



Appeal Decisions

Inquiry held on 2 – 3 June 2015

Site visit made on 3 June 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 June 2015

Appeal A, Ref: APP/C1570/W/14/3000725

FDL Site, Land at Little Walden Airfield, Hadstock, Essex

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Fuerst Day Lawson against the decision of Uttlesford District Council.
 - The application Ref UTT/14/0057/OP, dated 9 January 2014, was refused by notice dated 20 June 2014.
 - The development proposed is described as 'outline application for the residential use of the FDL Site at Little Walden (outline) for 25-35 residential units based on the majority of the buildings on the site: retention of one building for community use'.
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Appeal B, Ref: APP/C1570/W/14/3000780

FDL, Land at Little Walden Airfield, Hadstock, Essex

- 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 Fuerst Day Lawson against the decision of Uttlesford District Council.
 - The application Ref UTT/14/0058/FUL, dated 7 January 2014, was refused by notice dated 20 June 2014.
 - The development proposed is described as 'use of existing office (converted Nissan hut) as a community building in conjunction with residential development of the site'.
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Decision

1. **Appeal A is dismissed and Appeal B is dismissed.**

Preliminary Matters

2. As set out above, there are two appeals and both relate to the same site. The evidence indicates that the two sets of proposals are intended to be complementary such that the community use proposed under Appeal B would provide an on-site facility for occupants of the residential development proposed under Appeal A. Consequently, while I have made separate decisions for each appeal, I have dealt with the appeals together in my reasoning.
3. Appeal A is for outline planning permission. Although the material submitted with the applications includes indicative layouts and other details concerning how the site might be developed for 25 and 35 dwellings, the application form clearly indicates that all matters are reserved for future consideration except for access. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site could be developed.

4. A Unilateral Undertaking, dated 5 June 2015, made under Section 106 of the Town and Country Planning Act 1990 has been submitted (the UU)¹. In the event that planning permission is granted and implemented the UU would secure the provision of on-site affordable housing if more than 25 residential units are developed or a payment of £75,000 for off-site provision for a 25 unit development; payments for the provision of secondary school places and school transport; and arrangements for the on-going running costs of the Nissen Hut as a building available for community use. I have had regard to the UU during my consideration of the appeal.

Main Issue

5. The main issue for both appeals is whether any harm arising from the proposed development is outweighed by any other considerations, such that the proposed development would be sustainable.

Reasons

Background and Context

6. The evidence indicates that the development of the appeal site has its roots in the use of a wider area as an airfield, which dates at the least as far back as World War II. There is no overarching planning consent for the site and its use and the built form within it have evolved over the years. It is currently in use principally for the production of food stuffs with ancillary uses including offices and storage.
7. During the Inquiry both parties referred to the site's lawful use as most likely falling within Use Class B2. As the appeals are made under S78 of the Act it is not my role to determine the lawfulness of development. Nonetheless, as I have no good reason to disagree with the parties on this matter, I have assessed the appeals on this basis.
8. The site is located in the countryside. It is surrounded by fields and open land which is mainly in agricultural use for crop production. The nearest settlement is Hadstock, a small village located roughly half a mile to the north. Further to the north there is the larger village of Linton some 2 miles from the site and to the south, the town of Saffron Walden some 4 miles away.
9. Based on what I have read, heard and seen the main areas of disagreement between the parties revolve around whether the proposed development of the site would be more or less sustainable than either its existing use/development or any form of fallback; the extent of the proposal's consistency with local and national planning policy; and whether there are any other considerations that weigh in favour of the scheme. I set out the policy context first.

Policy Context

10. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. Planning policies should aim for a balance of land uses within their area so that

¹ Document 8

- people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities.
11. Under the heading *Building a Strong, competitive economy* the Framework sets out that the Government is committed to securing economic growth in order to create jobs and prosperity, to build on the country's inherent strengths, as well as to ensuring that the planning system does everything it can to support sustainable economic growth. The Framework also states that due weight should be given to relevant development plan policies that pre-date the Framework according to their consistency with it.
 12. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for this area includes the Uttlesford Local Plan 2005 (the Local Plan). The period for which the Local Plan sought to meet the district's development needs ended in 2011 such that its policies for the supply of housing are out of date. The Council's reasons for refusal indicate that the Appeal A development would be contrary to Local Plan Policies S7 and E2 and that the Appeal B development would be contrary to Policies LC3 and S7. These are the most pertinent development plan policies to the appeal proposals.
 13. Under Policy S7 development is only permitted in the countryside if its appearance protects or enhances the particular character of the part of the countryside in which it is set or where there are special reasons why the development in the form proposed needs to be there. The evidence is limited to the Appeal A development's effect on 'character' such that there is no suggestion of any 'special reasons' within the terms of the Policy.
 14. The Council's own evidence is that Policy S7 is only partly consistent with the Framework because it strictly controls new building whereas the Framework takes a more positive approach and supports sustainable growth and expansion of businesses and enterprises in rural areas. My attention has been brought to another appeal decision where the Inspector concluded that Policy S7 is consistent with the Framework, at least in part². While the Framework does not seek to protect the countryside for its own sake, Policy S7 does encompass the intrinsic character and beauty of the countryside and to that extent it is consistent with the Framework. That aspect of Policy S7, therefore, carries full weight.
 15. Local Plan Policy E2 safeguards 'key employment areas' from other land uses. It adds that outside employment areas the development of employment land for other uses will be permitted if the employment use has been abandoned or the present use harms the character or amenities of the surrounding area. The site is not within one of the safeguarded areas and nor has it been abandoned. Consequently, the evidence in respect to Policy E2 is limited to whether the present use harms the character or amenities of the surrounding area.
 16. Policy LC3 of the Local Plan states that community facilities will be permitted outside settlements subject to meeting three criteria: the need for the facility can be demonstrated; the need cannot be met on a site within the settlement boundaries; and the site is well related to a settlement. The appellant's case, so far as it relates to Policy LC3, is principally concerned with the proposed community facility's provision in support of the residential appeal scheme, such

² APP/C1570/A/14/2213863

that there is no suggestion within the evidence that the Appeal B development would be justified in this location, in its own right or that it would accord with the requirements of Policy LC3 without the Appeal A development.

Character and Appearance

17. The evidence indicates that the appellant has operated from the premises for 10-11 years having taken over from Allied Bakeries. It is clear from the information before me and from having conducted a comprehensive site visit that the existing use comprises a substantial business concern. This is manifest in the scale and range of buildings on site as well as in the external arrangements, for instance the storage areas, lorry activity and car parking. The site is reasonably open to view from surrounding public vantage points including the right of way that runs to the south and the B1052 to the east. Consequently, even allowing for when the crops in the surrounding fields are mature, the site is fairly readily visible from the nearby public domain.
18. Nonetheless, while large, when viewed from beyond the site the structures and activity within it have the look and feel of an agricultural enterprise, albeit a large one. Consequently, the existing development does not appear out of place within its open countryside context. This visual effect is influenced by the fact that the site is largely set well-back from the road and nearby rights of way such that the development within it, while substantial, does not appear as an over-dominant feature in the wider rural landscape.
19. In contrast the proposed residential development, by reason of its scale and kind, combined with the site's prominence, would appear as an unexpected feature in the landscape; a new settlement that would be poorly related to surrounding development and out of keeping with and harmful to the rural character and appearance of the area. I recognise that careful consideration could be given to the matters that would be reserved for future determination, such as the layout of the development and the scale and detailed design of buildings as well as landscaping, particularly around the fringes of the site. However, from the information before me, I am not persuaded that such measures could significantly mitigate the harm identified.
20. In making this assessment I have taken into account the evidence regarding the scale and height of the existing development at the site relative to that of a potential residential development, be it for a 25 or a 35 dwelling scheme. While this information is of some assistance, for the reasons outlined above the existing development, notwithstanding its relative proportions, is broadly in keeping with its context.
21. The Appeal A development would, therefore, harm the rural character and appearance of the area. Consequently, in this regard, it would conflict with Local Plan Policy S7 and with the NPPF. I give significant weight to this matter.

Employment Use of the Site

22. The site is not a safeguarded employment allocation in the terms of Local Plan Policy E2 such that the evidence in respect to this Policy is limited to whether the present use harms the character or amenities of the surrounding area. For the reasons set out in the Character and Appearance section above, the present built form and use do not have a harmful effect on the character and appearance of the area. Regarding amenity there is no evidence before me

that leads me to believe that the existing use has a detrimental effect as a result of operations within the site, such as from noise, odour or other pollutants.

23. If the Appeal A development were to implemented it would result in the removal of lorry movements associated with the existing business and consequently this has the potential to enhance amenity, for instance for residents of Hadstock. The evidence indicates that the current use of the site accounts for some eight HGV movements through Hadstock per day, less than one an hour. In the context of all other vehicle movements that would continue this would not be a significant change such as bring about a material improvement to amenity, for instance from traffic noise or highway/pedestrian safety, or indeed in any other regard. The same is likely to be true in respect to other nearby settlements and the wider area.
24. On this basis the proposed development would result in the loss of an existing non-safeguarded employment site where the existing use does not harm the character or amenities of the surrounding area. Consequently, in this regard, the proposed development would not accord with Local Plan Policy E2.
25. There is no requirement within Policy E2 to market the site for alternative employment use. Nonetheless, during the Inquiry Mr Madhi, FDL's CEO, advised that at that time the site had been on the market for some 3.5 months but that there had been very little interest expressed. Although a marketing document has been produced for the site³ there is very little information before me regarding how the site has been marketed. On this basis and bearing in mind the reasonably limited period over which it has been on the market I can give the marketing evidence only limited weight.
26. The appellant has also submitted evidence that the site no longer meets its business needs. In this regard, at the Inquiry Mr Madhi referred to the quality and/or lack of infrastructure at the site, including water supply, drainage, internet connect and electricity, as well as to the limited size of the site. Although FDL has been actively looking for new premises, at the time of the Inquiry none had been identified; however, once they are the appellant has stated that it would vacate the site. This evidence is largely uncontested by the Council.
27. If the site were to become, and then remain, vacant it would represent an inefficient use of previously developed land. However, the appellant's own evidence indicates that, notwithstanding the marketing evidence and the site's identified constraints, there is a likelihood that the site would be re-used, at least in part, for employment purposes in the event that the appeals were to be dismissed and that FDL were to relocate. Having regard to all of the evidence and bearing in mind that the site has been in employment use continuously for many years, in my view it is likely that it would not remain unused for a significant period. I consider alternative uses of the site in respect to fallback later in my decision.
28. In respect to whether there is any need to retain the site for employment purposes my attention has been drawn to a Council monitoring report⁴. While I note Paragraph 22 of this document indicates that there is no shortage of

³ Document 1

⁴ Document 2

employment land in the District this appears to rely on new employment allocations in the emerging Local Plan. As the status of the emerging Local Plan has changed significantly since this document was published I can give limited weight to this aspect of the evidence. Nevertheless, I note that the appeal site was not proposed to be allocated as employment land in the emerging Local Plan and that Mrs Hutchinson indicated that she is not aware of any plans to do so⁵. Notwithstanding these matters the Appeal A proposal would, nonetheless, conflict with Local Plan Policy E2 as outlined above.

Site Location

29. Although a community facility is proposed residents of the Appeal A development would largely rely on off-site services and facilities. Due to the distances concerned and the constraints of the local highway and rights of way networks, combined with the very limited local bus service, it would be unlikely for residents of the site to access those services/facilities on foot or by cycle or public transport in favour of using private motor vehicles.
30. I have taken into account what the Framework says about the need for different approaches to be taken in different communities and opportunities to maximise sustainable transport solutions varying from urban to rural areas, as well as the length of time it would take to travel by car to nearby settlements such as Saffron Walden and the Council's attitude to the provision of affordable housing at the site. However, given the circumstances outlined above, the appeal development would in my view represent the kind of isolated residential development that the Framework seeks to avoid by generally directing development to locations that can support it via existing infrastructure.
31. I recognise that the historic pattern of development in Uttlesford has resulted in communities that have limited local facilities and which largely rely on use of private vehicles. However, this in itself would not justify allowing further such development in the face of planning policy that generally seeks to direct development to communities that can support it.
32. Nonetheless, the appeal site is previously developed land, which has hosted an employment use for many years. The evidence indicates that a significant proportion of the people currently employed at the site rely on cars to commute, which is unsurprising given its location and the nature of the connections to the wider area. The evidence also indicates that many of the employees' journeys involve several miles of travel. Given these existing circumstances, on balance, the conflict with the Framework in this regard carries limited weight.

Housing Delivery

33. While the delivery of market housing weighs in favour of the development, its weight is limited as the evidence indicates that there is a Framework compliant supply of housing land in the area. While I note that a component of the housing supply is 50 windfall dwellings each year, I have no evidence to suggest that any element of the housing supply identified by the Council will not be delivery in a timely manner.
34. The Council's witness, Mrs Hutchinson, advised that there is a 'quite extensive need' for affordable housing in the area. Appeal A also proposes the delivery of

⁵ Cross Examination

affordable housing; this weighs in its favour. The Council's adopted policy normally seeks the provision of affordable housing on-site at a rate of 40%. A scheme of more than 25 dwellings would provide up to 10 affordable homes on-site (a rate of some 29%), whereas a scheme of only 25 units would provide a payment £75,000 for off-site provision. The appellant's uncontested evidence is that provision of affordable housing at a higher rate would render the development unviable.

35. I have no reason to believe that the proposed level of affordable housing provision would not conform to the relevant policy requirements. Nonetheless, it would be well below what is normally required as a minimum in the District. Consequently, notwithstanding viability, the proposed affordable housing carries somewhat limited weight.

Proposed Community Use

36. The Appeal B development would provide a community facility for a use falling within either Class D1 or D2. Bearing in mind its location away from other settlements, the facilities already available in those settlements such as the village hall in Hadstock and the maximum number of households that could be provided on-site to support its use and upkeep, I have doubts about the value that such a facility would hold to the local community. In any event, however, as no mechanism has been put in place to ensure delivery of the community facility there is no certainty that it would ever be provided. Consequently, I can give this proposal little weight in assessing the Appeal A development.
37. In the event that A Appeal was to be dismissed there is very little evidence to support a community facility in this location and on that basis it would not conform to the requirements of Policy LC3.

Potential Fallback

38. The appellant has drawn my attention to potential fallback options at the site, which include alternative business uses and residential permitted development, or any combination of such development. The appellant has stated that in the event that Appeal A is dismissed the most likely scenario would be that two existing consents for a total of seven dwellings would both be implemented⁶ and that the remainder of the site would be used for a range of new Class B2 uses. I have no good reason to believe that such development could not lawfully occur subject to compliance with the relevant terms of the residential consents.
39. In light of the evidence, however, I have reservations over whether the consented residential development would actually be implemented in the event that Appeal A were to be dismissed. This is principally due to the quality and nature of residential environment that could be achieved for potential occupants. No independent evidence has been submitted, for instance from local estate agents or housing suppliers, to indicate that there is a genuine market for accommodation of this type in this sort of context.
40. Nonetheless, even if there was a good prospect of the consented residential uses being taken up, I consider that the fallback would attract little weight. This is because I do not consider that there would be any significantly greater

⁶ Ref Nos UTT/14/2974/P3JPA & UTT/14/2981/P3JPA

harm arising from any fallback development relative to the Appeal A development. There are a number of reasons for this.

41. Firstly, under the fallback scheme the maximum number of residential units, seven, is small relative to the minimum number, 25, that would be permitted under the Appeal A development. The consented units are also likely to be smaller than those of the appeal development. Consequently, the population of site under the Appeal A scheme would be likely to be substantially greater than that of the fallback scenario. On this basis any harm arising from new housing in this location would be much more significant under the Appeal A scheme relative to the fallback option.
42. From the information before me I have no reason to believe that any alternative employment use or range of such uses at the appeal site would be likely to give rise to any significant harm being felt beyond the site, for instance through air or noise pollution effecting residents of Hadstock. While I note that traffic movements including those of HGVs would be likely to increase, there is nothing to suggest that the local highway network could not reasonably accommodate any additional traffic. While I note the concerns regarding HGVs expressed in the Hadstock Parish Plan, I am not persuaded by the evidence that any additional traffic that might be associated with a fallback use of the site would significantly affect the living conditions of existing residents or give rise to any other material harm.
43. In contrast I recognise that Class B2 use of the site would be likely to provide a poor residential environment for potential occupants of the seven fallback dwellings. This would be due mainly to their proximity, the shared access arrangements and the absence of any limitations, such as hours of operation, that might otherwise be in place were there an overarching planning permission for the site. However, on that basis and give the unusual nature of the accommodation that would be created under the consented schemes, these residential units would be likely to represent such an unattractive proposition to potential occupants that they would be unlikely to be taken up. This also limits the weight carried by the fallback.

Planning Balance and Sustainable Development

44. For the reasons outlined in the *Character and Appearance* and *Employment Use of the Site* sections above, the Appeal A development would conflict with Policies S7 and E2 of the Local Plan, albeit that Policy S7 is not fully compliant with the Framework.
45. In terms of the economic and social dimensions of sustainable development, the appeal proposal would increase the supply and choice of housing, including up to ten affordable homes. It is proposed to improve the site access to the benefit of highway safety. The development would also contribute towards economic growth during the construction phase in terms of employment and possibly an increase in local spending, as well as supporting FDL as a business and its contribution to the wider economy. The additional population would also assist the local economy and help support the sustainability of local services and facilities. While these matters, particularly the affordable housing, carry weight in favour of the proposals, that overall weight is somewhat limited.

46. The evidence indicates that the site is no longer able to meet the needs of FDL. However, while it may not be suitable for all businesses, there is no good reason to believe that other - potentially smaller - employment uses could not operate from the site such that it need not be vacant for a significant period were FDL to leave. Although the Appeal B development would provide a community facility, which would potentially be of benefit to residents of the site and the wider area, the benefit offered would be limited and there is also no mechanism in place to ensure its delivery. These considerations, therefore, carry little weight in favour of the Appeal A development.
47. In terms of the environmental dimension, additional planting and landscaping offer the potential to enhance biodiversity. The residential development would result in a reduction in HGV movements, albeit that the evidence also indicates that there would be an overall increase in all vehicle movements associated with the 35 unit residential development. For the reasons outlined, any fallback development of the site would be unlikely to offer any significant benefits relative to the proposed development.
48. Significantly, in contrast to the current development at the site which has the look and feel of a large agricultural enterprise, the proposed residential development would be a discordant addition to the rural landscape at odds with and harmful to the character and appearance of the area. This aspect of the proposal carries significant weight against Appeal A.
49. Although, as identified, there are several considerations and benefits that weigh in favour of Appeal A, these are outweighed by the identified harm such that overall the proposal would not represent sustainable development in the terms of the Framework. Consequently, there is no presumption in its favour.

Other Matters

50. Having taken into account the contents of the UU and given due weight to the obligations herein these matters have not altered my overall decision on either appeal. I have come to this view bearing in mind the matters set out above regarding the proposed affordable housing and community facility, and that the payments to provide school places and transport are intended to respond to requirements arising from the Appeal A development rather than existing need.
51. In coming to my decision I have also taken into consideration other concerns raised locally. However, they have not led me to any different overall conclusion.

Conclusion

52. In summary, the Appeal A development would conflict with Policies S7 and E2 of the Local Plan and would not be sustainable development. For all of the reasons given, therefore, **Appeal A should be dismissed.**
53. On this basis there would be very little evidence to support the community facility proposed under Appeal B in this location. It would, therefore, conflict with Policy LC3 of the Local Plan. Consequently, **Appeal B should also be dismissed.**

G D Jones

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon, of Counsel	Instructed by the Assistant Chief Executive of Uttlesford District Council
He called	
Alison Hutchinson MRTPI	Hutchinsons

FOR THE APPELLANT:

Katie Helmore, of Counsel	Instructed by Collins & Coward Ltd
She called	
Mac Mardi	CEO, Fuerst Day Lawson
David Baber	WSP Group
Ian Coward MRTPI	Collins & Coward Ltd

INTERESTED PERSONS:

Richard Albrow	Hadstock Parish Council
Brendan Burchell	Local Resident

DOCUMENTS submitted at the Inquiry

- 1 Marketing material for the appeal site, Colliers International, submitted by the appellant
- 2 Uttlesford District Council Employment Land Monitoring report, October 2014, submitted by the appellant
- 3 Signed Statement of Common Ground, 2 June 2015
- 4 CIL Regulation 122 Compliance Note, June 2015, submitted by the Council
- 5 Draft Planning Obligation by Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990, submitted by the appellant
- 6 Suggested Conditions
- 7 Minute of the Council's Development Control Committee 19 March 2008 concerning the Hadstock Parish Plan
- 8 Unilateral Undertaking, dated 5 June, made under Section 106 of the Town and Country Planning Act 1990 – *as agreed during the Inquiry, the final version of this document was submitted shortly after the Inquiry closed*