



Appeal Decision

Site visit made on 18 December 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/C1570/W/24/3348090

Land On the West Side of Canfield Road, Great Canfield, Dunmow CM22 6ST

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr and Mrs P Roberts against Uttlesford District Council.
 - The application Ref is UTT/24/0340/OP.
 - The development proposed is erection of six dwellinghouses.
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Decision

1. The appeal is allowed and planning permission is granted for erection of six dwellinghouses at Land On the West Side of Canfield Road, Great Canfield, Dunmow CM22 6ST in accordance with the terms of the application, Ref UTT/24/0340/OP, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal is made in outline with access to be considered. Matters relating to appearance, landscaping, layout and scale are reserved for future consideration. I have therefore treated the layout and street scene shown on the submitted plans as indicative only.
3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the parties on this and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers.

Background and Main Issues

4. Following the submission of the appeal against non-determination, the Council has indicated that it would grant planning permission for the proposed development. I have been provided with copies of relevant development plan policies and representations from statutory consultees and interested parties.
5. In light of these and my observations on site, I consider the main issues in this appeal to be:
 - whether the site is a suitable location for development having regard to the locational strategy of the development plan; and
 - the effect of the proposal on highway safety.

Reasons

Suitable Location

6. Uttlesford Local Plan (2005) (LP) Policy S7 sets out that planning permission will only be given for development in the countryside that needs to take place there or is appropriate to a rural area. There is no dispute that the site is in the countryside. Market housing is not a development that needs to take place in the countryside, nor is it appropriate in a rural area as a point of principle. The site is therefore not a suitable location for development having regard to the locational strategy of the development plan and contrary to LP Policy S7.

Highway Safety

7. A transport statement was submitted alongside the proposal. It identifies a low number of additional trips would be generated by the proposal and I have no reason to disagree with this. The surrounding highway network would be able to accommodate these movements without there being a severe impact on its operation.
8. Canfield Road is single width, unlit and has no footpath. It is likely used by pedestrians, cyclists given it forms part of the national cycle network and equestrians given its proximity to stables. However, this is not uncommon on rural roads. No personal injury accidents were recorded. I have no reason to conclude that the proposal would cause harm to highway safety where drivers exercise due care and attention.
9. Access is to be considered at this outline stage. Suitable visibility splays would be provided. Canfield Road is quite narrow adjacent to the site, however the proposed access would be of sufficient width to allow safe access to and from Canfield Road.
10. There are no restrictions on the use of the highway network. The construction traffic associated with a small development would be unlikely to give rise to significant harm to the verges along the surrounding road network. Nor have I been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to this matter.
11. I therefore conclude the proposal would have an acceptable effect on highway safety. It would be in accordance with LP Policy GEN1 which requires development to be capable of being safely accommodated on the surrounding transport network and take account of the needs of cyclists, pedestrians and horse riders.

Other Matters

12. The site comprises part of an existing field which is considered by interested parties to be Grade 2 agricultural land. The proposal would result in a permanent change to the character of the site by introducing residential development into a currently open, rural space and the permanent loss of best and most versatile agricultural land. Given the small area of the site and the expansive areas of arable land around it, the adverse effects of this loss would be negligible. I have not been made aware of the site being in an area of any particular landscape character. It would extend development along Canfield Road, reducing the gap between this cluster of development and Hope End Green. However, this harm

would be moderate due to the presence of housing on the opposite side of the road.

13. The Council is satisfied that the site represents a sustainable location for development. In reaching this conclusion, it quotes from a previous appeal decision adjacent to the site. This acknowledges that there are some limitations in terms of accessibility to public transport but concluded that in the context of the area, the site was in a relatively accessible location. My observations at my site visit were consistent with those comments and I have no reason to reach a different conclusion in this respect.
14. There is no reason in principle the site could not accommodate the development of six dwellings. While that number of dwellings would be at a greater density than some of the surrounding properties, the presence of terraced and semi-detached properties immediately adjacent to the site means that proposed level of development would not be inherently incongruous. The layout and appearance of the development would be assessed at the reserved matters stage. The effect on the living conditions of surrounding occupiers would also be addressed at that time, but there is no reason that an acceptable scheme could not be delivered. Given the position of the access and the likely number of vehicle movements from six dwellings, there would not be unacceptable levels of noise and disturbance.
15. A Preliminary Roost Assessment and Preliminary Ecological Appraisal (Ecological Appraisal) identified the likely impacts of the proposal on habitats and species. It confirmed that with appropriate mitigation measures during the construction stage, effects on wildlife could be appropriately addressed. Landscaping falls to be considered at the reserved matters stage. Biodiversity enhancements could be secured by condition.
16. Surface water drainage of the site could be controlled by condition and would ensure that the proposal would not lead to flooding off-site. The potential for adverse effects during the construction stage of the development could be mitigated via the use of an appropriate condition.
17. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
18. The heritage assessment identified four listed buildings in the area. Great Canfield Park, The Granary and Byre are sited in proximity to each other. The significance of Great Canfield Park is derived from its age and architectural value. The significance of The Granary and Byre is derived from their age and historic interest in the evolution of agriculture in the area. Taken together, they have a group value as a former farmstead. The appeal site still forms part of the estate of Great Canfield Park, where the surrounding fields inform the historic significance of the listed buildings. However given the distance of the appeal site from the listed buildings and the intervening development, the proposal would have a neutral effect and the setting of the buildings would therefore be preserved.
19. Lavenhams is within Hope End Green and is separated from the site by undeveloped fields. Its significance is derived from its age and architectural value. While the lack of development around the site allows it to be seen, its setting is

primarily informed by its immediate garden. There is no evidence before me of any historic linkages between the listed building and the surrounding agricultural landscape. The appeal site is some distance from the listed building. It consequently would have a neutral effect and the setting of the building would be preserved.

20. Development of this scale would not be required to provide affordable housing. The adjacent development was clearly completed at the time of my site visit so it would not be reasonable to require the sites to be considered together for the purposes of requiring affordable housing. There is no substantive evidence before me demonstrating the proposal would have an unacceptable effect on social infrastructure.
21. The Council is in the process of preparing a new development plan which has recently been submitted for examination. However, I am not aware of the extent of unresolved objections which exist. Consequently, I attach limited weight to both it, and the findings of the evidence base documents informing site allocations.
22. Any future planning applications would be determined with respect to the development plan and material considerations at that time. It is unlikely that another site would display exactly the same circumstances as this. The provision of a water supply is controlled by other legislation, and I have not been made aware of any concerns that could not be addressed through this. The time it took for houses to sell on the previous development does not demonstrate a lack of need or demand for dwellings.

Planning Balance

23. It is not in dispute that the Council cannot demonstrate a five year supply of housing land and that it has not met the requirements of the housing delivery test. Consequently, paragraph 11d)ii of the Framework is engaged. This sets out that planning permission should be granted unless the 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 regard to key policies.
24. There would be adverse effects arising from the loss of best and most versatile agricultural land, however this would be limited given the very small scale of the site. There would be an inevitable urbanisation of the site which would also reduce the separation between settlements. However, in a predominantly rural authority, such effects are likely from many potential locations for housing. These adverse effects would be localised and as such would attract only limited negative weight.
25. I have found the proposal would have an acceptable effect on highway safety. The setting of surrounding listed buildings would be preserved. Suitable drainage could be secured. However these are to be expected of any well designed development and would be neutral factors in my assessment.
26. The proposal would result in the delivery of additional dwellings in an area which cannot demonstrate the requisite supply of housing land and has a history of failing to deliver the necessary level of dwellings. In light of these shortfalls, I attach significant weight to the benefits of the delivery of additional dwellings. Biodiversity enhancements could be secured, and I attach limited weight to those

benefits. The site is a relatively accessible location and is located on the national cycle network. This also weighs in favour of the development.

27. Consequently, I find that the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.

Conditions

28. The Council has suggested several conditions should the appeal be allowed. I have had regard to these in light of the advice contained within paragraph 57 of the Framework and the Planning Practice Guidance. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework. This includes removing the ability for amendments to be agreed informally in writing in the interests of certainty. I have imposed standard conditions relating to the submission of reserved matters, commencement of development and approved plans to define the terms of the permission.
29. It is reasonable and necessary to ensure that development will be carried out in such a way as to minimise disruption to surrounding occupiers and ensure there is not an adverse effect on the operation of the highway. A biodiversity construction management plan is necessary to mitigate the effects of construction on biodiversity. I have amended the condition to require it to have regard to the findings of the Ecological Appraisal and to require updated surveys should the development not commence within one year of this decision. This is reasonable and necessary as the Ecological Appraisal was carried out out of season but it is not necessary to have a further condition requiring compliance with it.
30. Contamination falls outwith the remit of the reserved matters, so it is reasonable and necessary to impose a condition ensuring land is suitable for a sensitive end use at this stage. I also consider it necessary to have a condition providing controls should unexpected contamination be found. Drainage also falls outside the scope of the reserved matters. While the Council has not suggested such a condition, in light of concerns raised by interested parties I consider it is reasonable and necessary to ensure surface water is appropriately managed.
31. Biodiversity enhancements are reasonable and necessary and must be secured at the outline stage. Given the scale of the proposed development, the identified biodiversity and likely enhancement, a landscape and ecological management plan would not be a reasonable requirement.
32. The delivery of the access is secured by the approved plans condition so a further condition is not necessary. Electric vehicle charging is secured by the building regulations so a condition is not reasonable or necessary. The Framework sets out at Footnote 51 that planning policies should make use of the optional technical standards for accessible and adaptable housing where this would address an identified need for such properties. The development plan does not refer to these standards, nor is there any evidence before me of identified needs. It therefore would not be reasonable to impose this requirement.
33. The definition of landscaping includes screening by other means so would include gates. Parking provision, including for cycles and turning heads would be

addressed as part of the layout of the scheme. It is not certain that there would be air source heat pumps as part of the development or where they would be sited. These matters would therefore be addressed at the reserved matters stage.

Conclusion

34. The proposed development conflicts with the development plan when read as a whole. For the reasons given above, I attach limited weight to this conflict. The policies of the Framework are a material consideration which weigh strongly in support of the appeal as the adverse impacts I have identified would not significantly and demonstrably outweigh the benefits of the proposed development.
35. I therefore consider that in the specific circumstances of this case, the material considerations indicate that the decision should be taken other than in accordance with the development plan. Accordingly, the appeal should be allowed.

J Downs

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos 481/P/100 with respect to site location and access only and 9680-202 Rev A.
- 5) Prior to the commencement of the development hereby approved a Construction Method Statement shall be submitted and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a) Construction/Operational Hours
 - b) the parking of vehicles of site operatives and visitors
 - c) loading and unloading of plant and materials
 - d) storage of plant and materials used in constructing the development
 - e) the control of noise and dust from construction, including the hours of working and hours of deliveries
 - f) safe access to site
 - g) wheel washing facilities
 - h) measures to control the emission of dust and dirt during construction
- 6) Prior to the commencement of the development hereby approved a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be prepared with regard to the findings of the Preliminary Roost Assessment and Preliminary Ecological Appraisal and include the following.
 - a) If the development is not commenced within one year of outline planning permission being granted, a review of the ecological mitigation measures informed by ecological surveys commissioned to establish if there have been any changes in the presence and/or abundance of protected and Priority species and identify any likely new ecological impacts that might arise from any changes.
 - b) Risk assessment of potentially damaging construction activities.
 - c) Identification of "biodiversity protection zones".
 - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements) to include precautionary

working method statements for Great Crested Newts, reptiles and mobile mammal species and protection of priority habitat hedgerows.

- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.
- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

- 7) Prior to the 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 BS10175:2011.

Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation adhering to BS 10175:2011 shall be submitted to and approved in writing by the Local Planning Authority.

Where shown to be necessary by the Phase 2 Site Investigation a detailed Phase 3 remediation scheme shall be submitted for approval in writing by the Local Planning Authority. This scheme shall detail measures to be taken to mitigate any risks to human health, groundwater, and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.

The effectiveness of any scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), prior to the occupation of any dwelling.

- 8) Prior to slab level of the development hereby approved a Biodiversity Enhancement Layout for biodiversity enhancements listed in the Preliminary Roost Assessment and Preliminary Ecological Appraisal (Arbtech, January 2024) shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include:
- a) detailed designs or product descriptions for biodiversity enhancements; and
 - b) locations, orientations and heights for biodiversity enhancements on appropriate drawings.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

- 9) Prior to its installation, 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. The scheme should demonstrate that

all exterior lighting would be capped at the horizontal with no upward light spill and shall demonstrate how the scheme accords with the requirements of General Note: 08/23 (Institute of Lighting Professionals) 'Bats and Artificial Lighting at Night' or any equivalent update or replacement. External lighting shall only be installed and operated in accordance with the approved scheme.

- 10) 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 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.

[End]