



Appeal Decision

Hearing held on 6 June 2023

Site visit made on 5 June 2023

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2023

Appeal Ref: APP/C1570/W/22/3313839

Land off Sparepenny Lane, Great Sampford, 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 Mr Nicholas Fairman (Wethersfield Homes Limited) against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0618/OP, dated 23 February 2022, was refused by notice dated 24 November 2022.
 - The development proposed is described as 'outline planning permission for the erection of 18 dwellings, erection of a community building, provision of allotment gardens, surface water drainage pond, and associated means of vehicular and pedestrian access, with all matters reserved for subsequent approval except for means of access and layout'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the address for the site from the appellant's statement of case, as this more accurately reflects the location of the site.
3. The planning application was submitted in outline with all matters reserved except for access and layout.
4. Since the determination of the planning application, the main parties have been in dialogue with Essex County Council, the local highway authority (LHA), and several amended drawings and documents¹ were agreed and submitted with the appeal. Having regard to the Wheatcroft principles², I am conscious the appeal process should not be used to progress alternatives to a scheme that has been refused. However, prior to the Hearing, in the interests of fairness and natural justice, I instructed the Council to instigate consultation with interested parties on the amended information. The main parties were then invited to comment at the Hearing on the responses received. Overall, I am satisfied that the new drawings and documents do not alter the nature of the development and interested parties would not be prejudiced if I were to determine the appeal in relation to them. Notwithstanding this, I have treated each element of the drawings as indicative, apart from where they relate to the

¹ Drawing References: 22.022.pl01.d, 2789-04 Rev E, 2789-05 Rev A (With Layout Underlay), 2789-05 Rev A, and SK12 Rev A; Information: Bus Timetable, Revised Safety Audit State 1 – TMS, and Letter responding to highway authority concerns – MTC Engineering (15th May 2023).

² Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

access and layout of the proposal, when considering its likely impact in respect of the matters set out in the main issues below.

5. In light of the amended drawings and documents, the main parties highlighted in the Statement of Common Ground (SoCG) that the third, fourth and fifth reasons for refusal on the Decision Notice have been satisfied. Nevertheless, as interested parties responded to the consultation on these documents and raised points at the Hearing, I refer to them in 'Other Matters'.
6. Similarly, the Council has also confirmed in the SoCG that the submission of a certified Section 106 Legal Agreement (S106) means it would also not seek to defend its sixth reason for refusal on the Decision Notice. However, relevant contributions and provisions of the S106 were discussed at the Hearing and I refer to them where relevant.

Main Issues

7. The main issues are:

- whether the proposal is consistent with policies of the development plan relating to housing in rural areas, with particular regard to the protection of the countryside; and
- whether the proposal would be accessible to services and facilities.

Reasons

Protection of the countryside

8. The appeal site concerns a roughly L-shaped area of land that forms part of a larger agricultural field situated to the northern side of Sparepenny Lane. It is adjacent to but beyond the settlement boundary of Great Sampford so is situated within the countryside, as defined by Policy S7 of the Uttlesford Local Plan³ (ULP).
9. The northern boundary of the site is open, so it is indistinguishable from the remainder of the field and shares common characteristics with the varied field pattern of open and undeveloped fields that envelope the village. The field slopes south and east down toward the village. The southern backdrop of the site is a combination of the existing bungalows at Watson's Close, north of Sparepenny Lane and the mature tree and hedge planting enclosing the remainder of its frontage further west. The boundaries to the rest of the field are similarly demarcated.
10. Together with this mature planting, the topography of the land around the village ensures it is largely contained in the landscape. This is illustrated by the viewpoint analysis within the appellant's *Landscape and Visual Appraisal* (LVA). The presence and visibility of existing built form to the eastern edge of the village therefore helps to define what is more urban and rural in form. Moreover, at the time of my site visit, I observed the bungalows in Watson's Close and Monk's Corner to be visible from the network of Public Rights of Way (PROW) within the countryside beyond the village. The homes to the south side of Sparepenny Lane were also evident to varying extents through planting.

³ Adopted January 2005.

11. Taken together these stated features, particularly the openness and undeveloped nature of the site, give rise to a clear and distinct, pattern of development set within verdant and attractive countryside surrounding Great Sampford. This makes a significantly positive contribution to the rural landscape setting of the village, and therefore the character and appearance of the area. In particular, like the Inspector for the previous appeal at this site⁴, it provides a rural and green backdrop to this part of the village, which emphasises the juxtaposition between built form and the surrounding undeveloped landscape. Given these characteristics and its visual prominence within the immediate surrounding landscape, including in views from PROW, the site would be sensitive to change.
12. While the proposed layout would share some characteristics with the linear grain of development that predominates within the village, it would nevertheless amount to a development of significant prominence to the east of the village, within the undeveloped and open site. Moreover, the proposal would be set apart from existing contained development and appear as a distinct built incursion. The subsequent loss of openness and erosion of the site's undeveloped qualities would also undermine how the village currently blends more naturally into the wider rural landscape and interrupt views of the village from within the landscape.
13. At the Hearing, the Council confirmed that the LVA is accurate to the surroundings of the village and its receptibility to change. However, the zone of theoretical visibility mapping and viewpoints therein demonstrate development within the site is likely to be visible from the north, east and southeast. While there would be some filtering of views by boundary features in leaf, these would not contain the visual effect of the proposal, which would stand out beyond the existing built forms present in those views as prominent additions to the countryside.
14. The viewpoint analysis within the LVA also demonstrates that built form within the site would be likely to be visible from Sparepenny Lane, through planting when it is not in leaf, particularly in views northwest where the skyline above the horizon is a dominant feature. The buildings would also be visible through gaps between bungalows of Watson's Close.
15. The indicative landscape strategy for the scheme would be likely to be integral to its layout and reflect planting found in the locality. However, at the Hearing, the appellant confirmed it would take hedge planting around five years to grow to such an extent that it would have a meaningful effect, at which point it would be maturing, but not mature; and tree planting would take around three times as long to see a residual effect. Accordingly, the proposed landscaping would be unlikely to have matured sufficiently in the initial years of occupation of the development to soften the visual effect of its physical presence in this sensitive location. It would also take a significant amount of time for it to reflect the verdant characteristics of existing planting. It is also unlikely that the allotments and pond would add sufficiently to screening to mitigate against the effect of the proposal. The absence of effective screening for this timeframe would therefore prolong the harmful effect of the presence of development.
16. I appreciate that the impact of the proposal on the surrounding rural landscape would only be likely to be experienced within the immediate locality, including

⁴ Appeal Reference: APP/C1570/W/17/3171477.

in views from nearby PROW. Nevertheless, for the above reasons, I cannot agree with the findings of the LVA regarding the consequences of mitigation, as the proposal would have a detrimental and enduring urbanising effect on the rural setting of Great Sampford and, therefore, on the character and appearance of the area.

17. I have had regard to the appeal decision for the site at Mill Road, Henham⁵, particularly in relation to the Inspector's approach to landscape harm and mitigation that would be employed. However, at the Hearing, the appellant accepted the sites were situated in different landscape contexts, which comes across in the decision, as the Inspector described the absence of significant hills. The two sites would therefore not be comparable, and the Inspector's reasoning would not alter my conclusions regarding the subject site.
18. I am also referred to Henham and a further site at The Street, Manuden⁶, as both settlements to which ULP Policy H3 applies, but Henham and the subject site are both beyond development limits of the settlements, so the policy is not relevant to my consideration of the proposal. I note the Inspector at Henham arrived at a similar conclusion.
19. In light of the above, I conclude that the proposal would not be consistent with policies of the development plan relating to housing in rural areas, with particular regard to the protection of the countryside. Hence, the appeal scheme would not accord with the aims of ULP Policy S7 to protect and strictly control new building in the countryside. There would also be conflict with Framework paragraphs 130 and 174 in respect of the effect of the development on the countryside.

Accessibility

20. There is common ground between the main parties that the site is close to the primary school, village hall, public house (now a restaurant with some internal seats for drinkers), playing field and church in Great Sampford. Nevertheless, given this limited range of facilities and services, occupants of the proposal would be obliged to travel further on a regular basis to, amongst other locations, Saffron Walden, Thaxted, and Finchingfield to meet their daily needs in respect of retail, leisure, employment, and healthcare.
21. Social changes have led to more people being able to choose to work from home and the village has excellent broadband facilities, but it is still not possible to do so with all areas of employment. People are also undertaking a lot of their shopping online and receiving deliveries. However, these are not the only reasons future occupants would need to travel and deliveries would still entail movements to and from the site.
22. There are existing bus stops on Finchingfield Road, outside the Red Lion Inn, which the proposal would upgrade, but these currently only serve separate school bus services which are definitive. Upgrade of existing infrastructure would therefore be less effective in the absence of other service provision. Moreover, there is otherwise only a limited prebooked Demand Responsive Transport service, which Essex County Council has advised is due to come to an end before the development would be constructed. The railway stations in Newport and Audley End are also some distance away.

⁵ Appeal Reference: APP/C1570/W/21/3272403.

⁶ Appeal Reference: APP/C1570/W/20/3242024.

23. The S106 supporting the appeal includes a financial contribution toward sustainable transport initiatives. This is intended to be the first payment made towards the delivery of a new bus service to serve communities between Saffron Walden and Braintree. It is unclear what funds would be required for the service to be provided, the extent of provision that would be made and when this would be delivered.
24. The S106 would also include provisions for a management company to provide a minimum of three electric bicycles for the village. While cycling into the village would be more straightforward, there are no designated cycle routes from the village to nearby settlements and the road network is generally fast-flowing, narrow, and winding. Furthermore, like the Inspector for the previous appeal at the site, nearby settlements would also not be a reasonable walking distance away and pavements and lighting along the relevant routes are lacking. I note that the LHA did not object to the proposal on such grounds, but this is unsurprising given the scheme is not car-free housing that would be solely reliant on other means of transport. Similarly, the Building Regulations would require the proposal to be provided with electric vehicle recharging points and the Framework indicates this is a sustainable mode of transport. However, there would be no means to ensure future occupants would be obliged to utilise them.
25. While I accept the aforementioned measures are important steps in securing alternative means of transport for Great Sampford and other rural communities in the locality, I cannot conclude that existing bus services or those that could be made available, the opportunities available to walk or cycle, and provision of charging points, would sufficiently encourage future occupants of the scheme to travel regularly other than by conventional private motorised transport.
26. The Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and occupiers of existing properties are likely to need to make similar journeys. A greater dependency on car use is expected in rural locations and some of the journeys from the site may be shorter, including to Thaxted. However, the appellant's Highway Statement states up to 86 vehicle movements could result from the proposal each day. The cumulative effect of allowing developments of the scale of that proposed in locations such as the appeal site would therefore be likely to significantly increase the amount of unsustainable journeys made.
27. I am also referred to the appeal decision at Manuden in the context of this main issue. However, the Council's Statement and interested parties at the Hearing confirmed that Manuden is served by a regular bus service and a national cycle route. While both settlements may have some facilities to support residents, it is not comparable with Great Sampford and the decision for the subject site is more pertinent, as little has changed in this context.
28. In light of the above, I conclude that the appeal site would not be accessible to services and facilities. Hence, the proposal would conflict with the aims in respect of the accessibility of development as expressed in ULP Policy GEN1 and paragraphs 104 and 105 of the Framework.

Other Matters

29. I have considered the responses received from interested parties to the consultation undertaken on the amended information regarding highway safety

and the access to the site, referred to in the third, fourth and fifth reasons for refusal. Based on the evidence before me, I am satisfied that the highway works that would be required within Sparepenny Lane could be implemented on land within the control of the appellant or the LHA and secured by planning conditions. Accordingly, given my findings in relation to the above main issues, it is not necessary for me to consider these aspects or other matters relevant to highway safety, access or traffic, in any further detail.

30. The statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight, as are the aims of paragraphs 197, 199 and 200 of the Framework. There are three Grade II listed buildings to the southern side of Sparepenny Lane, Gill Mill Cottages, Goodwins Cottage, and Sunnyside.
31. At the Hearing, the main parties agreed the settings of these heritage assets were primarily centred on their curtilages and the parts of Sparepenny Lane within which they are situated. Goodwins Cottage and Sunnyside are both separated from the appeal site by bungalows in Watson's Close and it does not contribute to their settings. Similarly, Gill Mill Cottages is set back from Sparepenny Lane and the properties either side of it. The main parties agreed the field makes a limited or negligible contribution to the setting of the listed building, and the properties within the appeal site would be set back behind the retained tree and hedge planting at the opposite lane frontage. The Council also confirmed it found less than substantial harm based on the professional advice it received from its heritage consultee. However, together with the reasons outlined above, the proximity and physical relationship of the proposal with this listed building would ensure its setting would be preserved and the proposal would not detract from it. In such circumstances, given that I have not identified there would be harm to the setting of any of the listed buildings, I do not need to undertake the heritage balance required by the Framework.

Planning Balance

32. The main parties agree that the Council can demonstrate 4.89 years of deliverable housing land. Accordingly, the policies which are most important for determining the appeal within the ULP are deemed to be out-of-date. In such circumstances, permission should be granted, 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.
33. Policy GEN1 is generally consistent with the Framework in terms of its aims to promote sustainable transport, so I afford considerable weight to the conflict of the proposal with these policies.
34. Policy S7 refers to development outside of settlement boundaries. In isolation of other considerations, this would not be wholly aligned with the more flexible and balanced approach implicit in the objectives outlined in the Framework. However, this does not fundamentally undermine the continued relevance of such an approach, particularly as its aim is to protect or enhance the character of the countryside from development that does not need to be there. This differs only slightly from the aim in the Framework to recognise the intrinsic character and beauty of the countryside. There is therefore still a clear rationale for development boundaries in order to protect the countryside while focusing growth within designated settlements. In light of this I have regarded

the underlying objectives of the policy, as being partially consistent with the current Framework.

35. The Council's Compatibility Assessment confirms that Policy H1, which deals with the supply of housing in the district, is time expired. Moreover, at the Hearing, the Council accepted that until such time as it has a new adopted local plan with redrawn settlement boundaries and allocated sites, it would need to accept that development will need to take place beyond existing settlement boundaries to meet current and future housing needs. Policy S7 is therefore predicated on settlement boundaries that are deemed to be out-of-date. However, as the shortfall in the supply of deliverable housing land in Uttlesford is limited, I ascribe moderate weight to conflict of the proposal with the policy. This differs from the weighting at Henham and Manuden due to the uplift in the supply of deliverable housing land from when those decisions were made.

Section 106 Legal Agreement

36. The S106 for the appeal scheme seeks to provide 40 per cent of the proposed dwellings as affordable housing, which would be commensurate with the Council's policy position to address the scale of affordable housing need and retain mixed and balanced communities. However, the Council's housing waiting list stands at, or near to, 1264 applicants, and its Authority Monitoring Report 2021 suggests only 52 affordable homes were delivered in 2020/21. While the latter is likely to have been constrained by a shortfall in delivery partly owing to the Covid-19 pandemic, the extent of need is significant, so I afford the affordable homes that would be provided moderate weight.
37. The S106 would also include provisions for public open space within the site and the sustainable transport contribution, referred to above. Although these would be beneficial they would mitigate against the impact of the erection of up to 18 dwellings and, in the case of the latter, there would be uncertainty as to the timing and nature of what is to be delivered. For these reasons, I afford these benefits limited weight.
38. The S106 includes a scheme to deliver a Management Company for allotments and a community building. At the Hearing, the appellant suggested the building would be modest to supplement the existing village hall and could be used for, amongst other things, meeting space for clubs, and for yoga and gym training. The building and allotments would be offered to the Parish Council, but the management company would run them if they declined to. While this is likely to provide greater assurance that the allotments and building would be used, there is limited evidence before me of the need for them. Allotments are often popular and the appellant has indicated they would not have been brought forward if they were unlikely to be taken up, but I cannot be certain that these provisions would be necessary to make the development acceptable in planning terms, as required by the Framework and CIL Regulations. I have therefore afforded them very limited weight as social benefits of the appeal scheme.
39. At the Hearing, the Council confirmed that cycle parking for the proposed homes, allotments and community building would be derived at Reserved Matters, when the scale of buildings is known. The proposed electric cycle scheme for the development would therefore supplement the facilities required to accommodate bicycles. As I explained above, it would have a limited impact on steering future occupiers of the development away from private motorised

means of transport, so would be afforded limited weight as a social and environmental benefit of the proposal.

Other Benefits

40. The Council's Emerging Local Plan is some way from being adopted and, as I explained in the second main issue, it does not have an adopted strategy for the delivery of housing to meet the needs of the district. The appeal scheme would boost the supply and mix of homes in Uttlesford and help to address the shortfall in supply. I accept that the proposed homes could be built out relatively quickly but, due to the scale of the proposal, I afford this benefit moderate weight.
41. At the Hearing, the Council confirmed that current availability in capacity at the primary school is similar to that referred to by the appellant and other interested parties explained that the catchment area for secondary schools in Saffron Walden has changed, meaning children from the village attend primary schools there to ensure access to further education, pupils from elsewhere in turn travel to the village. Nevertheless, the proposal would support the school, along with other services in the village. Given the scale of the development proposed, these would amount to benefits of moderate weight.
42. The provision of subsidised tickets for use on the buses served by the development and personalised travel planning for residents would be required to make the development acceptable so I afford them limited weight as benefits of the scheme.
43. There would be short-term benefits to the local and wider economy from employment associated with construction works and the procurement of materials. Occupants of the proposed dwellings would also be likely to contribute to supporting services and facilities in the village, including the school and Red Lion. These would all constitute benefits in social and economic terms but, given the scale of the proposed scheme, they would be afforded moderate weight.
44. The proposal could be said to make more effective use of the site, but it would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land. The scheme would also need to meet the latest Building Regulations regarding energy efficiency, so I afford each of these negligible weight as environmental benefits of the scheme.
45. I am mindful that biodiversity net gain is not yet a mandatory requirement of development, but the Framework is supportive of measurable attempts to secure such benefits. While the indicative scheme would provide landscaping, in the absence of a worked-up scheme, I can only afford this environmental benefit limited weight.
46. The absence of harm in respect of any considerations relating to highway safety and access to the site, and to the setting of listed buildings opposite the site would neither weigh in favour nor against the development.
47. In terms of harm, the proposed development would not comply with ULP policies in respect of housing in rural areas, particularly regarding protection of the countryside, and its accessibility. However, given my findings in relation to the ULP policies, for the first of these matters the adverse impact of the proposal is a matter of moderate weight against granting planning permission;

but for the latter the adverse impacts are of considerable weight. Whereas the appeal scheme includes various benefits of varying weight, but no greater than moderate weight. The harms would therefore be of greater significance than the benefits.

48. Moreover, the adverse impacts of granting permission would significantly and demonstrably outweigh the stated benefits, when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and the proposal should be determined in accordance with the development plan. Furthermore, for reasons advanced above, it would not amount to sustainable development.
49. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole.

Conclusion

50. The proposed development would be contrary to the development plan, when considered as a whole, and there are no other considerations which outweigh this finding, including the Framework. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jon Durbin	Chartered Town Planner
Nigel Cowlin	Landscape Architect
Nick Fairman	Wethersfield Homes Limited

FOR THE LOCAL PLANNING AUTHORITY:

Lindsay Trevillian	Principal Planning Officer
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OTHER INTERESTED PARTIES:

Colin Beany	
Mr Anthony Heapy	
Mrs Georgie Heapy	
Christine Knight	
David Knight	
Gary Swain	Great Sampford Parish Council

Councillor Mike Tayler

Ward Councillor for the Sampfords

DOCUMENTS RECEIVED FOLLOWING THE CLOSE OF THE HEARING:

- Additional information from the LHA relating to land within its control and responses from the main parties.
- Revised set of agreed planning conditions and a further amendment from the appellant to a condition requested by the LHA.

Richborough Estates