



Appeal Decision

Site visit made on 21 January 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: Thursday, 20 February 2020

Appeal Ref: APP/C1570/W/19/3241983

Ashcroft, Wicken Road, Wicken Bonhunt, Essex, CB11 3UL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Joan Bull against the decision of Uttlesford District Council.
 - The application Ref UTT/19/1381/FUL, dated 5 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is erection of 3no detached dwellings with associated landscaping and cartlodge parking and new vehicular access at Ashcroft, Wicken Bonhunt, Essex, CB11 3UL.
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Decision

1. The appeal is allowed, and planning permission granted for the erection of 3no detached dwellings with associated landscaping and cartlodge parking and new vehicular access at Ashcroft, Wicken Bonhunt, Essex, CB11 3UL in accordance with planning application UTT/19/1381/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be completed in accordance with the details shown on plans numbered: 563x01(January 2019);563x02 (January 2019);563x03 (January 2019); 563x04(January 2019); 563x05(January 2019);563x06(January 2019).
 - 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
 - 4) Prior to the commencement of the development, full details of all the hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 5) All planting, seeding or turfing and soil preparation approved by the local planning authority as complying with condition 3, shall be carried out in the first planting and seeding seasons following the completion of the dwellings and before the occupation of the final dwelling. Any plants

which, within a period of five years from completion of the dwellings die, are removed or become damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed, in writing, by the local planning authority. All landscaping work shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.

- 6) Prior to the commencement of the development hereby approved details of the materials to be used in the construction of the buildings (including the proposed cartlodge garaging) shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials, unless otherwise agreed in writing by the local planning authority.
- 7) Before the installation of any external lighting within the development site, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on the site that are particularly sensitive for bats and that are likely to cause disturbance along routes used for foraging and show how and where external lighting will be installed (through the provision of technical specification) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats from using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and maintained thereafter in accordance with the scheme. No external lighting, other than that in the approved scheme, shall be installed on the site without the prior written approval of the local planning authority.

Main Issue

2. The effect of the development on the character and appearance of the area.

Reasons

3. The development plan for the area is the Uttlesford Local Plan (ULP) adopted in 2005. The plan was adopted prior to the introduction of the current National Planning Policy Framework (the Framework).
4. The Council rely on saved Policies S7 and Gen2 of the ULP to support the refusal of the appeal proposal. In 2012 the ULP was assessed to see if it was compliant with the then version of the Framework. This found that S7 was partly compliant with the 2012 version of the Framework.
5. Policy S7 seeks to guide development to appropriate locations in villages and sets out what sorts of development might be appropriate in the countryside. Its overall aim is to enhance the countryside of the district and protect its character and appearance.
6. In these respects, I consider that Policy S7 would be consistent with the 2019 version of the Framework, as it contains policies which seek similar objectives, when read as a whole. I can therefore give Policy S7 some weight in the determination of this appeal, due to its partial consistency with the 2019 Framework.

7. The appeal proposal lies in the countryside as defined by Policy S7. There are no reasons advanced by the appellant as to why the development requires a countryside location. I therefore find the appeal proposal is in conflict with Policy S7 of the ULP.
8. The general setting of the site is rural, as is the whole of Wicken Bonhunt. However, whilst the site is in the countryside as defined by the ULP, I do not consider the site to be in open countryside. It is surrounded by houses and their gardens and two roads. Any development on this site would be seen as a continuation of the existing pattern of development in the immediate area, that of large houses standing in substantial grounds. The development of the site in accordance with the appeal proposal would reflect the character and appearance of its immediate surroundings, rather than the tighter grain of the development to the east or the open countryside further west. For these reasons, despite the conflict with Policy S7, I consider the harm that would be caused to the character and appearance of this part of the countryside would be minimal.
9. From my site visit and from viewing the plans, I am of the opinion that due to the elevated nature of the site, the substantial tree and hedge growth around the site (that would be retained as part of the development) and the presence of other dwellings in relatively close proximity to the site, the proposed houses would be no more dominant or intrusive than existing development in the area. The houses themselves are well designed. Their bulk and massing are, to a large extent, broken up by the use of dormer windows, setbacks, projections and varied ridge lines, therefore would not appear dominant in the location. Houses around the appeal site display domestic elements such as children's play equipment and garden buildings. I do not consider that the buildings or their surroundings would be especially dominant in this location.
10. The parties accept that the Council does not have a 5-year supply of deliverable housing sites in the District. The Council's latest assessment shows a 3.29-year supply of deliverable housing sites. I therefore have to regard Policy S7 as out of date for the purposes of the appeal and apply paragraph 11 of the Framework, to assess whether the appeal proposal constitutes sustainable development.
11. Paragraph 11, d), ii) requires that I grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
12. The adverse impact of the development on the character and appearance of the locality would be minimal and would amount to the introduction of built form into a countryside location which would be in conflict with the development plan. However, I give limited weight to this as the development has a low impact on the character and appearance of its specific location. In my view the adverse impact of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, such as the contribution it would make to the vitality of the village and the 5-year supply of deliverable housing sites in the District.
13. I find that any adverse impacts of allowing the appeal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

14. S38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I find that the proposal is in conflict with the development plan. However, I also find that the weight to be given to the material considerations in this case, indicate that the appeal should be allowed, and planning permission granted.

Other Matters

15. Reference has been made to a previous dismissed appeal for a single dwelling on part of this site¹. There are material differences between that case and this which have led me to a different conclusion. These are: lack of a 5-year supply of deliverable housing sites at the current time, and more details regarding the design of the proposed dwellings² being available, so I am better able to assess the impact of the proposed development on the character and appearance of the area, than the Inspector at the previous appeal.

Conditions

16. In addition to the standard time limits and referencing the approved plans I have imposed other conditions for the reasons given below.
17. It is important, given the countryside location of the appeal proposal, that landscaping of the site is dealt with thoroughly and implemented at the appropriate time. In the interests of clarity, I have separated out some of the matters covered by the Council's landscaping conditions into separate conditions.
18. In view of the elevated nature of the site, above Wicken Road, I consider it is important that final floor levels of the buildings are controlled to ensure that the development integrates properly with its surroundings.
19. Control of materials is important to maintaining the character and appearance of the locality. I have imposed a condition requiring the approval of materials to ensure the final finishes of the buildings are acceptable.
20. There is a need to control external lighting, in this rural location, in order to minimise the effect of the development upon bats and to comply with the relevant provisions of nature conservation legislation. I have imposed a condition to seek to deliver this.
21. Finally, I have not imposed a condition suggested by the Council relating to part M4(2) of the Building Regulations 2010 as this matter is capable of being dealt with at the building regulations approval stage of the development.

Conclusion

22. I find that having regard to all matters before me, including the policies of the development plan, when taken as a whole, the appeal should be allowed, and planning permission granted.

Peter Mark Sturgess

INSPECTOR

¹ APP/C1570/W/15/3135166

² The previous application was in outline with appearance, landscaping and scale reserved for future consideration