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## Appeal Decision

Site visit made on 30 July 2025

**by A Knight BA PG Dip MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 28 August 2025**

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**Appeal Ref: APP/C1570/W/25/3367052**

**Land at Sibley's Green, Thaxted CM6 2NU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Richard Yeldham against the decision of Uttlesford District Council.
  - The application Ref is UTT/24/2957/OP.
  - The development proposed is 3 dwellings, in outline, with all matters reserved.
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### Decision

1. The appeal is dismissed.

### Applications for costs

2. An application for costs against the Council is the subject of a separate decision.

### Preliminary Matters

3. The appeal relates to an outline proposal, with all matters reserved for future consideration. I have made my determination accordingly. Plans have been submitted indicating how three dwellings could be accommodated on the site. I have taken these into account for illustrative purposes only.
4. I have been supplied with a video showing a local bus being hailed and boarded from the roadside along the B184, and another showing a passenger alighting from it. Evidence provided to Inspectors should be made available for public inspection at the Council's offices. As it cannot be ensured that facilities to view videos are available at such venues, videos are not accepted in appeals.
5. That said, I note the Council made its decision having seen the videos and, in its officer report, described their content such that third parties in the appeal could understand what had been portrayed. Indeed, I have received third party observations on this point. I will base my determination on the explanation of the videos provided in the submissions, rather than the videos themselves.

### Main Issues

6. The main issues are:
  - Whether the site is in a suitable location for the proposed development having regard to local and national planning policies and access to services and facilities;
  - The effect of the proposed development on the character and appearance of the area; and,
  - The effect of the proposed development on protected species and biodiversity.

## Reasons

### *Location*

7. The Framework describes the purpose of the planning system as being “to contribute to the achievement of sustainable development”, an aim containing an environmental objective of mitigating and adapting to climate change. This includes moving to a low carbon economy achieved, in part, by the promotion of walking, cycling and public transport. Paragraph 164 requires new development to avoid increased vulnerability to the range of impacts arising from climate change.
8. Policy GEN1 of the Uttlesford District Local Plan (2005) (the Local Plan) refers to access, and requires development to, amongst other things, encourage movement by means other than driving a car. The preamble lists objectives that include locating high trip generating activity in areas well served by public transport, increasing the proportion of journeys made by rail and bus, on foot and by cycle, and reducing the number and length of motor vehicle trips by the location of development. As such, it adheres broadly to the Framework.
9. The appeal site is in a rural location. There are so few services and facilities near the site that occupiers of the proposed development would have frequent need to travel at least to Thaxted, which is some 2 miles away. The route there from the appeal site is along the B184, a busy road with no lighting or pavements. This would severely discourage walking and cycling, particularly after dark or in poor weather.
10. A bus service operates on the B184, which is only a short walk from the site. The extent of this is said to have increased in recent times, and I am told buses pass 14 times a day in both directions. I consider that to be a reasonably high number given the rural setting and recognise that the proposed development may help to support and sustain the service. I also note that school buses are available.
11. At the same time, the route from the site to the B184 is along a narrow, unlit lane with no pavements. In some points, notably near the junction with the B184, there is little space for pedestrians to step off the road surface if a car is approaching. Once at the B184, there are no designated bus stops, much less any form of shelter from the elements for those waiting. I have little evidence that roadside verges are passable on foot all year round.
12. Furthermore, I have little evidence that the service is available from early enough in the morning and late enough into the evening to serve commuters, or available at weekends to facilitate social and leisure activities. Whilst I do not doubt that buses may stop if hailed from the roadside, I have little evidence that this is a reliable, formal aspect of the service, rather than something a driver may do if road conditions allow. Using the bus service requires crossing the B184, a busy road upon which there are no formal pedestrian crossings.
13. Overall, whilst it would be possible for occupiers of the proposed development to use the local bus service, it is unlikely that they would. Even if occupiers wanted or needed to rely on the bus service as a main or frequent mode of transport, it is not clear that the service would be adequate.
14. My attention has been drawn to previous decisions in which local public transport was considered. These relate to residential development at Monk Street<sup>1</sup>, at Ellan

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<sup>1</sup> Application Ref UTT/24/0898/OP

Vannin on Sibley's Lane<sup>2</sup>, and at Mill End Green Road<sup>3</sup>. The first and third were approved by the Council, the second dismissed at appeal (hereafter, the Monks Street approval, the Ellan Vannin dismissal, and the Mill End Green Road approval, respectively).

15. I have been provided with selected details of the Monk Street approval. The appellant informs me that, in assessing the application, much the same bus service as described above was accepted by the Council as sufficient to demonstrate sustainability. The Council does not directly address this, instead highlighting the Ellan Vannin dismissal, which it considers more recent and relevant.
16. The Ellan Vannin dismissal concerned a plot even closer to the B184 than the appeal site, but one which was nevertheless found unsuitable for residential development having regard to the proximity of facilities and services. The appellant appears to contend that paragraph 13 of the Ellan Vannin dismissal addresses the Monk Street approval, but the paragraph in question actually refers to a different scheme on the same street, considered at appeal<sup>4</sup> some three years earlier.
17. The Ellan Vannin dismissal in fact addresses the Monk Street approval at paragraph 14. Here, the Inspector states that the '*referenced site is closer to Thaxted, at a distance of around 1.5 miles and it has also been set out that there is a route over fields that can be used to reach this settlement. The appeal site is further away, and on the other side of the busy B184 and it is not clear whether the appeal site would also benefit from such a pedestrian route. Accordingly, I have considered this appeal before me on its own merits*'.
18. It appears that in reaching the Ellan Vannin dismissal the previous Inspector considered the rationale behind the Monk Street approval but for the reasons given, did not feel that the arrangements in the two cases were indistinguishable. Whilst I recognise that the planning report for the Monk Street approval directly cited the local bus service, that scheme also had other, relevant features in its favour, including closer proximity to Thaxted and an alternative pedestrian route that did not require the B184 to be used, or at least not to be crossed. Given this, I do not consider the Monk Street approval sets a precedent for this appeal in respect of access to services and facilities.
19. In the Mill End Green Road approval the Council found the site in question to have poor accessibility to services and public transport, and that the proposed development would fail to comply with the Framework and Local Plan in that respect. That the Council recognised the need to weigh this in a wider balance does not negate that the site was found an unsuitable location for the proposed development having regard to local and national planning policies and access to services and facilities. The Mill End Green Road decision carries very little weight in this appeal.
20. Whilst the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it is not clear that occupiers of the proposed development would be anything other than highly dependent upon the private car. The site is not in a suitable location for the proposed development having regard to local and national planning policies and

<sup>2</sup> Appeal Ref: APP/C1570/W/24/3340623

<sup>3</sup> Application Ref UTT/25/0287/OP

<sup>4</sup> Appeal Ref APP/C1570/W/21/3278376

access to services and facilities, contrary to Policy GEN1 of the Local Plan and the Framework.

### *Character and Appearance*

21. The appeal site is a portion of arable land alongside a country lane. Though separated from it by a ditch and intermittent greenery, the site is directly visible from along the lane and is instantly recognisable as part of a swathe of arable land beyond. The crest of a distant hill, upon which agricultural field patterns can be made out, forms the backdrop. Overall, the site has strong and timeless characteristics of rural, agricultural farmland, typical of the wider setting.
22. Directly opposite the appeal site on the other side of the lane is another open, arable field (the southern field). As with the appeal site, the southern field is visible through boundary greenery from along the lane, affording views over undeveloped land into the distance beyond.
23. A small number of houses are found along the lane. They are in two broad clusters, one at each end of the lane, separated visually and spatially by the combination of the appeal site and the southern field. The houses are generally intermingled with what appear working, agricultural buildings, underlining the feel that, even though housing is visible, the setting is nevertheless one of rural farmland. Given its features as described above, the appeal site adheres and contributes significantly to this setting.
24. The appeal site is beyond development limits, where Policy S7 of the Local Plan applies. The latter half of that policy requires, save for in cases where special reasons warrant a different approach, development to protect or enhance the particular character of the part of the countryside within which it is set. In this respect the policy is not at odds with the aims of the Framework that development be sympathetic to local character and history, including its surrounding landscape setting.
25. The proposal is in outline form, matters of appearance, layout, and scale are not before me, and the supplied plans are indicative. However, even if substantial landscaping were provided to the roadside edge of the site and the dwellings themselves were modest in height, the proposed development would be prominent. This would result from the striking loss of the existing, open aspect, and effect exacerbated by the presence of a vehicular access, road signage, domestic activity, and lighting at night.
26. Overall, the development would fundamentally alter the rural, agricultural character and appearance of the site and its contribution to the wider setting. It would be harmfully at odds with, and not protect or enhance, the particular character of the part of the countryside within which it is set and would not be sympathetic to local character and history, including the surrounding landscape setting. It would conflict, therefore, with Policy S7 of the Local Plan and with the Framework.

### *Protected Species, Biodiversity*

27. Local Plan Policy GEN7 refers to development that would have a harmful effect on wildlife and requires a nature conservation survey on sites which include protected species or habitats suitable for them. For the purposes of this appeal, I see no conflict between the approach of the Local Plan and that of Chapter 15 of the Framework. The application was supported by an Ecological Appraisal Report & Bat Roost Assessment undertaken by a suitably qualified person (the

assessment), upon which the Council consulted the Place Services ecological advice service. The pertinent species of concern to the Council are listed in the decision notice as Great Crested Newts (GCNs), Bats, Badgers, and Skylark *Alauda arvensis*.

28. Ponds were found within 250m of the appeal site which, notwithstanding an apparently low level of suitability, may nevertheless support GCNs. Place Services indicate that, given the findings of the assessment, it may be possible to manage impacts upon GCNs through the use of planning conditions. Regardless of whether the willingness of the appellant to comply with such a condition was established during the application, they are willing now. I have very little from the Council to show that this matter cannot be addressed using planning conditions and, overall, I consider that it could be.
29. Place Services observed that, based on the assessment, one tree exists on site, that it may, subject to the final design, need to be removed as part of the development, and that no information on the results of the bat roost assessment was provided in respect of this tree.
30. The assessment makes reference to an Ash tree in poor condition to the south of the site access, and states that all established trees *that could be accessed onsite* [my emphasis] were inspected to assess their suitability for roosting bats. Whilst, to my mind, this infers that the tree was assessed, it does not confirm it. In their final comments the appellant confirms that the tree was assessed and found to be negligible for bat roost potential. However, this is not supported by details from the author of the assessment. Overall, I find the nature and details of any assessment of the tree unclear and therefore inadequate to confirm the position in respect of bats.
31. The assessment explicitly excludes Badgers from consideration, stating that there is no suitable habitat onsite. However, Place Services state that Badgers are known to use arable land for sett creation, and cite records of badgers within 2km of the site. Given the standing advice, as set out in the Place Services consultation response, the absence of a badger survey is inadequate.
32. The assessment finds the site suitable for ground nesting birds like skylarks. It states that there are alternative nesting and foraging habitats in the wider landscape; Be that as it may, the proposal does not include measures to mitigate and/or compensate for the potential impacts of development at the appeal site, where nesting conditions may be lost. That is the requirement of Policy GEN7, and the appeal scheme does not comply with it.
33. The appellant supplied a management plan to show that ground nesting birds would, in actual fact, not be at the site. This was not supported by the author of the assessment, nor has an explanation as to the conflict between the two submissions been provided. This is inadequate, therefore, to demonstrate that ground nesting birds would not use the site and that there is no requirement therefore for mitigation or compensation.
34. The Place Services response sets out that biodiversity net gains could be secured by way of planning condition and, whilst requiring a Habitat Management and Monitoring Plan, does not say that it should be supplied in advance of permission. I have little from the Council to suggest that these matters could not be addressed using planning conditions and so take the view that they could.

35. Overall, the proposed development fails to meet the requirements of Policy GEN7 of the Local Plan and the Framework in respect of protected species and biodiversity.

### **Other Considerations**

36. In respect of the first two main issues above, reference has been made to Policy TX LSC4 of the Thaxted Neighbourhood plan. This supports development of, amongst other things, undeveloped infill sites between existing dwellings. The operative terms are not defined.
37. I see no reason to believe that compliance with this policy would overcome conflict with other policies pertinent to the main issues. In any event, I do not find the appeal site to comprise an undeveloped infill site between existing dwellings, even if the term dwelling is taken to mean the outer edge of the curtilage of the two nearest houses. Rather, as set out in respect of the second main issue above, the site is in active, agricultural use and, in conjunction with the southern field, separates two clusters of housing from each other; It is open land between pockets of development, not a gap within otherwise continuous development. The proposal would connect the two clusters, rather than infill a gap within one or the other.
38. My attention is drawn to the Monks Street approval in respect of this issue; I have no reason to doubt that the frontage of that plot is greater than that of the appeal site. Based on the evidence before me however, including my assessment of the environment at Monks Street, the two settings differ notably. Monk Street is more densely developed. It is arranged in a regular, formal, almost suburban pattern, most notably along much of the western side of the street. Furthermore, closely positioned housing, including a cul-de-sac at Mayes Place, and a public house, outbuildings, and further housing to the north of the plot, border it directly. As such, the plot on Monks Street is one found to be enclosed by regular development at a suburban level of density on three sides. It may reasonably be viewed as an undeveloped infill site between existing dwellings therefore, even though the appeal site is not.

### **Planning Balance**

39. The provisions of paragraph 11 of the Framework are engaged. The Council cannot demonstrate a five-year supply of housing land, with the latest figure at some 3.46 years. The proposed development would provide three new dwellings towards the shortfall in the district. I attach significant weight to the delivery of new housing in the circumstances. In addition, economic benefits would ensure, both temporarily during the course of construction, and thereafter as a consequence of residential occupation. I do not doubt this would enhance the vitality of the surrounding rural community, and support local services, including in villages nearby.
40. At the same time, I am directed by the Framework to have particular regard to key policies for directing development to sustainable locations, making effective use of land, and securing well-designed places and providing affordable homes, individually or in combination. The proposed development conflicts with the policies of the Framework in respect of its location and design, as set out above. It would not evidently make effective use of land as set out in Chapter 11 of the Framework, in that it is not brownfield land, and would be lost to agriculture. The proposal would not provide affordable homes. Given this, and the effect on

protected species, I find that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits.

41. I recognise that in the Mill End Green Road application, the Council found the planning balance to lead to approval. However, that scheme is different to the one before me. Amongst other things, the plot in question was found to make a limited contribution to the street scene and the rural character of the area given its small size and enclosure by built form on two sides, such that the scheme was found to preserve the character and appearance of the area. No harm to protected species was found in that scheme either. The Mill End Green development carries little weight given the above.

### **Conclusion**

42. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed.

*A Knight*

INSPECTOR