



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/24/3350438

Land East of Chelmsford Road, Felsted, Essex CM6 3XQ

- 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/23/3220/FUL.
 - The development proposed is a new cemetery and associated infrastructure.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for a partial award of costs was made by Felsted Place Limited against Uttlesford District Council. This is the subject of a separate Decision.

Preliminary Matters

3. The application form stated the site address as 'Land adjacent Bakers Lane, Felsted, Dunmow.' The decision notice and appeal form stated the address as 'Land East of Chelmsford Road'. As the main access would be off Chelmsford Road, it is most appropriate to use this same address.
4. The front part of the appeal site falls within the site boundary of a concurrent appeal also before me for determination¹. Both schemes could not be simultaneously implemented in full as shown on their plans. For the avoidance of doubt, I have assessed each on its own merits. I also note reference to a more recently refused application², the details of which have not been presented to me.
5. 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 which was before the parties for their appeal evidence, and updated cited paragraph numbers where necessary. However, I have not gone back to the parties for comment, as the Framework changes are not substantive or determinative in relation to this appeal outcome.
6. At the time the parties submitted their appeal evidence, the emerging Uttlesford Local Plan was at Regulation 19 stage. The parties have not relied upon its draft policies in their evidence. The emerging LP has yet to undergo any examination

¹ APP/C1570/W/24/3343021 Land East of Chelmsford Road, Felsted, Dunmow CM6 3ET: 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.

² UTT/24/0687/FUL

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.

7. The Council's officer report referenced in its Statement of Case was not submitted to the Planning Inspectorate in accordance with the appeal timetable. However, the appellant subsequently independently accessed the report on the Council's website, and responded to it in their Final Comments. As such, in the interests of natural justice I have accepted it for the purposes of my determination despite being late evidence, as no parties would be prejudiced by my doing so.

Main Issues

8. The main issues are:
 - the effect of the proposed development on the character and appearance of the countryside;
 - the effect of the proposed development on the supply of agricultural land; and
 - the need for the proposed development in this location.

Reasons

Character and Appearance

9. The site comprises the southern part of a larger agricultural field, running alongside Bakers Lane, and forming part of a countryside gap clearly evident from Chelmsford Road in between the built up areas of Felsted and Causeway End. The proposed cemetery would allow for approximately 1,300 graves, with a car park for 20 vehicles, and separate vehicle and pedestrian access routes.
10. The Uttlesford Local Plan (LP) locates the site outside of the Felsted Development Limits, and therefore within the countryside. 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, and if its appearance protects or enhances the particular character of the part of the countryside within which it is set.
11. I concur with the Council that the proposal would not conflict with the Felsted Neighbourhood Plan (FNP) Policy FEL/ICH4, as it would not visually significantly diminish or completely erode the openness of the gap between Felsted village and the hamlet of Causeway End. It would be a very low level development in terms of height and massing. The interment area itself would be very well screened, being surrounded by and incorporating significant landscaping.
12. In contrast, the car park and long access road would be clearly visible from Chelmsford Road as an uncharacteristic feature within an agricultural field, particularly when up to 26 parked cars were present. The rationale for the access road cutting across the field is to avoid the electricity substation and the root protection zone of the oak tree. The appellant also discounted access off Bakers Lane due to poor sight lines on exit, and the impact on its quiet green lane character and use as a byway. However, Bakers Lane is regularly used by

vehicles serving the cluster of dwellings along it, and the cemetery would not be an intensive use, such that I do not find this a compelling argument.

13. Furthermore, the design rationale does not identify why the green landscaping of the cemetery itself could not form the Chelmsford Road frontage, which would avoid the need for such a convoluted access road, and development isolated within the field and from the surrounding built form. The appellant suggests that this access route and the degree of set-back would allow for a sense of arrival, setting, and tranquillity within the cemetery. However, the sense of arrival would predominantly only be to a car park, with the cemetery itself hidden behind.
14. The layout would therefore cause harm to the outlook across this open parcel of countryside, and thus its landscape character and the setting of the edge of the Felsted settlement. The proposal would conflict with the Framework paragraph 135 which requires that development proposals function well and add to the overall quality of the area, are visually attractive as a result of good layout, and are sympathetic to local character and landscape setting.
15. Overall, the proposal would cause moderate harm to the character and appearance of the countryside. It would conflict with the LP Policies S7 and GEN2, and the FNP Policy FEL/ICH1. Together and amongst other matters, they require proposals to be appropriate to a rural area, protect or enhance the character of the countryside, be compatible with the layout of surrounding buildings and help to reduce the visual impact of new structures, respect the visual integrity of historical settlement patterns, and give sensitive treatment to the rural edge including the surrounding landscape setting.

Agricultural Land

16. The Framework paragraph 187(b) identifies that decisions should contribute to and enhance the natural and local environment by recognising the economic and other benefits of the best and most versatile agricultural land (BMVAL). The Framework Annex 2 Glossary categorises BMVAL as land in grades 1, 2 and 3a of the Agricultural Land Classification. The land comprises Grade 2 arable land.
17. The Council's putative reason for refusal includes that the proposal would result in the poor usage of BMVAL. The Council notes that whilst the district benefits from a large amount of BMVAL, siting the proposal in this location would harm the viability of that remaining within the wider field.
18. The LP Policy ENV5 only permits development of BMVAL where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. Where development of agricultural land is required, areas of poorer quality should be sought except where other sustainability considerations suggest otherwise.
19. The appellant identifies that the total agricultural field is approximately 5.46ha, and so the loss of the southern section at 0.9 hectares would be 16% of the total area. They consider this would not harm the viability of the field; an opinion based on being third generation professional farmers.
20. However, I find this is very limited evidence and justification. The Framework paragraph 124 requires planning decisions to promote an effective use of land. The site layout including its long access road would use or sterilise more of the

BMVAL than an alternate layout. Alternative layouts have not been provided and discounted in accordance with Policy ENV5. There is also no detailed evidence that farming could still be achieved in the field portions to the west of the new footpath and hedge line, which would also be split by the access road.

21. The appellant highlights that a BMVAL impact was not cited as a reason for refusal on the other appeal before me in the same field. However, that is for a different type of proposal and site layout, and any inconsistency does not reduce the harm that would be caused in this instance.
22. I therefore find that the proposal would cause moderate harm to BMVAL land, and so would conflict with the LP Policy ENV5.

Need for the Proposed Development

23. The FNP Policy VA4 supports the provision of a new burial ground within the Neighbourhood Area, that provides safe vehicular access, off-street parking for visitors so that on-street parking is not necessary, and which enhances and/or extends the green infrastructure. The FNP paragraph 3.2.10 identifies that the community want a suitable new site identified within the Parish, as the Holy Cross church burial ground reached capacity and is closed for further interments, and the United Reform Church (URC) acceptance of other denomination burials at their existing burial ground opposite the appeal site is a temporary solution. The proposal would therefore comply with Policy VA4, and support the provision of a community facility within Felsted.
24. However, the LP Policy LC3 as referenced in the Design and Access Statement, only permits community facilities on a site outside settlements if its need can be demonstrated, the need cannot be met on a site within the boundaries, and the site is well related to a settlement. This is an older Policy than those in the FNP, but is still relevant and holds weight.
25. The Parish Council considers that the cemetery need identified while drafting the FNP, no longer exists such that Policy VA4 now requires editing through public consultation. This is because the URC has confirmed ongoing interdenominational interments at its burial ground, with legal ownership transfer to the Parish Council underway. The Parish Council also suggests a trend for a reduced need for full interments that has eased pressure on all cemeteries, including the URC cemetery, and refer to the recently opened nearby Dunmow Crematorium as evidence of this.
26. As such, the extent of the current local need for a burial ground is a material consideration despite the proposal's compliance with the FNP Policy VA4. Although the appellant identifies that between the FNP being made and the appeal proposal submitted, no Parish Council public meeting minutes include any cemetery discussion this does not change the position currently before me.
27. The proposal is stated as being for interdenominational burials, green funerals, and the interment of ashes with significant opportunities for memorial gardens. However, no evidence beyond the FNP community aspiration has been presented for how the site's operation would address specific local needs, or any indication of local or regional interment trends needs or trends.

28. The appellant identifies that the proposal would be more preferable than the URC cemetery in relation to Policy VA4 because it would be a new facility, have better parking provision, and enhance green infrastructure. However, the proposal before me is not entirely based on a comparison or choice between the two sites, but on its own merits and need.
29. I do note that there is no detailed evidence or certainty of the URC ownership of land immediately adjacent to the existing cemetery enabling an extension should the need arise. Similarly, there is no certainty regarding the Parish Council statement that a further contingency site is available if the URC site were no longer available. I have therefore not taken these into consideration.
30. Overall, the proposal would comply with the FNP Policy VA4, for which there is no indication of a potential replacement policy. However, the suggested lack of local need cited by the Parish Council as a material change since the NP was made, has not been sufficiently countered by any detailed evidence of local needs. The LP Policy LC3 also requires evidence of need. As such, I find the change in material circumstances to effectively balance out the policy compliance in this instance, such that this becomes a neutral matter in my determination.

Other Matters

31. Having come to the above conclusion with regard to the lack of evidenced need for the proposal, it is still a point of fact that a new cemetery would be an item of community infrastructure. It would thus be supported in general terms by the Framework under its social objective, and so gains minor weight in favour.
32. The cemetery would incorporate additional on-site green infrastructure of public benefit, a new footpath connecting to an existing public right of way, and additional and improved footpath links including an upgraded surface for Bakers Lane. I give these benefits minor weight. There would be biodiversity improvements comprising planting, log piles, bird and bat boxes, and rough grassland habitat, which I also ascribe minor weight.
33. It would result in very small-scale economic and social benefits during construction and operation, to which I give minor weight. Electric vehicle charging points would be a minor environmental benefit. Four of the parking spaces are proposed as unrestricted and so would be a minor benefit in supporting the existing URC burial ground or other footpath users, and removing existing parking from the roadside. I give these parking benefits minor weight.
34. A cemetery inherently requires quietness and tranquillity to allow for contemplation. This is a justification for the proposed location, but I do not find this to be so site specific or unusual in the context of the Uttlesford District as a whole, such that it would lend more than minimal support.

Planning Balance and Conclusion

35. The Council identifies that the proposal should be considered under the Framework paragraph 11(d), because Policy S7 has been found to only have moderate weight at appeals due to being only partially consistent with the Framework. This is because S7 is less permissive regarding protection of the countryside, and in promoting sustainable development and accepting differences in the level of sustainability between countryside and town locations.

36. However, the evidence does not suggest to me that the policies which are most important for determining this appeal, being those which relate to the proposal's character and appearance, should be deemed to be out-of-date. These are the LP Policy GEN2 and the FNP Policies FEL/ICH1 and FEL/VA4 as outlined above. Furthermore, the second part of Policy S7 also seeks 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. Thus, the Framework paragraph 11(d) is not engaged, and the proposal does not benefit from the presumption in favour of sustainable development as a material consideration.
37. The proposal would provide a community facility, but the evidence for its local need is inconclusive, and so it only gains minor weight in favour. I give minor weight cumulatively to the benefits identified above including green infrastructure, biodiversity, and parking.
38. In opposition I give moderate weight to the harm to the character and appearance of the area, and minor weight to the potential impact on BMVAL in the absence of detailed evidence on this matter. Overall, the harm resulting from the proposal would not be outweighed by its benefits. The proposal would comply with numerous development plan policies, but would conflict with those identified above which relate to this harm.
39. The proposal would therefore conflict with the development plan taken as a whole. With no material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

INSPECTOR