account in my determination.

6. Part of the appeal site is also within the site boundary for a concurrent appeal before me for determination³. Both schemes could not be constructed and completed in full as shown on the plans. For the avoidance of doubt therefore, I have assessed each on its own merits. I also note reference to a more recently refused application on the appeal site UTT/24/0687/FUL, the details of which are not before me.
7. The Government published a revised version of the National Planning Policy Framework ('the Framework') on 12 December 2024. I have considered its amendments against the December 2023 version before the parties for their appeal evidence, and updated their cited paragraph numbers where necessary. However, I have not gone back to the parties for comment, as I do not find the Framework changes to be substantive or determinative to the outcome of this appeal. I address this point where necessary in my decision.
8. At the time the parties submitted their appeal evidence, the emerging Uttlesford Local Plan (LP) was at Regulation 18 stage. Its draft policies are not relied upon in the evidence. The appellant does consider that the emerging LP identifies a Felsted housing requirement which should supersede that in the existing Felsted Neighbourhood Plan (FNP). However, the emerging LP has yet to undergo any examination hearing sessions, and the extent of any unresolved objections has not been presented to me, with no certainty that its policies shall ultimately be adopted in their current form. In accordance with the Framework paragraph 49, I am satisfied from the evidence before me that the emerging LP attracts limited weight for the purposes of my decision, and as compared to the weight of the made neighbourhood plan and the extant LP.

Main Issues

9. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - the need for the proposed development in this location, with specific regard to the convenience store element.

Reasons

Character and Appearance

10. The site comprises the southern part of a larger agricultural field, in between the built up areas of Felsted and Causeway End. It lies outside of the Felsted Development Limits as identified in the Uttlesford Local Plan (2005), and therefore is designated as within the countryside.

³ APP/C1570/W/24/3350438: new cemetery and associated infrastructure.

11. The proposal comprises several separate buildings containing a mix of uses. These are a Post Office within a convenience store, a cafe building with an area in front for a farmers market, offices, apartments and semi-detached and detached dwellings, and associated parking, access, and landscaping.
12. The LP Policy S7 identifies that in the countryside, which will be protected for its own sake, planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. S7 has been found to only have moderate weight at appeals due to being only partially consistent with the Framework, as it is less permissive regarding protection of the countryside, and promoting sustainable development and accepting differences in the level of sustainability between countryside and town locations. However, the second part of Policy S7 does also seek to protect or enhance the character of the countryside, which is in accordance with the Framework paragraph 187(b) in contributing to and enhancing the natural and local environment by recognising the intrinsic character and beauty of the countryside.
13. The Framework Paragraph 83 identifies that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The proposal would achieve this. However, Paragraph 82 also directs that in rural areas, planning decisions should support housing developments that reflect local needs. The FNP Policy FEL/HN5 identifies those residential development types deemed to be acceptable outside development limits for local needs such as rural exception housing, none of which the appeal proposal would provide.
14. The LP Policy GEN2 states that development will not be permitted unless it is compatible with the scale, form, and layout of surrounding buildings. The FNP reinforces and expands upon this approach, with Policy FEL/ICH1 identifying that all development proposals must sustain, reinforce or enhance the positive aspects of Felsted's character as described in the Felsted Heritage and Character Assessment. This includes being locally distinctive through height, scale, and layout, maintaining and respecting visual integrity of the historical settlement patterns and identities. Specific to countryside locations, there should be sensitive treatment of the rural edge particularly around Felsted village, and that all new build proposals outside the development limits must not harm their landscape setting.
15. The Felsted Heritage and Character Assessment locates the site within the Felsted Village Character Area, although as an agricultural field it clearly forms a rural edge to the village. The Assessment highlights that the village has an intricate and interesting roofscape and a diverse but distinctive vernacular, and that views are typically channelled by buildings along road corridors. It also identifies that some elements particularly sensitive to change include the rural edges of the village.
16. The appellant describes the convenience store as a feature gateway acting as a key landmark design, with its height and width being comparable to the buildings opposite and adjacent. I acknowledge the similar design example of a standalone store in nearby village, albeit limited context for that has been provided.
17. The Council raises no issue with the individual design of each building, or their materials, which reflect the local vernacular. Based on this and on the Felsted built form and character I noted on my site visit and within the evidence, I see no reason

to disagree. In this respect the proposal would comply with many elements of the development plan policies, and in isolation, each of the buildings may be acceptable in this regard. However, the overall impression across the site would be significant massing of built form. The buildings' heights, widths, and articulation would visually compete, with the café pavilion building being particularly overwhelmed.

18. Furthermore, most of the frontage would comprise parking spaces and parked cars. Although the veteran tree is intended to be the landscaping focal point, it would be constricted by this parking either side and the significant massing behind. Both of these aspects would be intensified during the farmers market events. The landscaping would mitigate this to some extent, and would also partly screen the unattractive adjacent telephone exchange, but would not sufficiently mask or mitigate the overall effect of the built form.
19. Moreover, even were the landscaping to form a thick visual barrier, landscaping should not be regarded as able to remove any intrinsic harm or be a substitute for well-designed development. The character of the buildings immediately adjacent to the site on both sides, and those opposite, are of single depth only, with front building lines close to the road or with a slight set-back. The frontages of the appeal site buildings would in contrast be set back significant further. The extent of its rear building line would not align with the adjacent properties, notwithstanding that a similar rear extent is present some way to the north. The proposed layout would therefore conflict with this character, both as viewed from Chelmsford Road and in part from the public rights of way to the rear.
20. Overall, I find the layout would incorporate an over-dominance of hardstanding, and the development to be too densely massed in height, scale, and cumulative form at this sensitive rural edge location. As such it would be incongruous and discordant with the character both of the village and of its countryside landscape setting.
21. Turning to coalescence implications, the FNP Policy FEL/ICH4 does not support development proposals that, as viewed from publicly accessible locations, would visually significantly diminish the openness of the gap between Felsted village and other hamlets. The LP Policies Map identifies village development limits. On the eastern side of Chelmsford Road, this countryside gap between Felsted and Causeway End comprises the appeal site, a dwelling beyond Bakers Lane, and a further series of fields.
22. However, on the western side, the Causeway End settlement limits commence shortly beyond Bakers Lane, notwithstanding that the FNP Map 14 does not incorporate this ribbon development. In actuality since the development limits were identified, the Felsted built form now also includes the recent dwellings partly opposite the appeal site, plus the not yet constructed consented housing also opposite the site. The appellant acknowledges that the 2005 LP boundaries do not reflect the physical changes which have since taken place.
23. The fields, cemetery, mature trees, and verdant landscape enclosure to the road network all contribute to the character of the locality in ensuring the necessary degree of separation. Considering this context in totality, the appeal site provides a significant contribution to the remaining settlement gap.

24. Despite the additional landscaping, the proposal's built form stretching across the entire site would be readily apparent from its front, and to a lesser extent from the rear and from Bakers Lane. It would thus cause distinct coalescence in conflict with the FNP Policy FEL/ICH4.
25. In conclusion, the proposal would cause substantial harm to the character and appearance of the countryside. For the reasons identified above it would conflict with the LP Policies S7 and GEN2, and the FNP Policies FEL/ICH1, FEL/ICH4, FEL/HN5, and FEL/CW3.

The Need for a Convenience Store

26. The FNP Policy FEL/HVC2 supports the relocation of the village shop and Post Office to an alternative site within the Felsted Neighbourhood Area to a location no less accessible to users, and which will not necessitate on street parking. It is a highly treasured asset within the community, and relocation is required to ensure it is provided with a commercially viable long term future in the Parish. The FNP supporting text identifies that the existing store struggles to offer the facilities that shoppers require, including size constraints limiting the range of goods and services, and physical accessibility issues in part due to being a listed building.
27. Recent FNP meeting minutes identify the existing store is likely to have a commercial viability issue within 10 years. However, this timescale would fall within the period of a new LP and a new FNP, so does not in isolation indicate that no other solution or site allocation could be found.
28. There is disagreement as to the previous extent of involvement and support from the owners of the current village store/Post Office during the long period in developing the plans and proposal under this appeal. However, there is no support from its current owners at the present time, who have stated they have no intention of relocating to the appeal site. Furthermore, the appeal proposal is not linked in any formal or legal way to such a relocation. I have therefore assessed this matter on the basis that both stores would be present, with a new operator found for the appeal site, and its delivery ensured via conditions.
29. No policies have been presented to me which would restrict the provision of the various uses on the site specifically in order to prevent competition to existing businesses. This equally applies to the farmers market and café, and would also be the case with any new café opening within the development limits. The new store could be expected to take some custom away from the existing store, and also therefore reduce some of the significant problem of existing village centre parking, albeit this would only be a minor improvement because the existing store and its deliveries would still remain.
30. The proposal would be less accessible than the village centre due to its distance away. However, this is somewhat inevitable as no suitable existing sites within the village boundary have been identified since work on the FNP commenced.
31. It would be less well served by buses than the village centre, although the appellant identifies that Felsted also lies within a shared electric minibus public transport service area. Vehicle traffic would already pass by the site from the south. The mixed-use scheme would have parking allocated for each use, some of which could

be used for overspill. The Highway Authority has confirmed that the adopted minimum parking standards would be met, and has not objected overall. In the sense of individual accessible access for all persons, the new store would provide aspects such as level access and disabled parking spaces.

32. Multiple interested parties including the Parish Council suggest that the need identified in the FNP does not exist if the existing store remains. However, I find that despite not involving its relocation, the proposal would overall comply in principle with the aims of the FNP Policy FEL/HVC2, in supporting the provision of a community facility within Felsted. It would partly meet an identified local need, and would improve the social and economic offer of Felsted.

Other Matters

33. The appellant suggests that all the LP policies relating to housing, employment, and retail needs are time-expired as they are only intended to cover up to 2011. However, such policies were not cited by the Council as reasons for refusal, nor has the appellant sought to rely on other policies for direct support, beyond those in the Framework which I consider below.
34. The appellant draws my attention to a 30 dwelling scheme allowed in 2020 on appeal at the eastern edge of Felsted, which they infer sets some precedents. However, I find that site context to be different due to existing built form being in front and opposite, plus I note that despite the overall finding of harm to the character and appearance, that Inspector also identified it was a low density form of development that would incorporate notable areas of open space, and would be respectful of the site's edge-of-village setting. This is not the case before me, nor does the current appeal proposal include affordable housing. It is also in a different context of a lesser housing land supply shortfall, and a made FNP. I therefore do not find that appeal to be determinative to my decision.
35. There have been no technical objections from consultees, and the proposal would comply with many development plan policies. However, this does not in itself mitigate the harm identified above.
36. The appellant's Final Comments explains in depth the history of the site and formation of the proposal, aspects of the neighbourhood planning process and public meetings, and discussion of other potential sites. However, the development plan does not require me to assess the proposal in direct comparison with any other potential sites, and so I have considered it on its own merits.
37. I acknowledge that some of this background information is presented to explain their perception that interested parties and the Planning Committee were influenced by misinformation, and they place much emphasis on the Planning Committee discussion. However, most of this exposition does not relate to the substantive matters of the up to date position before me for this appeal, where I am able to come to my own conclusion. It is therefore unnecessary for me to expand on such matters any further.
38. I note the multiple interested party objections on the grounds of traffic generation, and parking matters. The Parish Council considers that the proposal would conflict with the FNP Policy FEL/HVC5 which requires a Transport Assessment to include

demonstration of avoidance of any adverse impact on the local highway network. However, neither the Council nor the Highway Authority objected on the basis of traffic generation or a lack of sufficient parking. As I am dismissing the appeal on other grounds, I therefore do not find it useful to consider such matters in any greater detail.

39. The site is within the Zone of Influence for Essex coastal sites, including the Blackwater Estuary Special Protection Area. These are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). There would likely be significant in combination effects on these sites resulting from increased recreational visitor pressure from new residential development. The appellant identifies they have paid a Habitat Mitigation Regulations contribution to offset this impact in compliance with the Essex Coast Recreational Avoidance and Mitigation Strategy. As the Competent Authority, I may only grant permission after having ascertained for myself that the proposed development would not affect the integrity of this and any other protected sites. Again, as I am dismissing the appeal on other grounds, I therefore do not need to consider this matter further.

Benefits

40. The Council is unable to demonstrate a 5 year housing land supply (5YHLS). Its committee report from June 2024 for a different application (see footnote 2) identifies a recently updated supply figure of 4.50 years instead of the October 2023 published figure of 5.14 years, to reflect the required 20% buffer following the 2022 Housing Delivery Test outcome. The 2023 Housing Delivery Test (published December 2024) and the 2024 Framework do not amend this position at the present time. It is evident that the District has a high unmet housing need. In this situation, the Framework guidance within paragraph 11(d)(ii) applies, which I address in my planning balance below.
41. The proposal would result in nine additional open market dwellings of a range of sizes, and the proposal seeks to make more efficient use of the land. The Framework seeks to significantly boost the supply of homes, and so additional housing in a relatively sustainable location is a clear benefit of the proposal. There would also be moderate economic and social benefit benefits associated with their construction and occupation.
42. The FNP provides support for start-up and small business enterprises, but only on brownfield sites. Nevertheless, the offices would provide a benefit in supporting such enterprises for local employment. The café, convenience store, and farmers market would also create jobs, which the application form identifies in total as being 26 full-time equivalent, plus construction employment.
43. An area of 10 parking spaces is identified as overspill and to support the cemetery opposite the site which has no existing parking, although I am aware that a permitted housing scheme adjacent to the cemetery would provide parking once implemented. This parking would be a minor benefit beyond the parking need created by the proposal itself.
44. There would be biodiversity and ecological enhancements improvements such as bat and bird boxes, and a range of planted species within the landscaped areas

and hedging. The grounding of the overhead power lines would be a visual benefit in accordance with a general aspiration within the FNP, albeit I did not find it to be particularly intrusive in this location. The significant additional landscaping would primarily be mitigation rather than a benefit.

45. The proposal would incorporate electric vehicle charging, and renewable energy from solar slates and air source/ground source heat pumps, which would provide a minor environmental benefit.
46. The proposal would incorporate a new footpath link from the site's northwest boundary, which the Highway Authority advised would be beneficial. It would also widen the Chelmsford Road footpath and thus allow improved pedestrian movements, and enhancements or extensions to the network are supported by the FNP Policy FEL/CW3. However, I find the main need for both of these footpaths would be in relation to sustainably accessing the proposal itself. It has not been suggested that this would resolve a specific existing problem.
47. The appellant considers there would be a reduced need to travel to services, improving the sustainability of Felsted as a whole, but this has not been demonstrated insofar as the proposal may also create additional travel from outside the village.

Planning Balance and Conclusion

48. The Framework paragraph 11(d)(ii) is engaged due to there being only a 4.5 year housing land supply. This requires granting permission 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.
49. The 2024 Framework amendment added the key policies reference (plus an associated footnote), but I did not seek comment from the parties on this matter. This was because this amendment is not substantive to my decision, as those identified key policies are the same as those against which I would have assessed the proposal under the previous Framework version.
50. I give moderate weight to the benefits of the proposal in providing additional village facilities and their ongoing economic and social impact, including the provision of a convenience store which meets the FNP identified need. I give moderate weight to the economic and social benefits of the construction and occupation of the proposal as a whole, alongside moderate weight to the benefit of 9 market dwellings in the context of a 4.5 year housing land supply. I give minor weight to the parking benefit, the improved footpath provision, biodiversity enhancements including the landscaping, the grounding of the overhead power lines, and the proposal's environmental benefits. Taking the Framework policies as a whole, I find it gives clear support for the benefits identified above, and to the effective use of land.
51. However, I give significant weight to the substantial harm which would be caused to the character and appearance of the area. The Framework does not support the

countryside as being an appropriate location for the specific development types proposed.

52. The proposal would conflict with its paragraphs 129 and 135 whereby development should take into account the desirability of maintaining an area's prevailing character and setting and the importance of securing well-designed places, and development should be visually attractive including as a result of good layout, sympathetic to local character and history including the surrounding built environment and landscape setting, and maintain a strong sense of place. Although paragraph 135 also identifies that site potential should be optimised to accommodate an appropriate amount and mix of development, I found above that the amount of development would not be appropriate. Paragraph 187(b) identifies the need to recognise the intrinsic character and beauty of the countryside.
53. Furthermore, the Framework paragraph 14 relates to situations where a neighbourhood plan became part of the development plan five years or less before the date on which a decision is made, and contains policies and allocations to meet its identified housing requirement. The Felsted Neighbourhood Plan was made on 25 February 2020 less than five years ago, and does contain housing allocations in relation to the extant housing requirement. As such, paragraph 14 identifies that in situations where the 11(d) presumption applies, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
54. Overall, in taking the policies of the Framework as a whole, I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits in this case. Accordingly, the proposal does not benefit from the presumption in favour of sustainable development as a material consideration.
55. The proposal would comply with numerous development plan policies, but would also conflict with several for the reasons explained above. The conflict with the LP Policy S7 is tempered by its partial lack of compliance with the Framework, but I give significant weight to the conflict with the LP Policy GEN2, and with the FNP Policies FEL/ICH1, FEL/ICH4, FEL/HN5, and FEL/CW3.
56. Overall therefore, the proposal would conflict with the development plan as a whole. With no other material considerations outweighing this conflict, including policies within the Framework, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR