



Appeal Decision

Site visit made on 6 February 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

Appeal Ref: APP/C1570/W/24/3346237

Old Whitehouse Farm, Whitehouse Road, Stebbing, Essex CM6 3BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Morton against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2046/FUL.
 - The development proposed is a proposed eco-dwelling and cartlodge outbuilding.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024 and updated it on 7 February 2025. In the interests of natural justice, and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.
3. The emerging Uttlesford Local Plan 2021 – 2041 has reached the Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage. I have little information to suggest when the plan is likely to be adopted, or if any policies have been modified, or if there are any unresolved objections. Accordingly, I attribute limited weight to this plan.
4. The appellant states that the appeal site forms part of the extended garden area of Old Whitehouse Farm and has provided evidence to support their claim that the use of this land changed from agricultural to domestic in around 2002 and has been used by the appellant and their family since they purchased the property in 2014. They therefore state that the appeal site is previously developed land.
5. The Framework defines previously developed land as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It states that previously developed land excludes land in built-up areas such as residential gardens, parks, recreation grounds and allotments.
6. In this particular case, the appeal site is located outside of a built-up area, such that if the use of the land as garden is lawful it would make the site previously developed land (PDL). However, in determining an appeal made under Section 78 of the Town and Country Planning Act 1990 (the Act), my powers do not extend to

allow me to make a declaration as to what the lawful use of land is. Nonetheless, it is open to the appellant to apply to have the matters determined under Sections 191 or 192 of the Act regardless of the outcome of the appeal.

Main Issue

7. The main issue is whether the appeal site is a suitable location for the proposed development, having regard to development plan policy and with particular regard to the effect of the proposed development on the character and appearance of the area.

Reasons

8. The appeal site comprises an area of land located to the rear of Old Whitehouse Farm. It is bordered on two sides by open fields and to the other side by Lubberhedges Lane, where access would be provided into the site. Old Whitehouse Farm is a detached property, set in large grounds and situated on Whitehouse Road close to the junction with Lubberhedges Lane. This section of Whitehouse Road is characterised by a row of dwellings that are setback from the highway behind grass verges and garden areas.
9. The surrounding area is characterised by mostly flat fields and open areas of land, and the presence of a variety of vegetation and trees results in a verdant, spacious character that contributes positively to the wider countryside setting. The appeal site is distinctly rural in character and there would be a substantial gap between the proposed development and the nearest residential properties situated on Whitehouse Road.
10. The proposed development would involve the construction of a substantial detached property with five bedrooms. The appellant states that the design is inspired by the Essex Arts and Crafts style and would be constructed to PassivHaus standards, incorporating a number of sustainable design features and renewable energy sources.
11. The appellant states that the proposed dwelling would be in keeping with the scale and design of other dwellings in the surrounding area. My attention has been drawn to a number of specific examples of residential properties¹ in the surrounding area which have been recently constructed or extended and reflect the scale and design approach of the proposed development. I was able to observe some of these developments during my site visit.
12. Policy S7 of the Uttlesford Local Plan adopted 2005 (the ULP) relates to development within the countryside and states that this is defined as all those parts of the Plan area beyond the Green Belt that are not within the settlement or other site boundaries. The policy states 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.
13. Policy S7 of the ULP also states that development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set or there are special reasons why the development in the form proposed needs to be there.

¹ Holly Tree House, Tollesbury Farm, Stebbing Hall and New Acres

14. It is not disputed that the appeal site lies within the open countryside, approximately 2km from the village of Stebbing. I have not been presented with any substantive evidence that there is a specific need for the development to take place in this location.
15. Policy S7 of the ULP states that there will be strict control on new building. However, Paragraph 6.14 of the ULP goes on to say that if there are opportunities for sensitive infilling of small gaps in small groups of houses outside development limits but close to settlements these will be acceptable if development would be in character with the surroundings and have limited impact on the countryside in the context of existing development.
16. Policy STEB9 of the Stebbing Neighbourhood Development Plan, adopted 2022 (the SNP) also states that in order to protect the intrinsic character of the countryside, support will only be given to certain types of development, of those listed it supports the infilling of small gaps in small groups of houses where development would be in character with its surroundings and with limited impact on the countryside.
17. The existing pattern of development along Whitehouse Road is that of a cluster of predominantly linear properties, which do not extend beyond the junction of Whitehouse Road and Lubberhedges Lane. Although I observed some properties located further along Lubberhedges Lane, these are sporadic and some distance from the appeal site. Due to its distance from these properties, it would not be viewed as a coherent part of this group but would appear incongruous in terms of its siting within this particular context. The location of the appeal site to the rear of Old Whitehouse Farm means that it could not reasonably be regarded as infilling a small gap within a group of houses. Furthermore, there is no other development on this part of Lubberhedges Lane. Thus, the proposed development would not infill a small gap within a small group of houses.
18. In this particular case, by virtue of its siting, the proposal would introduce a new element of built development, which would occupy part of the open area to the rear of Old Whitehouse Farm, resulting in the urbanisation of this part of the countryside. Therefore, by virtue of its scale and siting, the proposed dwelling would have a harmful effect on the spacious character of the area, thereby failing to protect or enhance the character of the countryside in this location.
19. I acknowledge that the design of the dwelling in both its appearance and scale has been chosen to reflect examples of large, detached buildings found within the area surrounding the appeal site. I also acknowledge that it would be set back from the road and set behind mature vegetation, which would limit some views of the proposed dwelling. Nevertheless, the proposed development of the site as a result of its siting and scale would result in a sprawling effect extending the built environment outside the linear pattern of development experienced within this part of Whitehouse Road, causing harm to the rural character of the area.
20. My attention has been drawn to a recent appeal decision² at The Street. This appeal relates to the proposed development of a detached house and cart lodge/store and was allowed in April 2024. Whilst I don't have the full details of this appeal proposal, in coming to this decision, the Inspector concluded that whilst there was conflict with Policy S7, it would not cause harm to the character and

² APP/C1570/W/23/3334122

appearance of the area and therefore the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits when assessed against the policies in the framework as a whole.

21. In this particular case, and for the reasons set out above I have found that by virtue of its siting and scale the proposal would harm the character and appearance of the area. I therefore find that the proposals are not directly comparable.
22. My attention has also been drawn to a recent appeal decision³ at Whitehouse Farm which was allowed. This appeal relates to a proposal for two storey side and rear extensions following the demolition of a conservatory and single storey rear extension. As this is a scheme for extensions to an existing property rather the construction of a new detached dwelling, and whilst I note the Inspectors findings, I do not consider it to be directly comparable to the appeal proposal.
23. The appellant has set out a range of development which may be able to be carried out within the garden area of Old Whitehouse Farm utilising permitted development rights afforded under the Town and Country Planning (General Permitted Development) Order 2015, including provision of fences, boundary walls and outbuildings. However, even if the appeal site forms part of the garden and would be capable of exercising the rights, I am not persuaded that these would have a similarly adverse effect on the countryside as the proposed dwelling. Consequently, I attribute this very limited weight.
24. For the above reasons, I find that the proposal would fail to protect or enhance the countryside and would result in harmful effects upon the character and appearance of the area. Furthermore, it has not been demonstrated that the proposal constitutes a form of development that it is necessary to take place within the countryside and the location of the development would not accord with the development plan's spatial strategy which seeks to strictly control development in the countryside.
25. Accordingly, I therefore conclude that the appeal site would not be a suitable location for the proposed development, having regard to development plan policy and with particular regard to the harmful effect of the proposed development on the character and appearance of the area. As such, it would conflict with Policies S7 and GEN2 of the ULP and Policy STEB 9 of the SNP, which seek, amongst other matters, to protect the character of the countryside and to limit development within the countryside to infilling of small gaps within groups of existing houses.
26. The proposal would also be contrary to Paragraph 135(c) of the Framework, which seeks amongst other matters, development that is sympathetic to local character. There would also be conflict with Paragraph 187 of the Framework which requires development to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

27. The appeal site is within the setting of Old Whitehouse Farmhouse, a Grade II Listed Building. I have therefore had due regard to the statutory duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

³ APP/C1570/D/24/3338931

(the Act). This places a requirement upon the decision maker to pay special regard to the desirability of preserving a listed building or its setting.

28. The significance of Old Whitehouse Farm is largely derived from its age as a mid C16th house and cross wing, with some later additions and alterations. It is two storeys, with a red plain tiled roof and has a gabled dormer.
29. The Council has not raised any specific concerns regarding the effect of the proposed development on the setting of the listed building and based on the evidence before me and my own observations, I see no reason to disagree. I therefore find that the proposed development would preserve the setting of the listed building.

Planning Balance

30. There is no dispute between the parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. The evidence before me indicates a figure of between 3.7 years and 4.5 years. Furthermore, the Council's Housing Delivery Test results show that only 58% of the required number of new homes have been delivered.
31. In these circumstances Paragraph 11(d) of the Framework states that the policies most important for determining the application are out of date, and 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 as a whole.
32. In terms of adverse effects, for the reasons set out above, I have found that the proposal would be located in the open countryside and by virtue of its siting and scale would cause unacceptable harm to the character and appearance of the area, thus failing to comply with Policies S7 and GEN2 of the ULP and Policy STEB9 of the SNP.
33. In respect of Policy S7 of the ULP, it is not disputed that this policy is only partially consistent with the Framework in that the first part of the policy is less permissive than the Framework in relation to development in the countryside. However, the second part of the policy is consistent with the Framework in that it seeks to protect or enhance the character of the countryside which is consistent with Paragraph 187 of the Framework which requires development to contribute to and enhance the natural environment through the recognition of the intrinsic character and beauty of the countryside. Thus, for the reasons set out I above I have found conflict with Policy S7 of the ULP and I afford this conflict moderate weight.
34. Paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and the neighbourhood plan contains policies and allocations to meet its identified housing requirement.
35. The SNP was adopted in July 2022, as such it became part of the development plan within the last five years. It also contains a housing requirement (Chapter 6) and housing allocations (Chapter 10). I have had regard to the appellant's

comments regarding the whether these figures are adequate to meet the evolving housing requirement. However, they were based upon the evidence available at the time of preparation and given that the emerging Local Plan has only reached Regulation 19 stage. On this basis, I afford the conflict with Policy STEB9 of the SNP significant weight.

36. I acknowledge that the scheme would be acceptable in terms of accessibility to local services, the effect on the living conditions of neighbouring occupiers, biodiversity, trees, access and parking, and renewable energy . The letters of support from neighbouring residents are acknowledged. However, the absence of harm in these respects is a neutral consideration that weighs neither for nor against the proposed development.
37. I have had regard to Paragraph 73 of the Framework which recognises that small and medium sites can make an important contribution to meeting the housing requirement of the area and that they are often built out quickly. There is also support for small sites being brought forward for custom or self-build.
38. Section 1 of the Self Build and Custom Housebuilding Act 2015 sets out that local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under Sections 2 and 2A of that Act to have regard to this and to give enough suitable development permissions to meet the identified demand.
39. The appellant states that the proposed development is that of a custom-build dwelling which would be occupied by the appellant and their family. The appellant has also stated that they are registered on the Council's self-build register. However, there is no reference to custom build within the description of development and I have not been provided with a mechanism to ensure that the proposal would be constructed or used in this manner. A planning obligation is the most appropriate method of ensuring that the development is self or custom build housing rather than market housing. For these reasons, in the absence of a suitable mechanism to secure the proposed development as custom-build housing, I can only attach limited weight to this matter.
40. The proposal would make a contribution to housing supply. However, as the proposal relates to a single dwelling, this contribution would be small. I also recognise that there would be some economic benefits during the construction phase and environmental benefits secured as part of the proposal. Nonetheless, the appeal proposal relates to a single house and therefore any benefits associated with the proposal will be small in scale and can only be attributed limited weight.
41. I have had regard to the appellant's case that the appeal site is PDL. I therefore recognise that there is support within Policy H1 of the ULP, Policy STEB9 of the SNP and the Framework for the development of previously developed land. However, even if I found that the appeal site does comprise part of the garden or curtilage of Old Whitehouse Farm and therefore would be considered PDL the Framework's definition states that it should not be assumed that the whole of the curtilage should be developed. Furthermore, in this particular case any benefits arising from the reuse of previously developed land would not outweigh the significant harm I have identified to the character and appearance of the area.

42. Taking all matters into consideration, and notwithstanding the weight I have attributed to the scheme's benefits, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole.

Conclusion

43. For the above reasons, I conclude that the proposed development conflicts with the development plan taken as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

K Lancaster

INSPECTOR