



Appeal Decision

Site visit made on 2 December 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/C1570/W/19/3236047

Land to the west of Mill Lane, Hatfield Heath, Essex CM22 7AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr W I Bampton against Uttlesford District Council.
 - The application Ref UTT/17/2499/FUL, is dated 22 August 2017.
 - The development proposed is described as 'Demolition of existing buildings, conversion of water tower to form a dwelling, erection of 25 Dwellings and the retention, renovation and change of use of 7 buildings to form ancillary facilities to the residential development'.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. An application for an award of costs was made by Mr W I Bampton against Uttlesford District Council. This application will be the subject of a separate Decision. I have taken the description of development from the appeal form as this accurately reflects the amendments made to the proposal during the course of the Council's assessment.

Background and Main Issues

3. The Council failed to determine the planning application within the prescribed period and therefore the appellant exercised their right to submit this appeal. The Council has confirmed that, had it been in a position to do so, it would have refused the proposal due to concerns over the impact on the Green Belt, the character and appearance of the area, heritage and highway safety. Accordingly, the main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect on non-designated heritage assets, the character and appearance of the area and highway safety in Mill Lane; and
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether or not the proposal would be inappropriate development

4. Policy S6 of the Uttlesford Local Plan 2005 (LP) states that infilling, limited development or redevelopment will be permitted within several defined villages excluded from the Green Belt, including Hatfield Heath. The appeal site is not within the defined limits of the village and is therefore not land excluded from the Green Belt. The supporting text to Policy S6 explains that within the Green Belt development will only be permitted if it accords with national planning policy in Planning Policy Guidance Note 2 – Green Belts. This document has been superseded by the National Planning Policy Framework (the 'Framework'), which I have reverted to this instead.
5. Paragraphs 143 and 145 of the Framework state that new buildings in the Green Belt are to be regarded as inappropriate development, and by definition harmful to the Green Belt, unless they meet a stated exception in a closed list. In this respect, the appellant is of the view the proposal would be the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development and therefore it meets the seventh exception in Paragraph 145.
6. The appeal site can broadly be divided into two sections. Area 1 encompasses two clusters of buildings, a small barn type grouping towards the southern boundary, and a larger cluster along the northern boundary close to a redundant water tower. The latter includes buildings that were historically part of a prisoner of war (POW) camp and may have been used to house the guards. Some of these buildings are of block work construction and have been little used since the second world war. A statutory declaration suggests some were used by the owner of Little Heath Farm as a store and workshop. They are low in profile and are reasonably discrete in views from Mill Lane. There is an access road linking Mill Lane to the Guard's complex as well as the southernmost cluster in Area 1. It is unclear whether the latter was formally part of the POW camp or were agricultural buildings associated with Little Heath Farm. The same can be said of the remainder of Area 1, which is free of development, with part apparently being self-seeded woodland. Overall, Area 1 has a rural appearance that contributes to the openness of the Green Belt.
7. Area 2 encompasses a collection of predominately timber framed buildings arranged in regimented rows. It is probable that they originally housed prisoners of war. They are currently used as stores in connection with a commercial egg packing and dispatching business¹ with hard standing in-between. As such, the use has moved away from a POW camp. This part of the site is separated from the village by Area 1 and therefore has the visual appearance of being removed from the settlement. It does not contribute positively towards the openness of the Green Belt. Conversely, there is an area of paddock land to the west of the egg packing operation which has an agricultural character, being fenced off and used to keep sheep.
8. The Framework defines previously developed land (PDL) as land which is occupied by a permanent structure and its curtilage. However, it excludes land used for agriculture and land that was once previously developed but where the structures have blended back into the landscape. When applying this definition

¹ The status of the buildings was addressed through a Lawful Development Certificate Ref UTT/0786/98/CL

- to the egg packing operation in Area 2, it is apparent that the buildings and intervening hard standings are PDL.
9. However, the paddocks are not within the curtilage of these buildings being a discernibly separate use of land that is agricultural in character. The paddocks and not within the red line of the site defined in the Lawful Development Certificate. As such, the paddocks are unlikely to be PDL.
 10. The buildings in Area 1 do not appear to have been used since the second world war, but they are still recognisable structures in a discernible complex and have not therefore, blended back into the landscape. As such, they can be considered PDL. That said, much of the southern section of Area 1 is devoid of buildings or structures and may never have been part of the POW camp, instead remaining part of Little Heath Farm. Thus, it is unclear whether the entirety of Area 1 fell within the curtilage of the POW camp. As such, parts of Area 1 may not be PDL.
 11. The appeal scheme would involve the demolition of the structures associated with the egg packing operation in Area 2 and many of those in Area 1. New homes would then be erected throughout the appeal site. The appellant's figures indicate that the development would result in an overall reduction in the footprint of buildings and extent of hardstanding by 248sqm and 2,375sqm respectively. However, many of the existing buildings, which are single storey, would be replaced by larger two storey dwellings. This would increase the volume of buildings by 3,216 cubic metres. Moreover, the existing development is quite compact whereas the appeal scheme would spread development around the site resulting in buildings, roads, parked cars, boundary treatment, gardens and domestic paraphernalia being located where there is none currently. This would result in built development being significantly more apparent in Area 1 than it is presently, with the associated loss of openness.
 12. The rationale behind spreading the development in the way proposed follows the findings of an appeal decision². It is to provide a gentle transition into the countryside across the site, with built form and commercial activity reduced in Area 2, which the Landscape and Visual Impact assessment found to be the most exposed part of the site to the open countryside north of the village. This would then be redistributed into Area 1, which is closer to the existing development along the southern part of Mill Lane as well as the village core.
 13. However, the existing buildings in Area 2 have a low profile and a functional agricultural character due to their dark timber finish. The buildings screen most of the vehicles and external storage in this part of the site. On the other hand, the proposed dwellings would be large, sprawling structures with some arranged over two storeys. They have been designed to have an agrarian character, but they would nevertheless have a suburban arrangement and much of the fenestration would be overtly domestic. The visual impact of development in Area 2 would not therefore, be reduced as a result. This would be the case even when accounting for a new northern boundary hedge and the graduated form of the dwellings, because of their considerable height and massing. Like the existing commercial use, the new dwellings would also accrue activity such as deliveries and general arrivals and departures.

² APP/G5180/W/15/3129314

14. Notwithstanding the above, the largely undeveloped appearance of Area 1 provides an open, verdant buffer between the former POW camp and the rest of the village and thus a rural character to Mill Lane. This already helps to reinforce a gentle transition into the countryside from the village. The appeal scheme would not improve this situation as it would result in development being more apparent along the length of Mill Lane. This would provide a sense of development encroaching out of the village and into the countryside, at odds with one of the five purposes of the Green Belt.
15. Therefore, even if I were to accept that the entire site is PDL, which I do not, the appeal scheme would still result in a greater impact on the openness of the Green Belt than the existing development. The impact on openness would be significant because there would be a notable increase in development in Area 1 but no meaningful perception that the extent of development in Area 2 had decreased. The combined effect being a sprawling housing estate that would have an increased presence than the existing built form in Areas 1 and 2, with a greater impact on the openness of the Green Belt. I therefore conclude that the appeal scheme would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

The effect on non-designated heritage assets

16. The remains of the POW camp (Camp 116) within the appeal site encompasses around 43 structures in various stages of repair. The timber structures in the Prisoner's compound (in Area 2) appear to be in a poor state of repair, although some are reasonably intact, weather tight and in use. The buildings in Area 1 are generally finished in brick and concrete and are in reasonable condition considering the lack of use. Original features such as fixtures and fittings are still evident in some of the buildings, as is graffiti. The remains of Camp 116 provide valuable evidential evidence of the conditions of POWs in Britain during the Second World War. There is some aesthetic value to the buildings, which is interesting aspect given the utilitarian nature of the use. There is also a historical and social value to them given the links with an important national event, but also the demonstrable impacts on local history.
17. Camp 116 was assessed in 2003 by English Heritage (now Historic England) and categorised as a 'Class 2' camp. This means that it is 'Near Complete' with a 'majority of features i.e. 50 – 80% survival'. This is very much what I observed with many buildings and the 'standard' historic layout still clearly evident. In 2003 English Heritage recorded only seven camps surviving in this condition in the country. It is unclear whether this is still the case. In this respect, it is a remarkably rare survival from the Second World War, particularly as the buildings were not designed to last. Thus, although the buildings individually may be of limited interest, Camp 116 as a whole is undoubtably a non-designated heritage asset that is of considerable historic and archaeological interest given the rarity, association with a national event and the relatively good state of preservation.
18. The appeal scheme would involve the demolition of most of the historic structures, which are a finite resource. The prisoner's compound in Area 2 would be entirely lost as would most of the buildings around the water tower. This in turn would result in the central square in the Guard's compound being lost. The setting of the camp would also be altered from a collection of structures that can be understood in their original historic siting and context to

- that one subsumed by a modern housing estate, the layout and scale of which would take little cue from the existing Camp. The harmful impact on Camp 116 as a non-designated heritage asset would be considerable.
19. A package of mitigation has been proposed in an attempt to address the harm that would be caused. This would involve the retention and refurbishment of part of the Guard's compound, including the canteen which has the 1940s graffiti. These buildings would be used to provide ancillary services to the occupants of the proposal, such as a gym. Furthermore, there is an aspiration to site a museum in part of the former canteen. One of the timber buildings in Area 2 would be relocated to the compound thereby providing a physical record of the Prisoner's huts. The conversion of the water tower to a dwelling would be an imaginative solution facilitating the retention of this important landmark structure, but it would sit apart from the retained compound.
 20. The appellant is to be commended on providing a suite of mitigation measures given this issue was raised late on in the Council's consideration of the proposal. In particular, the retention *in situ* of part of the Guard's compound would safeguard the ability of future generations to appreciate part of the site. However, it has not been demonstrated it would be unviable to preserve more buildings, perhaps at the expense of other planning obligations.
 21. The Council have suggested that the package of heritage measures in the planning obligation are 'woefully inadequate' but has provided little explanation why, other than raising concerns regarding the level of public access. But none exists at present. In this respect, retaining some buildings, affording public access to them and providing an onsite museum would provide useful mitigation, as it would better aid public interpretation than the status quo. However, the unilateral undertaking submitted with the appeal makes scant provision for public access to the buildings and does not include firm proposals for an on-site museum – it only seeks to offer space to the local history society, but the terms of any license are unclear and consequently there is a risk the history society may not be able to establish the museum in order to aid public interpretation of the site.
 22. It is unclear how the buildings scheduled to be retained would be refurbished without some form of cross subsidy from new development and therefore this is potentially a benefit. That said, it is also unclear whether consideration has been given to the feasibility of other uses that would retain more of the Camp structures, particularly those around the water tower that appear solid and are part of the wider Guard's compound. Moreover, many of the buildings in Area 2 are in use as part of the existing business and therefore their loss would seem unnecessary, especially as the proposal would not reduce the impact on the countryside and the openness of the Green Belt.
 23. I therefore conclude that the appeal scheme would, overall, still result in a significantly harmful net impact upon the non-designated heritage asset when accounting for the mitigation proposed, and this is to be taken into account and weighed in my overall assessment.

The effect on the character and appearance of the area

24. Mill Lane passes the southern and eastern edges of the appeal site. It is currently a narrow route. Housing fronts the lane to the south of the appeal site with some of this being quite recently constructed in lieu of a historic

farmstead. Once this housing is passed, the lane is flanked in part by hedging and this affords a pleasant rural character, albeit diluted by the recent erection of fencing around the appeal site. Mill Lane is a route linking the centre of the village and the open countryside beyond.

25. The introduction of housing across the appeal site would result in a notable urbanising impact, especially in Area 1 which currently has a wooded appearance. The houses in Area 2 would also be quite apparent from the public footpath to the north given their height and massing. This would engender a sense of continued urban sprawl into the countryside from the southern boundary of the appeal site to its northern boundary. This would be particularly apparent from Mill Lane, the character of which would change given the visual presence of new houses. Thus, the rural character of the appeal site and Mill Lane would be harmed.
26. However, the house types proposed to be used in the development would be attractive³, well detailed and reflective of the local building styles in the area. Some would echo the rural vernacular. The buildings would also be arranged in a generally linear manner orientated to address the street, particularly in the southern part of the site, which would respond to the linear pattern of development along the A1060. Significantly, the appeal site would be very generously landscaped and some of the houses would sit in large plots. Therefore, the development would have a verdant character and appearance with a visual permeability that would offset some of the harm identified in the preceding paragraph.
27. Nevertheless, these aspects would not entirely mitigate the limitations I have identified and consequently there would be a moderate level of harm to the character and appearance of the area. Accordingly, the proposal would be at odds with Policy GEN2 of the LP, which seeks to secure development that is compatible with its context and setting with an acceptable visual impact.

The effect on highway safety in Mill Lane

28. The Transport Assessment, which is undisputed by the Council, states that the number of vehicle movements associated with the proposed development would be similar to the existing use, and therefore the overall level of traffic along Mill Lane would not increase. There would however, be a reduction in movements by Heavy Goods Vehicles (HGVs).
29. The main vehicular entrance into the appeal site would be moved from the north of Mill Lane to the southern boundary of the appeal site, with the existing informal entrance upgraded. Therefore, the highway traffic from the development, which would not be greater than existing levels, would be confined to the southern part of Mill Lane where there is already traffic serving the existing houses. There would be no need for residents of the appeal scheme to travel north along Mill Lane past the site entrance. This would significantly change the intensity and flow of traffic along the middle and northern section of Mill Lane, with a notable reduction due to the traffic associated with the existing commercial use falling away. A footpath and cycle link would also be provided within the development alongside Mill Lane.

³ As demonstrated by a similar structure constructed by the appellant - appeal decision APP/C1570/A/05/1188896

30. Consequently, the proposal would not result in an overall increase in traffic using Mill Lane and it would also free much of its length from traffic derived from the appeal site. As such, there would be no harmful impact on highway safety including the highway character of Mill Lane. This is a point supported by the Local Highway Authority. Accordingly, a conflict with Policies GEN1 and GEN2 of the LP, in so far as they relate to this matter, would not occur.

Other Considerations

31. The proposal would moderately boost housing supply by providing 26 new homes close to facilities in a 'Key Village', at least part of which would be on previously developed land. This would occur at a point in time when the Council are unable to demonstrate a five-year housing land supply as required to by the Framework. The deficit is serious because the housing supply only covers 2.68 years. As such, housing delivery would be a significant benefit, particularly as it would include affordable housing secured through the planning obligation.
32. The proposal would deliver some notable economic benefits from the 'spend' of future residents, but I have seen nothing of substance to suggest this would make a significant difference to the local economy or the vitality of the community and its services. For example, there is nothing to suggest local services are failing for lack of patronage, pupil numbers at the local school are falling or local clubs are struggling to gain members. The proposal would provide public open space, but I have seen nothing to suggest there is a local shortage that would elevate this to a significant benefit (the village benefits from a large central green). The proposal would also provide a not insignificant contribution towards the construction industry and financial benefits such as Council Tax receipts. The proposal could also benefit biodiversity through the management of existing woodland to better support wildlife.
33. The proposal would retain some of the historic buildings on the site, but this would not result in a net benefit to heritage. There would also be a reduction in traffic along part of Mill Lane, but there is little before me to suggest this has been a demonstrable pre-existing problem of note. The proposal would reduce the risk of vandalism but there is nothing of substance before me to suggest this could not be managed by other means, such as CCTV cameras. The planning obligation makes provision for a contribution towards education, but this is to mitigate the impacts of the proposal and is therefore a neutral matter. Overall, the benefits of the scheme are of significant weight.

Whether there would be Very Special Circumstances

34. Paragraphs 143 and 144 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
35. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In coming to this conclusion, I found that the appeal scheme would result in a significant impact on the openness of the Green Belt. Paragraph 144 of the Framework requires

substantial weight to be given to any harm to the Green Belt. In addition, the proposal would have a significant adverse impact on a non-designated heritage asset and some moderate harm to the character and appearance of the area.

36. The other considerations I have identified, whilst carrying significant weight as matters in favour of the proposal, would not, on balance, outweigh the cumulative harm I have identified. As such the harm to the Green Belt, and any other harm resulting from the proposal, would not be clearly outweighed by the other considerations. Thus, the very special circumstances necessary to justify the development do not exist and therefore the proposal would fail to adhere to the local and national Green Belt policies that I have already outlined.

Other Matters

37. Various concerns have been raised by interested parties including reservations regarding the impact on living conditions, wildlife, traffic and flood risk, which I have noted. However, given my findings above it has not been necessary for me to address these matters further as the appeal has failed. The appeal scheme has evolved following extensive discussions with Officer's, but I have come to my own conclusions for the reasons given.
38. Paragraph 11 of the Framework states that in situations where the Council is unable to demonstrate a five-year supply of deliverable housing sites then permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. In this instance, there are no very special circumstances justifying the proposal and therefore the policies in the Framework provide clear reasons for refusing the appeal scheme. It is therefore unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
39. Planning permission was granted under reference UTT/17/2262/FUL for the replacement of the 'Barn Store' with a dwelling. Nevertheless, the provision of a single dwelling is not comparable to the impacts that would be associated with the appeal scheme, which would be much larger in scale and land area. Two of the original Camp buildings were apparently demolished to facilitate the erection of a dwelling permitted following a successful appeal⁴. However, the impact on heritage was not an issue considered in the appeal decision and, in any event, the loss of two buildings is quite different to the removal of nearly all of them, as is proposed in the appeal scheme before me. As such, there is no inconsistency between my findings and other nearby decisions.

Conclusion

40. The proposed development would not harm highway safety. However, it would harm the Green Belt, heritage and the character and appearance of the area contrary to the development plan and national policy. There are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

⁴ Ref APP/C1570/A/05/1188896