



Appeal Decision

Site visit made on 6 January 2026

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2026

Appeal Ref: APP/C1570/W/25/3360352

Walnut Tree Cottage Brick End, Broxted, Essex CM6 2BJ

- 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 D Danton against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/1116/FUL.
 - The development proposed is 'erection of a two bedroom bungalow, access, landscaping and associated development'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Provision for biodiversity net gain ('BNG') was not raised in the Council's reasons for refusal. Mindful of statutory requirements which may apply however, I invited the main parties to make representations on this matter and I have considered it as an additional main issue, taking into account the comments made by both parties.

Main Issues

3. The main issues are:
 - i) whether or not the proposal would provide a suitable location for housing having regard to relevant development plan policies and the effect of the proposal on the character and appearance of the countryside;
 - ii) the effect of the proposal on heritage assets; and
 - iii) whether or not the proposal would make adequate provision for biodiversity net gain.

Reasons

Location

4. The appeal site is located outside of any defined settlement boundary and is within the countryside in planning policy terms. In such locations, saved Policy S7 of the Uttlesford Local Plan 2005 ('the LP') sets out that permission will only be given for development that needs to take place there, or is appropriate to a rural area. It further states that development will only be permitted in countryside 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.

5. The appellants have not specifically argued that the dwelling is a type of development that would be generally considered appropriate to a rural area or that would in principle need to take place in countryside.
6. In considering whether there are special reasons why the development in the form proposed needs to be located here, I note the appellants indication that the proposal is intended to provide support for occupiers of Walnut Tree Cottage by enabling a family member to reside close by.
7. Be that as it may, there is no substantive evidence to show that the appeal proposal for a new dwelling would be the only means by which any needs of occupiers of Walnut Tree Cottage for support could reasonably be met. Even if I were satisfied that there would be no alternative to the appeal development, the proposal is for an independent dwelling, with no mechanism to establish or ensure any link with Walnut Tree Cottage. As a result and given that planning permission would run with the land, I can have little certainty that the development would actually be occupied to fulfil the asserted need for provision of support to residents of Walnut Tree Cottage so as to justify the development in this location.
8. Taking these factors together, I am not satisfied that it has been demonstrated that there are special reasons why the development in the form proposed needs to be located here.
9. Turning to consider whether or not the proposal would protect or enhance the particular character of the part of the countryside within which it is set, the appeal site is located along Brick End Lane to the outskirts of the hamlet of Brick End. There are some buildings along this part of Brick End Lane, but these are typically detached dwellings which are set well back from the road within large plots. This provides for generous spacing around the buildings and many have significant vegetation within their plots and along boundaries which is further supplemented by roadside verges and vegetation. These factors together with surrounding and intervening open fields marked by tree and hedgerow boundaries provide for a spacious and verdant quality and a distinctly rural character to the area.
10. The appeal site comprises a shallow parcel on the edge of a large field between the plots of Walnut Tree Cottage and Squirrels. Its undeveloped, vegetated condition contributes to the sense of spaciousness between and around buildings and the loose grain and rural quality of this part of the countryside.
11. The presence on the site of the proposed dwelling together with its associated parking and garden and the new access from Brick End Lane would inevitably be urbanising. It would also result in a notable reduction in the existing clear open gap between Walnut Tree Cottage and Squirrels.
12. Moreover, the dwelling would be positioned far closer to the road than is typical along this part of Brick End Lane. Although I acknowledge that the side of Walnut Tree Cottage adjoins the boundary of its plot along Brick End Lane, the modest depth of the side elevation moderates its visual impact in the street scene. That dwelling is further set within a very generous plot which provides for significant spacing around the built form.
13. In contrast, the plot for the proposed development would be very shallow and relatively modest in overall size against others on Brick End Lane. While the appellants suggest that the building would cover only around a third of the site, I

consider that the very shallow depth of the plot in particular would appear awkwardly tight around the dwelling. It would be insufficient to balance the visual impact of the built form on the site and would fail to reflect the typical spaciousness of the area.

14. The layout of the development with the garden positioned to the side of the dwelling would further be unusual against the typical arrangement with private gardens provided to the rear of properties. Moreover, the indicated provision of fencing along the boundary of the garden would further increase the presence of built form set close to the street.
15. Despite its single storey height and irrespective of the dwelling's architectural style and materials, I find given these factors that the development would stand out as a prominent and incongruous feature on this part of Brick End Lane. This would exacerbate the visual impact of the presence of development on the site and it would in my assessment result in a conspicuous incursion of urbanising development which would cause notable detriment to the rural character and appearance of this part of the countryside.
16. For these reasons, I conclude that the proposal would not provide a suitable location for housing and there would be harm to the character and appearance of the countryside in conflict with saved Policy S7 of the LP.
17. The Council has also alleged conflict with saved Policy S8 of the LP insofar as it sets out that development will not be permitted including where it would adversely affect the open characteristics of the Countryside Protection Zone. However, while the proposal would certainly reduce openness on the appeal site, the limited scale of the development for a single dwelling and its position close to the road and between other development means that I find there would not be tangible detriment to the open characteristics of the Countryside Protection Zone more widely. I do not therefore identify unacceptable conflict with saved Policy S8 of the LP.

Listed Buildings

18. There are Grade II listed buildings in the vicinity of the appeal site at Walnut Tree Cottage (listed as 'the Flying Rat'), Squirrels (listed as 'Polyanna Cottage'), Peartrees and Oakmeads. I am therefore mindful of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA Act') which requires special regard to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest which they possess.
19. The listed buildings would also comprise heritage assets. Where proposals affect heritage assets, the National Planning Policy Framework ('the Framework') includes a requirement for an applicant to describe the significance of the assets, including any contribution made by their setting. It further advises that the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. The appellants have referred to comments made by the Council's heritage advisor, but have provided no substantive assessment of their own considering how setting contributes to the significance of the nearby listed buildings to inform an understanding of the potential impact of the proposal.
20. Nevertheless, the list entries indicate that Walnut Tree Cottage, Oakmeads and Squirrels are all timber-framed houses with thatched roofs which date to the early

17th Century in the case of Walnut Tree Cottage and Oakmeads, and to the 17th Century or earlier in the case of Squirrels. Peartrees dates to the late 16th or early 17th Century and is timber-framed with gabled crosswings and a red plain tile roof.

21. Based on my observations and the information that *is* before me in the appeal, much of the significance of each of the listed buildings would derive from their age and architectural interest as traditional rural vernacular dwellings. Insofar as it relates to this appeal, the spacious and rural, agrarian quality of the surrounding countryside which forms the wider setting to the listed buildings informs an understanding and appreciation of their historic context, role and function and so makes some further contribution to their significance. The appeal site adds to the rural quality of the countryside around the listed buildings, and in doing so, contributes to their significance.
22. I have found above that the proposal would cause harm to the rural character and appearance of the area. Noting though the separation that would be maintained and the position of the development relative to Walnut Tree Cottage, Squirrels and Peartrees and from the evidence that is before me in this appeal, I see no firm reason to disagree with the position of the Council's heritage advisor that there would not be harm to the significance of these listed buildings.
23. However, the development would sit very close to the road nearly opposite the plot of Oakmeads. Vegetation and an outbuilding within the neighbouring plot at Woodfields may provide some screening of the development in views from the listed building itself. Even so, this is unlikely to be complete and the development would be appreciable including from within the garden to the front of the listed building where its presence would interrupt and intrude on the existing open views towards open countryside to the south of Brick End Lane. As a result, there would be some erosion of the listed building's sense of connection with its rural surroundings. I further consider that the close proximity of the unsympathetic and conspicuous development would draw attention and detract from how the listed building is experienced within its rural setting. As a consequence, I find that there would be some harm to the significance of Oakmeads.
24. The proposal would not affect the fabric of Oakmeads and having regard to the separation that would be maintained to the building itself and the scale of the proposal and its effects, I find that harm to its significance would be less than substantial in the terms of the Framework, and at a low level.
25. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, the Framework advises that this harm should be weighed against the public benefits of the proposal. I return to this matter in my planning balance below.

Biodiversity Net Gain

26. On 12 February 2024, provisions of the Environment Act 2021 ('the Environment Act') relating to BNG came into force for major developments, requiring delivery of a BNG of at least 10% unless exemptions or transitional provisions specified in legislation would apply. On 2 April 2024, this was extended to include smaller proposals.
27. Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015 ('the DMPO') further requires relevant applications to be

accompanied by certain information relating to BNG. Unless an exemption specified in the legislation would apply, the information required includes a completed biodiversity metric calculation, showing the biodiversity value of the on-site habitat, and various other related details.

28. The appellants had suggested on the planning application form that an exemption for 'planning applications submitted before commencement of biodiversity net gain (12 February 2024)' would apply. However, the appeal application was dated 25 April 2024 which is after the commencement of BNG provisions for smaller sites such as this.
29. I understand that there was a previous planning application for development on the site which was withdrawn. The Council describes that application as 'practically identical' to the appeal scheme. Be that as it may, the BNG exemptions and transitional provisions are very narrowly defined and hinge on the date the subject planning application was formally submitted rather than on any pre application advice or previously withdrawn applications.
30. On the planning application form, the reason given for selecting the exemption was stated to be 'as agreed with senior', and I understand that the Council had agreed the approach in the interests of working cooperatively and proactively with the appellants following a failure to fully assess the previous submission. However, prior discussions or agreements with the Council cannot override or disapply the statutory requirements.
31. Given the above, I find that the exemption for 'planning applications submitted before commencement of biodiversity net gain (12 February 2024)' would not apply to the appeal application. I further have no firm evidence to suggest that any other exemption specified in the legislation would apply here. On that basis, I am not satisfied that it has been demonstrated that the proposed scheme benefits from any valid exemption from the relevant legal requirements relating to BNG. The proposal would therefore be subject to a requirement for 10% BNG and the requirements under Article 7(1A) of the DMPO for the application to have been accompanied by certain information relating to BNG should have applied.
32. Although the appellants' Design, Access and Heritage Statement suggests that the proposal would provide a net gain in the biodiversity and ecological value of the site, the biodiversity metric and other biodiversity information required by the DMPO to show how the BNG objective would be met have not been submitted. In the absence of any such information, I am unable to establish that the development could achieve at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat as the Environment Act requires.
33. The Council raises the possibility of BNG conditions which it indicates it would be prepared to assist with. However, I have no sufficiently detailed evidence to know what the current baseline situation of the site is, and consequently I am unable to understand what a gain would equate to in either quantitative or qualitative terms. Nor whether there is any prospect of the statutory biodiversity gain condition being successfully discharged. It would not therefore be appropriate to resolve this matter through a planning condition.
34. I have noted the appellants' reference to requirements for BNG on small sites being relaxed. At the current time however, the Government has not brought forward any

amendments to the legislation to enact such a change in approach, and the statutory BNG requirements for small sites remain in force.

35. For these reasons, I conclude that the proposal does not make adequate provision for BNG, contrary to statutory requirements of the Environment Act.

Other Matters

36. The appellants have highlighted examples of other developments that have been permitted within countryside. From the very limited details provided however, it is not clear that any would be directly comparable to the full circumstances of the appeal proposal which I have considered according to its own specific merits. The weight that I can give to these examples is therefore limited. I have also noted reference to the sale of land to the rear of the site, but I can afford little weight to the possibility of hypothetical future developments which may or may not come forward and which would need to be assessed on their own merits.
37. I acknowledge comments made by an interested party in support of the appeal, but these do not alter my assessment of the main issues or the planning balance

Planning Balance

38. I have found that the proposal would not provide a suitable location for housing and there would be harm to the character and appearance of the countryside as well as harm to a designated heritage asset. In addition, the proposal would fail to make adequate provision for BNG in conflict with statutory requirements of the Environment Act.

Heritage Balance

39. When considering the impact of development on the significance of designated heritage assets, the Framework requires that great weight should be given to the asset's conservation and that the more important the asset, the greater the weight should be. It 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 any such harm should have a clear and convincing justification.
40. Although the harm that would be caused to the significance of Oakmeads would be less than substantial and at a low level, it nevertheless attracts considerable importance and weight.
41. Against this harm, the Council indicates that it is unable to demonstrate a five year supply of housing, with a current supply position of 3.46 years. In my view, this is a significant shortfall. In addition, the results of the most recent Housing Delivery Test show that past housing delivery has been well below requirements.
42. The Framework seeks to significantly boost the supply of homes and highlights the important contribution that small sites such as this can make to meeting the housing requirement of an area. The proposal would contribute to the overall supply and mix of housing locally and I afford significant weight to this as a public benefit of the proposal. That said, and while not diminishing the weight that I afford, the benefit of a single dwelling is very limited in scale.
43. There would be economic benefits associated with the construction process including opportunities for local employment. Spending by future occupiers could

support the local economy, as well as offer support for services in the wider rural area that could help to sustain their viability. However, the scale of the proposal means that the effects would be likely to be limited, and construction effects would further be temporary. I give these benefits moderate weight.

44. The appellants refer to use of sustainable design measures including rainwater harvesting, a focus on environmentally friendly and reusable energy sources and thermal performance and airtightness to exceed current building regulations as well as measures to enhance biodiversity. However, details are limited and I consider that the magnitude of any benefits would be relatively limited by the scale of the site and proposal. I have also found that there is inadequate evidence to show BNG overall. I therefore give limited weight to these factors.
45. Insofar as the proposal is suggested to enable care and support for occupiers of Walnut Tree Cottage, there could be a wider social advantage which could be regarded as a public benefit. However, I have found above that there is no substantive evidence to show that the appeal proposal would be the only means by which any needs for support for occupiers of Walnut Tree Cottage could reasonably be met. Nor is there any mechanism to ensure a link between the development and provision of support and so I cannot be sure that any potential benefit would be assured. These factors limit the weight that I can afford to this matter.
46. Furthermore, the appeal proposes a permanent dwelling and associated development. While the appellants' current personal circumstances could be expected to change, the development would remain on the site where it would continue to harm heritage assets.
47. On balance, I am not persuaded that the cumulative public benefits of the proposal would be sufficient to outweigh the harm to the significance of Oakmeads which is limited but which attracts considerable importance and weight. Accordingly, I am not satisfied that there is a clear and convincing justification for the harm that the proposal would cause to the significance of a designated heritage asset.
48. The proposal would therefore be contrary to the LBCA Act. It would conflict with the Framework as the appellant has failed to provide adequate information to assess the effect of development on the significance of heritage assets and the proposal would moreover fail to sustain the significance of Oakmeads and public benefits would not outweigh the harm. There would additionally be conflict with saved Policy ENV2 of the LP which sets out that development proposals that adversely affect the setting of a listed building will not be permitted.

Planning Balance

49. The Council accepts that Saved Policy S7 of the LP is only partly consistent with the Framework given its more protective approach to development in the countryside. Nevertheless, the requirement within this policy for development to protect or enhance the character of the part of the countryside within which it is set would be broadly consistent with the Framework insofar as it requires recognition for the intrinsic character and beauty of the countryside. The Framework additionally seeks development that is sympathetic to local character. The proposal's conflict with Policy S7 in these regards is therefore a matter to which I give weight.

50. Saved Policy ENV2 of the LP does not include the heritage balances outlined in the Framework, but it reflects the general approach seeking broadly to conserve and enhance the historic environment and given my findings on the heritage balance in this case, I see no reason to reduce the weight that I afford to the conflict with this policy.
51. Taking these matters together, I find that the proposal would conflict with the development plan when it is read as a whole.
52. The absence of a five year supply of housing land and the results of the Housing Delivery Test mean that paragraph 11 d) of the Framework is relevant. In light of the above however, I find that policies in the Framework that protect designated heritage assets provide a strong reason for refusing the development proposed. On that basis, the presumption in favour of sustainable development at paragraph 11 d) of the Framework does not indicate that permission should be granted.
53. I am mindful of the Public Sector Equality Duty ('the PSED') set out under Section 149 of the Equality Act 2010 which requires due regard to the need, amongst other things, to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Advancing equality of opportunity involves having due regard to considerations including the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and to take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it. Age is a relevant protected characteristic for the purposes of the PSED and while it is unclear from the appellants' reference to health conditions whether or not disability would be an additional relevant protected characteristic of occupiers of Walnut Tree Cottage, I have proceeded on the precautionary basis that it could be.
54. In addition, I am mindful of rights conveyed within the Human Rights Act 1998 ('HRA'), and particularly rights under Article 8(1) to respect for private and family life, home and correspondence.
55. However, I have already found that the submitted evidence does not demonstrate that providing support for occupiers of Walnut Tree Cottage would be dependent on the development proposed which I have found would be in an unsuitable location and which would cause harm to heritage assets and the character and appearance of the area. In addition, there is no substantive evidence to show that needs could not be met while also complying with statutory provisions in relation to BNG.
56. In this context, I find that the adverse effects of dismissing the proposal on those with protected characteristics and interference with rights under the HRA are mitigated by the possibility of an alternative, less harmful, scheme. Dismissal of the appeal would be in accordance with the law and necessary in a democratic society in pursuance of the well-established and legitimate aims of protecting heritage assets, character and appearance and securing BNG. In addition, the protection of the public interest cannot be achieved by means that are less interfering of the appellant's human rights. In these circumstances, there would not be unjustified interference with rights for respect for the home, private or family life and I conclude that it is proportionate and necessary to dismiss the appeal.

57. Even when taken alongside the benefits argued by the appellant, I find that the PSED and Human Rights considerations are insufficient to outweigh the failure to make adequate provision for BNG together with the other identified harm and the resulting conflict with the development plan.

Conclusion

58. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR