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## Appeal Decision

Site visit made on 16 April 2025

**by Mr M Brooker DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> May 2025

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**Appeal Ref: APP/C1570/W/24/3356425**

**Land North of Milch Hill, Willows Green Main Road, Felsted, Essex, CM3 1QE**

- 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 Tristan Woolfenden against the decision of Uttlesford District Council.
  - The application Ref is UTT/24/0721/FUL.
  - The development proposed is the change of use of agricultural land to residential, construction of 1 no. dwelling and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. As the proposal relates to the setting of a listed building, I have had special regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

### Main Issues

3. The main issues are:
  - : whether the proposed development would provide a suitable location for housing, having regard to the spatial strategy for the area and access to services.
  - : The effect of the appeal scheme on the character and appearance of the area, including the setting of the adjacent grade II properties.

### Reasons

*Suitable location for housing*

Spatial strategy

4. The appeal site is located apart from any settlement and while I saw at the site visit that while there are a number of other dwellings nearby, the appeal site nonetheless stands in the open countryside and is not located close to any services.
5. Policy S7 of the Uttlesford Local Plan (LP) (2005) identifies that the site lies in an area of countryside. The Council acknowledges<sup>1</sup> that policy S7 is not entirely consistent with the Framework. The first two parts of the policy relate to protecting

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<sup>1</sup> Council Statement of Case paragraph 4.3

the countryside for its own sake, and restricting development only to that needed or appropriate to the countryside, whereas the National Planning Policy Framework (the Framework), at paragraph 187, requires only that recognition be given to the countryside's intrinsic character and beauty. I address the third element of Policy S7 below as it relates to character and appearance, a matter specifically referred to in the decision notice.

6. I do not consider that the development could be considered to be an in-fill development, the spaces between the nearby properties and ultimately the nearby settlements are large and expansive, appearing as established countryside.
7. Furthermore, Policy FEL/HN5 of the Felsted Neighbourhood Plan (the NP), referring to residential development outside of development limits supports housing in particular circumstances detailed in the policy including where they are on allocated sites. The appeal site is not on an allocated site and thus is not supported by this policy.
8. As a new unit of open market housing in the open countryside, I am satisfied that the appeal site is not a suitable location for the proposed development with regards the spatial strategy of the area, and in this regard the proposal would conflict with the LP Policy S7, albeit I give this only very limited weight.

#### Proximity of services

9. Policy GE1 of the LP supports development where it encourages movement by means other than driving a car and similarly the Framework seeks that developments should promote the use of sustainable transport modes including walking, cycling and public transport.
10. The appellant submits that Great Notley is less than a mile from the appeal site and accommodates various services, medical services, education facilities and employment opportunities necessary for everyday living.
11. However, the roads around the appeal site are generally unlit rural roads, with stretches of narrow verges, generally without pavements or lighting. Accessing these services and facilities by pedestrians and relatively so for cyclists, especially in darker or wetter conditions, would be unsafe and unattractive. Therefore, I consider that the proposed dwelling's future occupants would be heavily reliant upon the private motorcar.
12. For these reasons I am satisfied that the appeal scheme is in conflict with policy GE1 and the provisions of the Framework.
13. To conclude this main issue, the proposal would not be in a suitable location for housing due to the poor access to facilities and services. It would conflict with the LP Policy GEN1 whereby development will only be permitted where it enables movement by means other than driving a car. It would similarly conflict with the relevant provisions of the Framework, and I afford this conflict significant weight. The proposal would also conflict with the LP Policy S7, albeit I give this only very limited weight.

#### *Character and appearance*

14. The local character around the site is distinctly rural, with a strong impression of open countryside, albeit I acknowledge the presence of a number of dwellings

nearby. The stables referred to by the appellant are no longer evident on the site, apparently having been removed following an earlier fire. As such, the existing site being a grassed field enclosed by trees and hedgerow positively contributes to this open countryside in character and appearance.

15. Policy FEL/ICH1 is referred to in the decision notice and relates to high quality design, requiring all development to respect the character and heritage of the area and enhance the character.
16. The proposed single storey dwelling is shown on the submitted plans as being of a modest scale and having the appearance of a simple rural building with 'timber boarding, clay pan tiles and open soffits'.
17. Furthermore, the site layout plan shows that the dwelling would be built in the corner of the site away from Milch Hill House and that the appeal scheme would include wildflower meadow with additional tree planting, with native hedgerow (resulting in biodiversity enhancements) and post and rail fencing dividing the site. I note that the existing field access is retained and enhanced, with a bituminous surface at the access to the public highway and a shingle surface through the site, adjoin to the boundary near Milch Hill House, to the proposed dwelling.
18. Nonetheless, the appeal scheme would introduce built development in the form of a dwelling, and access track and would introduce domestic activity and paraphernalia into a previously open field. This would erode the open countryside character and appearance of the appeal site.
19. Thus, I find that because appeal scheme would erode the countryside character the appeal scheme is contrary to policy FEL/ICH1 and I afford this conflict significant weight. I also find conflict with LP Policy S7, albeit I give this latter conflict only very limited weight for the reasons set out previously.

### Heritage

20. Milch Hill House is grade II listed and described as being a two storey C18/C19 house with C17 or earlier wing to right. The red tiles of the roof and 3 red chimney stacks contrasts with the part brick, part timber framed and plastered elevations. The house stands as a prominent feature in the immediate area ringed by a mature domestic garden with trees to the front being particularly prominent and a paddock to the side creating a more open aspect, adjacent the proposed access track to the appeal scheme. The appellant's Heritage Statement<sup>2</sup> sums this up as "a good example of an Essex vernacular farmhouse".
21. There is a clear visual relationship between the appeal site, currently open grassland, and Milch Hill House. As such I consider that the appeal site as a whole forms a part of the setting of the listed building.
22. Also, adjacent to the site is Mountgate a grade II listed property that appears as a prominent property dating from C15 with later additions. Mountgate and the appeal site are separated by a road, dense woodland and to some extent the topography of the appeal site such that there is little visual or other relationship between the appeal scheme and the Mountgate. As such, the appeal site makes a very limited contribution to the wider setting of Mountgate. For these reasons I do not consider

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<sup>2</sup> Heritage Statement paragraph 6.3

the appeal scheme to harm the setting of Mountgate and I have no substantive evidence before me that would lead me to conclude otherwise.

23. Paragraph 212 of the National Planning Policy NPPF 2024 (the NPPF) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have a clear and convincing justification. Given the distance between the proposed dwelling and Milch Hill House, the modest scale of the proposed dwelling and proposed planting, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 215 of the NPPF advises that this harm should be weighed against the public benefits of the proposal.
24. Given the above and while I acknowledge that the appeal scheme would provide a single dwelling in the context of an acknowledged short fall in the 5 year housing land supply, I conclude that, on balance, the proposal would fail to preserve the setting of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 210 of the NPPF and conflict with policy FEL/ICH1 of the LP that seeks, among other things, to protect heritage assets. As a result, the proposal would not be in accordance with the development plan.

### **Other Matters**

25. The Officer's report acknowledges that the council cannot currently demonstrate a 5-year Housing Land Supply (5HLS), identifying a figure of 4.5 years, the appellant referring to a supply of just 4.12 years and a shortfall of 715 dwellings. Furthermore, based on evidence detailed by the appellant, it appears that this shortfall is persistent. The appeal scheme would create a single residential dwelling, a very modest contribution to the supply of housing along with additional economic activity in occupation and during the construction phase. This is a material consideration in favour of the appeal scheme, and I afford it significant weight.
26. The appeal scheme would also create biodiversity enhancements, in particular in the form of a wildflower meadow, hedge and tree planting. This weighs in favour of the appeal scheme and I afford it moderate weight.

### **Planning Balance and Conclusion**

27. The appeal site would not be a suitable location for housing as a result of the location of the appeal site, being remote from services and facilities and the dependency on the private motor car, the harm to the character and appearance of the area and harm to the setting of the adjacent grade II listed building.
28. Policy S7 of the Uttlesford LP is more restrictive than, and thus not entirely consistent with, the Framework. Due weight should be given to policies according to their degree of consistency with the Framework and thus I have afforded it only very limited weight. Conversely, policies GEN1, FEL/ICH1 are broadly consistent with the Framework, and I consider them most important in determining the appeal. Therefore, these policies should be given significant weight.

29. There are no policies in the development plan which positively favour development of this kind in this specific location. Accordingly, as the proposal would be contrary to the policies referred to above, there would be conflict with the development plan as a whole.
30. There is an acknowledged, by both parties, shortfall in the council's housing land supply, and while different figures have been presented, the short fall appears to be between 0.5 and up to almost 1 year. I consider this shortfall to be significant and means that the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework is engaged. Planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
31. The proposal would contribute to the Framework's aim of significantly boosting the supply of housing and would bring some benefits in terms of biodiversity enhancements. These are clear public benefits.
32. However, future occupiers of the appeal scheme would be distant from services and facilities and dependent on the private motorcar. Furthermore, as a result of the appeal scheme there would be harm to the character and appearance of the area and the setting of Milch Hill House a grade II listed building. The harm is a matter I attach substantial weight to in accordance with the provisions of the Framework.
33. For this reason, the adverse impacts arising from the proposal would not be significantly and demonstrably outweighed by the benefits. Consequently, the presumption in favour of sustainable development does not apply. The policies of the Framework and other material considerations do not indicate that planning permission should be granted and for the reasons given above, the appeal is dismissed.

*Mr M Brooker*

INSPECTOR