



Appeal Decision

Site visit made on 21 February 2025

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/C1570/W/24/3349850

Daisyley House, Holders Green Road, Lindsell, CM6 3QL.

- 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 David Smith of Earlswood Homes against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2874/FUL.
 - The development proposed is the erection of 3 no. dwellings with access from Holders Green Road together with parking, landscaping, and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 no. dwellings with access from Holders Green Road together with parking, landscaping, and associated works at Daisyley House, Holders Green Road, Lindsell, CM6 3QL, in accordance with the terms of the application, Ref UTT/23/2874/FUL, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues in this case are: i) The suitability of the site for the proposed development taking account of its location, its effect on the character and appearance of the area, and its access to services and likely modes of travel; and ii) whether the proposal would amount to an appropriate housing mix.

Reasons

3. The appeal site is part of the curtilage of a large dwelling, Daisyley House, that sits back from the road compared to the majority of others on this stretch of Holders Green Road. To the rear of the house it has a large garden, the majority of which makes up the appeal site, with an access along the south side of the house. The site is set to the eastern side of Holders Green Road within a cluster of residential development. There is residential development to the rear of the neighbouring dwelling known as 'Templars', which is immediately to the north of the appeal site, and planning permission has been given on land to the south of the site. A line drawn from the eastern boundaries of these 2 sites encompasses the appeal site, with open countryside beyond.

The suitability of the site for the proposed development taking account of its location, its effect on the character and appearance of the area, and its access to services and likely modes of travel

4. The starting point should be the policies of the development plan. However, the development plan consists of the Uttlesford District Local Plan adopted in 2005. Whilst the passage of time does not necessarily mean that the policies are out of date, the plan pre-dates the first National Planning Policy Framework (NPPF) of 2012, and there have been a number of iterations since¹. The NPPF takes a more flexible approach than the adopted plan, particularly in respect of the policy towards development in the countryside. The appeal site is situated outside of the defined development limits of Lindsell, and therefore is in the countryside for the purposes of the local plan.
5. Policy N7 seeks to protect the countryside for its own sake, with planning permission only to be given for development that needs to take place there, or is appropriate to a rural area. Whilst the character and beauty of the countryside is recognised in paragraph 187 (b) of the NPPF, paragraph 83 promotes sustainable development in rural areas, such that housing should be located where it will enhance or maintain the vitality of rural communities, and policies should identify opportunities for villages to grow and thrive. Where there are groups of small settlements, development in one village may support services in a village nearby.
6. Furthermore, the council accept that currently it can only demonstrate a housing land supply of 4.5 years, and therefore paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) states: *“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this 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”*.
7. The appellant’s appeal statement quotes extracts from the delegated reports that dealt with the applications to the north and south of this appeal site, mentioned above (references UTT/22/1946/FUL and UTT/22/222/DFO). From these, it would appear that the council has recently taken account of the approach in the NPPF. Whilst the site is outside the development limits of Lindsell, it is close by. NPPF paragraphs 83, mentioned above and 73 are both relevant to this case, the latter particularly so in the situation of a lack of a 5 year housing land supply. It states “Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly.
8. Drawing together the most relevant matters, the appeal proposal would be in keeping with the local residential development, would be well within the existing cluster of development along Hodders Green Road, would relate well to the development recently permitted to the north and south, and would not intrude into the open countryside to the east since the development boundary of the site along with those to the north and south would provide a distinct cut-off. Thus the character and beauty of the countryside would be protected, and a contribution would be made to the vitality of nearby rural communities. Paragraph 110 of the NPPF recognises sustainable travel considerations vary between urban and rural

¹ The latest version of the NPPF was published in December 2024, and it is the contents of this that are quoted in this decision.

areas. The travel options and use of private cars would be little different in the case of residential occupiers of the proposed houses, compared with those living within the development limits of Lindsell and other villages in the district.

Whether the proposal would amount to an appropriate housing mix.

9. Policy H10 of the 2005 local plan seeks to ensure all new developments of 3 or more dwellings include a significant proportion of market housing comprising small properties. The documentation supplied to me does not provide any justification for it or the housing need that it may have been meant to help meet. Bearing in mind the date of this plan and the lack of explanation for the policy, it appears unreasonable to me that a development of 3 houses should be required to include a dwelling of less than 4 bedrooms. It is not clear what size of house would be deemed to meet the policy. It is of significance that the pattern of people working from home has changed since 2005 and the earlier period of the plan's preparation, so that now a 4-bedroom house might well be used as of 3-bedroom plus home office. This policy, in the absence of clear justification, does not warrant the refusal of permission.

Conclusion

10. I have taken into account all matters raised, but principally the age of the local plan, the lack of a 5-year housing land supply, the policies of the NPPF taken as a whole, and the fact that the appeal site would fit within the context of development to the north and south. My conclusion, as set out in paragraph 8, is that the site is suitability located for the proposed development taking account of its location, its effect on the character and appearance of the area, and its access to services and likely modes of travel. It would not make a harmful impact upon the rural character and appearance of the area. In particular, the proposal would not significantly harm the intrinsic character and beauty of the countryside. For these reasons the appeal will be allowed.

Conditions

11. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the text.
12. I consider that the conditions should be imposed for the following reasons: condition 2 is required for certainty and avoidance of doubt as to the development permitted; condition 3 is to conserve Protected and Priority species and allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species), condition 4 is to enhance Protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the NPPF, s40 of the Natural Environment and Rural Communities Act 2006 (as amended); condition 5 is to allow the Local Planning Authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

13. Condition 6 is to protect human health and the environment; condition 7 is in the interests of the amenity of surrounding residential/business premises; Condition 8 is to ensure compliance with Policy GEN2 (c) of the Uttlesford Local Plan 2005 and is to meet the Optional Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition in the interests of meeting the needs of those with disabilities; condition 9 is to encourage and support usage of more sustainable vehicle modes; condition 10 is to ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development; condition 11 is to ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety; condition 12 is to provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety; condition 13 is to enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety; condition 14 is to ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety; and condition 15 is to prevent the site becoming overdeveloped, and protect the amenities of neighbouring dwellings.
14. Conditions 6 and 7 are pre-commencement conditions, because clearly the matters that they deal with need to be agreed before any construction can start, and I consider that it is necessary in this case because of the need to protect human health and the environment and to protect highway safety and the local environment, both from the beginning of any construction.
15. In accordance with Section 100ZA(5) of the Town and Country Planning Act 1990, if the Inspector is minded to grant planning permission subject to pre-commencement condition(s) he/she may only do so with the written agreement of the appellant to the terms of the condition(s). In this case the appellant's agent has clearly stated on the appellant's behalf that the conditions are acceptable.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans and documents Nos. 6049-0100 P03, 6049-0400 P04, 6049-0401 P03, 6049-0104 P03, 6049-0105-P01, 6049-0402 P02, E-2901513, 2495-02-D-01 A.
- 3) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Roost Assessment (Arbtech, June 2023) and the Bat Emergence and R-entry Surveys (Arbtech, October 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.
- 4) Prior to any works above slab level, a Biodiversity Enhancement Layout for bespoke biodiversity enhancement shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following:
 - a) detailed designs or product descriptions for bespoke biodiversity enhancements; and
 - b) locations, orientations and heights for bespoke biodiversity enhancements by appropriate maps and plans.The enhancement measures shall be implemented in accordance with the approved details prior to the first occupation of the dwellings and all features shall be retained in that manner thereafter.
- 5) Prior to occupation, a “lighting design strategy for biodiversity” in accordance with GN: 08/23 (ILP) shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through provision of appropriate technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
- 6) No development approved by this permission shall take place until a Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination has been 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 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).

- 7) No development approved by this permission 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 specify the provisions to be made for the control of noise and dust emanating from the site and shall be consistent with the best practicable means as set out in the Uttlesford Code of Development Practice. The approved Statement shall be adhered to throughout the construction period.
- 8) The 3 no. dwellings approved by this permission shall be built to Category 2: Accessible and adaptable dwellings in accordance with Optional Requirement M4 (2) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.
- 9) Prior to occupation, the dwellings shall each be provided with electric vehicle charging points. The charging points shall be fully wired and connected, ready to use and retained thereafter.
- 10) Prior to the commencement of the development hereby approved other than footings and foundations, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved in the first planting and seeding season following the occupation of the dwelling. If within a period of 5 years from the date of the planting or establishment of any tree, shrub or plant, that tree, shrub or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree, shrub or plant of the same species and size as that originally planted shall be planted at the same place in the next planting and seeding season.
- 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 5.5 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.
- 12) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 21 metres to the north and 2.4 metres by 35 metres to the south, as measured from and along the nearside edge of the carriageway. 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 thereafter.
- 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 proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been provided, excluding the sliding gates shown at the parking area. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A - F of Part 1 of Schedule 2 and Classes A and B of Part 2 of Schedule 2 of the Order shall take place without the prior written permission of the local planning authority.

End of Schedule