



ITEM NUMBER: 6

PLANNING COMMITTEE DATE: 3 April 2024

REFERENCE NUMBER: S62A/2024/0032 - UTT/24/0103/PINS

LOCATION: Land to the West of Mill Lane, Hatfield Heath

SITE LOCATION PLAN:



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Organisation: Uttlesford District Council Date: 1 March 2024

PROPOSAL: Consultation on S62A/2024/0032 - The demolition of 12 no. existing structures, the conversion and restoration of 8 no. existing buildings to form 8 no. holiday cottages and 1 no. dwelling, the construction of 3 no. single storey dwellings. The creation of a pedestrian and cycle link path.

APPLICANT: Mr W I Bampton

AGENT: Miss H Wallis

DATE CONSULTATION RESPONSE DUE: 21 days from consultation

CASE OFFICER: Mark Sawyers

NOTATION: Outside Development Limits
Metropolitan Green Belt
Locally Listed Buildings

REASON THIS CONSULTATION IS ON THE AGENDA: This is a report in relation to a major planning application submitted to the Planning Inspectorate (PINS) for determination.

Uttlesford District Council (UDC) has been designated by Government for poor performance in relation to the quality of decisions making on major applications.

This means that the Uttlesford District Council Planning Authority has the status of a consultee and is not the decision maker. There is limited time to comment. In total 21 days.

1. **RECOMMENDATION**

That the Strategic Director of Planning be authorised to advise the Planning Inspectorate that Uttlesford District Council make the following observations on this application:

Details are to be outlined by the Planning Committee.

2. **SITE LOCATION AND DESCRIPTION**

2.1 The site is located on land west of Mill Lane, Hatfield Heath. It is on the north-west edge of Hatfield Heath and has existing residential development located to the west, south and east and a commercial site to the north.

2.2 The site is characterised by a large number of rectangular single-storey buildings and a four-storey water tower arranged around an area of hardstanding, a further informal cluster of buildings and wooded areas. There is currently no public access through the site, although PROW 297-9 runs adjacent to the eastern boundary of the site.

2.3 Existing access to the site is via two points from Mill Lane. The first, which serves the southern portion of the site, is just north of the property known as the Hollies at the point where Mill Lane doglegs east. The other is via the northernmost extent of Mill Lane providing the existing access to Greenways Eggs. Mill Lane connects with Stortford Road (A1060), the main road through the village.

3. PROPOSAL

3.1 This full application proposal relates to the demolition of 10 no. existing structures, the conversion and restoration of 8 no. existing buildings to form 8 no. holiday cottages and 1 no. dwelling, the construction of 3 no. single storey dwellings.

3.2 The proposal also seeks the creation of a pedestrian and cycle link path to link with the existing residential development within 'Home Pastures' to the east of the site.

4. ENVIRONMENTAL IMPACT ASSESSMENT

4.1 The development does not constitute 'EIA development' for the purposes of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

5. RELEVANT SITE HISTORY

Reference	Proposal	Decision
UTT/16/3697/FUL	Demolition of existing buildings and the development of 40 new dwellings and associated infrastructure.	Withdrawn
UTT/17/2499/FUL	Demolition of existing buildings and the development of 26 new dwellings and associated infrastructure	Non-Determination
UTT/18/0747/ACV	Application to register as asset of community value	Asset Community Value Not Listed
UTT/22/1261/FUL	The demolition of 10 no. existing structures, the conversion and restoration of 8 no. existing buildings to form 8 no. holiday cottages and 1 no. dwelling, the construction of 3 no. single storey	Refused

	dwelling. The creation of a pedestrian and cycle link path.	
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6. PREAPPLICATION ADVICE AND/OR COMMUNITY CONSULTATION

6.1 The LPA is unaware of any consultation exercise carried out by the applicant for this current proposal.

7. STATUTORY CONSULTEES

7.1 All statutory consultees will write directly to PINS within the 21 days period being the 15th March 2024 and are thereby not mentioned within this report.

8. PARISH COUNCIL COMMENTS

8.1 These should be submitted by the Parish Council directly to PINS within the 21-day consultation period being the 15th March 2024 and are thereby not informed within this report.

9. CONSULTEE RESPONSES

9.1 All consultees' comments should be submitted directly to PINS within the 21-day consultation period being the 15th March 2024 and are thereby not informed within this report.

10. REPRESENTATIONS

10.1 The application was publicised by sending letters to adjoining and adjacent occupiers and by displaying a site notice. Anyone wishing to make a representation (whether supporting or objecting) are required to submit their comments directly to PINS within the 21-day consultation period ending the 15th March 2024. All representations should be submitted directly to PINS within the 21-day consultation period.

10.2 UDC has no role in co-ordinating or receiving any representations made about this application. It will be for PINS to decide whether to accept any representations that are made later than 21 days.

11. MATERIAL CONSIDERATIONS

11.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, The Development Plan and all other material considerations identified in the "Considerations and Assessments" section of the report. The determination must be made in accordance with the plan unless material considerations indicate otherwise.

11.2 Section 70(2) of the Town and Country Planning Act requires the local planning authority in dealing with a planning application, to have regard to

- a) The provisions of the development plan, so far as material to the application,:
 - (aza) a post-examination draft neighbourhood development plan, so far as material to the application,
- b) any local finance considerations, so far as material to the application, and
- c) any other material considerations.

11.3 The Development Plan

- 11.3.1** Essex Minerals Local Plan (adopted July 2014)
Essex and Southend-on-Sea Waste Local Plan (adopted July 2017)
Uttlesford District Local Plan (adopted 2005)
Felsted Neighbourhood Plan (made Feb 2020)
Great Dunmow Neighbourhood Plan (made December 2016)
Newport and Quendon and Rickling Neighbourhood Plan (made June 2021)
Thaxted Neighbourhood Plan (made February 2019)
Stebbing Neighbourhood Plan (made 19 July 2022)
Saffron Walden Neighbourhood Plan (made 11 October 2022)
Ashdon Neighbourhood Plan (made 6 December 2022)
Great & Little Chesterford Neighbourhood Plan (made 2 February 2023)

12. POLICY

12.1 National Policies

12.1.1 National Planning Policy Framework (2023)

12.2 Uttlesford District Plan 2005

- 12.2.1**
- | | |
|------|--|
| S6 | Metropolitan Green Belt |
| GEN1 | Access |
| GEN2 | Design |
| GEN3 | Flood Protection |
| GEN4 | Good Neighbourliness |
| GEN5 | Light Pollution |
| GEN6 | Infrastructure Provision |
| GEN7 | Nature Conservation |
| GEN8 | Vehicle Parking Standards |
| H9 | Affordable Housing |
| ENV3 | Open Space and Trees |
| ENV4 | Ancient Monuments and Sites of Archaeological Importance |
| ENV5 | Protection of Agricultural Land |
| ENV7 | Protection of the Natural Environment |
| ENV8 | Other Landscape Elements of Importance |

ENV10	Noise Sensitive Development
ENV12	Groundwater Protection
ENV13	Exposure to Poor Air Quality
ENV14	Contaminated land

12.3 State name of relevant Neighbourhood Plan in this title

12.3.1 There is not 'made' Neighbourhood Plan for the area.

12.4 Supplementary Planning Document or Guidance

12.4.1 Uttlesford Local Residential Parking Standards (2013)
 Essex County Council Parking Standards (2009)
 Supplementary Planning Document – Accessible homes and playspace
 Supplementary Planning Document – Developer's contributions
 Essex Design Guide
 Uttlesford Interim Climate Change Policy (2021)

13. CONSIDERATIONS AND ASSESSMENT

13.1 The issues to consider in the determination of this application are:

- 13.2
- A) Principle of Development**
 - B) Design, Layout, Scale and Appearance**
 - C) Heritage**
 - D) Impact on Neighbours and Amenity**
 - E) Accessibility**
 - F) Highways Authority and Parking Standards**
 - G) Flood Protection**
 - H) Environmental Health**
 - I) Protected species and biodiversity**
 - J) Landscaping**
 - K) Housing Mix**
 - L) Affordable Housing**
 - M) Planning Balance**
 - N) Other matters**

13.3 A) Principle of Development

13.3.1 The Local Plan places the site beyond the defined Development Limits of Hatfield Heath within the Metropolitan Green Belt (Policy S6), which states that development will only be permitted if it accords with national policy on Green Belts. Any development should preserve the openness or permanence of the greenbelt, and its scale, design and siting should be such that the character of the countryside is not harmed.

13.3.2 The location of the application site is to the northern part of the village of Hatfield Heath.

A recent planning application on this site for dwellings (UTT/22/1261/FUL) was refused by the planning committee for the following reasons:

- The proposed development would constitute inappropriate development within the Green Belt and additional harm would result from the loss of openness. The harm by reason of its inappropriateness and loss of openness is not clearly outweighed by other considerations. There are no very special circumstances associated with this proposal that would outweigh the harm identified, therefore it fails to meet the tests found within paragraphs 147, 148 and 149(g) of the National Planning Policy Framework (2023)

The proposal is therefore contrary to Policy S6 of the Uttlesford Local Plan 2005 and National Planning Policy Framework (2023).

13.3.3 The NPPF is clear that achieving sustainable development, the social objective seeks to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraph 83 sets out to promote sustainable development in rural areas advising that housing should be located where it will enhance or maintain the vitality of rural communities and provide opportunities for villages to grow and thrive, especially where this will support local services.

13.3.4 Appeal decision – UTT/17/2499/FUL, considered 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.

13.3.5 In regard to transport, Appeal decision – UTT/17/2499/FUL noted that, the proposal for 26-no new dwellings would not impact Highway Safety and that a footpath and cycle link would also be provided within the development alongside Mill Lane.

13.3.6 In conclusion, and in light of the recent decision of the Planning Committee into consideration, the principle and location of the proposed development, with the introduction of the dwellings into the Green Belt setting would be in conflict with ULP Policy S6.

13.3.7 However, it must be noted that the location of dwellings would support services in village and other nearby settlements, also the reliance on the use of private vehicle it would not be a matter that would weigh against the proposal in this case.

13.4 B) Design, Layout, Scale and Appearance

13.4.1 The application proposes the conversion and restoration of 8 no. existing buildings to form 8 no. holiday cottages along with 1 no. new dwelling.

13.4.2 The proposal also seeks the construction of 3 no. single storey dwellings along with the creation of a pedestrian and cycle link path.

13.4.3

Plot no.	Ground floor footprint (m ²)	Eaves height (m)	Ridge height (m)	Building width at widest point (m)	Building depth at deepest point (m)
Unit 1	87m ²	2m	3.4m	14.7	5.9m
Unit 2	98m ²	2.4m	4m	16.6	5.9m
Unit 3	87m ²	2.2m	3.7m	14.8m	5.9m
Unit 4	80m ²	2.2m	3.6m	15.1m	5.9m
Unit 5	66m ²	2.4m	3.8m	11.2m	5.9m
Unit 6	66m ²	2.3m	3.8m	11.2m	5.9m
Unit 7	77m ²	2.3m	3.7m	13m	5.9m
Unit 8	112m ²	2.4m	3.7m	19m	5.9m
Plot 1	361m ²	2.8m	3.5m	43.2m	11.5m
Plot 2	361m ²	2.8m	3.5m	43.2m	11.5m
Plot 3	361m ²	2.8m	3.5m	43.2m	11.5m
Plot 4	53.5m ²	13.2m	13.2m	7.9m	8.9m

13.4.4 The dwellings would comprise of single storey dwellings, holiday lets along with the conversion of a 4-storey water tower.

13.4.5 It is acknowledged that the built form within the site will be increasing, however the majority of the structures with the exception of the water tower conversion benefit from low ridge heights which would minimise the visual impact of the proposal.

13.4.6 The proposal as submitted would introduce 3-no. new single storey dwellings, plot 3 would be to the left of the main access road as you enter the site, with the other 2-no. dwellings being situated in the top north western part of the application site. The water tower resides to the top of the site with the former officer huts to be redeveloped residing to the north eastern corner adjacent to Mill Lane.

13.4.7 The Essex Design Guide recommends that dwellings with 2 bedrooms should have private amenity spaces of 50m², 3-bedrooms should have 75m² and 4-bedroom and above should provide 100m².

13.4.8 Each plot would have sufficient garden amenity space in excess of the amenity standards to serve the property they serve. There would be sufficient separation distances between the proposed dwellings, whilst no overlooking or overshadowing issues would arise as a result of the development.

13.4.9 Each plot would have sufficient parking provision for the dwellings. There is also sufficient visitor parking provided across the development.

13.4.10 There are a mixture of styles in the locality, the agent seeks to provide modern housing in the form of a villa style of housing that takes its form from the original officers buildings within the POW camp. Due to the history and former use of the site, it would not be appropriate for a standard house design type as it would be at odds with the existing buildings.

13.4.11 The range of materials presented is considered to be acceptable and appropriate for the site's countryside setting.

13.4.12 Currently the site provides a sense of openness throughout the development. Minimal trees are proposed to be removed under this application in order to safeguard the environmental features of the site.

13.5 C) Heritage

13.5.1 With regards to heritage and the protection of Non-designated Heritage Assets. The guidance contained within the National Planning Policy Framework (NPPF) 2023

The guidance contained within Section 12 - Achieving well-designed places p.135 and Section 16 - Conserving and enhancing the historic environment p209, these relate to the historic environment, and developments which may have an effect upon it.

13.5.2 The Council's Heritage Officer has noted that whilst *"the application lacks basic design details and information to illustrate the development in context"* that within the Planning, Design and Landscaping Statement it *"refers to high quality and sustainable design however there is no information to support this statement."*

They have also commented that *"a fire safety strategy is not referenced in the application documents. The proposed design for the Plot 4 Water Tower (as submitted), is not compliant with Building Regulations."*

13.5.3 Within the Council's Heritage Officers response, they have put forwards the following considerations for further design development:

- Proposed materials schedule
- Construction details of key features i.e. green roof, prefabricated units, landscaping (non-exhaustive list of key features)
- Building Regulations applicable to access for new builds / existing
- Building Regulations applicable to life safety (fire) requires review
- Fire safety strategy should be used to aid design development, and integrated into design details

13.5.4 The Council's Heritage Officer has concluded from their assessment of the proposal that: "The principle of the development is considered acceptable. Further information and design details are required to review if on balance, a development in this location that affects the non-

designated heritage assets can be justified, paragraph 209 of the NPPF being relevant.

13.6 D) Impact on Neighbours and Amenity

13.6.1 Taking into account The Essex Design Guide, which represents non adopted but useful a guidance, it is considered the proposed scheme could include appropriately sized rear amenity space and that there would be no significant effects on amenity of neighbouring properties with respect to daylight, privacy or overbearing impacts, due to the single story nature of the dwellings, the conversion of the water tower is considered to have sufficient separation in order to maintain privacy.

13.6.2 The introduction of the dwellings and holiday lets will result in an increase of noise and disturbance, mainly due to the increase of vehicular movement within the site and noise from the residential use of the site. However, conditions from Environmental Health, Landscaping and the Highways Authority would seek to mitigate such impacts of the development.

13.7 E) Accessibility

13.7.1 Policy GEN2 and the SPD entitled 'Accessible Homes and Playspace' require compliance with the Lifetime Homes standards. However, these standards have effectively been superseded by the optional requirements at Part M of the Building Regulations, as explained in the PPG. Compliance with these requirements could be secured using a condition.

13.8 F) Highways Authority and Parking Standards

13.8.1 Local Plan Policy GEN1 states *“development will only be permitted if it meets all of the following criteria;*

a) Access to the main road network must be capable of carrying the traffic generated by the development safely.

b) The traffic generated by the development must be capable of being accommodated on the surrounding transport network.

c) The design of the site must not compromise road safety and must take account of the needs of cyclists, pedestrians, public transport users, horse riders and people whose mobility is impaired.

d) It must be designed to meet the needs of people with disabilities if it is development to which the general public expects to have access.

e) The development encourages movement by means other than driving a car.”

13.8.2 Local Plan Policy GEN1 seeks sustainable modes of transport which is

reflected within National Planning Policy Framework.

13.8.3 The site location on the edge of the village ensures that the residents of the development would have reasonable access to a range of services and facilities, including schooling, public houses and local shops. It is noted the site does have access to sustainable transport options which gives the occupiers of the proposed dwellings the option of not solely relying on car to access most services, facilities and employment opportunities.

13.8.4 There is no conflict with the more up-to-date policy at Paragraph 109 of the NPPF which advises that 'opportunities to maximise sustainable transport solutions will vary between urban and rural areas' with rural areas naturally much more likely to have to make use of a car. Therefore, whilst not a positive for the proposed development the lack of sustainable transport options cannot be seen as a major negative either.

Due to the location of the site and close by to available local facilities, this should be considered positive and that the proposed development would help to support these local services. The transport and access issues were not upheld in the previous planning appeal and to be consistent with this it is considered the development therefore, subject to condition, will be in accordance with ULP Policy GEN1 and the NPPF.

13.8.5 The decision of the previous planning application did not refuse the application on Highways grounds. It is considered that the majority of journeys by future residents are likely to be by private vehicle, the proposal also seeks to create a cycle link into the adjacent residential estate of 'Home Pastures'. However, given the range of services and public transport available locally and the benefits to these services that would accrue, the likelihood of a reliance on private vehicles is not a matter that would weigh against the proposal.

13.8.6 Due to the particular nature of this application process; wherein comments are to be provided directly to the Planning Inspectorate for decision making, no comments have been received from the Highways Authority. Although this is the case it is not considered the proposal will have any undesirable effects on pedestrian movements in the area and it will continue to provide connectivity to the surrounding pedestrian network.

13.8.7 Adequate parking provision is capable of being provided on site in accordance with adopted parking standards, Local Plan Policy GEN8, Local Residential Parking Standards (adopted February 2013) and will be considered as part of reserved matters.

13.9 G) Flood Protection

13.9.1 Policy GEN3 contains the Local plan for flooding, although this has effectively been superseded by the more up to date flood risk policies in the NPPF. The application site is located in Flood Zone 1 where

development is considered appropriate. The application includes a flood risk assessment and proposed drainage scheme.

13.9.2 A Flood Risk Assessment and Drainage Strategy has been submitted with this application.

13.9.3 Taking into consideration the details submitted with the application it is considered the development accords with ULP Policy GEN3 and the development will not result in any flood risk subject to the imposition of conditions and mitigation measures.

13.10 H) Environmental Health

13.10.1 Due to the particular nature of this application process; wherein comments are to be provided directly to the Planning Inspectorate for decision making, no comments have been received from Environmental Health at this time, it is considered that subject to conditions it is unlikely that the development would have significant adverse effects on human health or the surrounding neighbours.

13.11 I) Protected species and biodiversity

13.11.1 Policy GEN7 and paragraph 180 of the NPPF seeks to ensure that development would not have a harmful effect on wildlife and Biodiversity. Appropriate mitigation measures must be implemented to secure the long-term protection of protected species.

13.11.2 Due to the particular nature of this application process; wherein comments are to be provided directly to the Planning Inspectorate for decision making, no comments have been received from the Councils Ecological Consultant at this time, it is considered that subject to conditions it is unlikely that the development would have significant adverse effects on any protected species or valuable habitat. It is therefore concluded that the proposal accords with the above policies.

13.12 J) Landscaping

13.12.1 Due to the particular nature of this application process; wherein comments are to be provided directly to the Planning Inspectorate for decision making, no comments have been received from the Highways Authority. Although this is the case it is not considered the proposal will have any undesirable effects on pedestrian movements in the area and it will continue to provide connectivity to the surrounding pedestrian network.

13.13 K) Housing Mix

13.13.1 Policy H10 seeks to ensure all new developments of 3 or more dwellings include a significant proportion of market housing comprising small properties. With a proposed development consisting of 1-no. two-bed dwelling and 3-no. four-bed dwellings the proposal is considered to have

a housing mix and would accord with the aims of Policy H10 of the Adopted Local Plan.

13.14 L) Affordable Housing

13.14.1 Due to the size of the development, there is a 40% affordable housing policy requirement in order to comply with Policy H9.

13.14.2 Given the setting within the Green Belt the applicant may want to consider an off-site contribution for the affordable housing provision rather than direct delivery of affordable housing upon the site.

13.15 M) Planning Balance

13.15.1 In October 2023, the Local Planning Authority (LPA) published a 5YHLS figure of 5.14 years with the necessary 5% buffer. However, there is a more recent position that reflects the recent government update of the Housing Delivery Test (HDT).

13.15.2 As a result of the recent update, housing completions within the district made up 58% of the required number of homes for the most recent HDT period (01 April 2019 to 31 March 2022 in comparison to 99% in the previous period). This means that whilst a significant number of residential permissions have been granted in recent years, many have not yet been built and so are not accounted for in the backwards looking HDT.

13.15.3 Following paragraph 79(c) of the National Planning Policy Framework (NPPF), a 20% buffer must be added to the LPA's housing requirement because of the updated HDT. This means that the current 5YHLS is **4.50 years** (instead of 5.14 years).

13.15.4 In line with the presumption in favour of sustainable development set out in the NPPF - paragraph 11 (d) (ii). In this case the tilted balance is engaged, the NPPF states amongst other things:

“Where there are no development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed,

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

13.15.5 The decision of the previously dismissed planning appeal – (UTT/17/2499/FUL) provides a material consideration for this proposal.

The key points made by the inspector in summing up his decision include;

- The proposed development:
- Would not harm highway safety.
- Harm the Green Belt.
- Harm the Heritage Assets.
- Harm to the character and appearance of the area contrary to the development plan and national policy.

13.15.6 Benefits of the development:

- Result in a small level of economic and social benefit during the build.
- Holiday lets will create a small number of jobs within the district.
- The site is currently closed off to the public, this proposal would enable the site to be reopened to the public.
- The addition of 4 no. new dwelling in this location it would contribute to the Local Planning Authority land supply.
- The development would provide an offsite contribution towards Affordable Housing within the locality.

13.15.7 Adverse impacts of the development:

- Impact on the openness of the Green Belt.
- Harm towards the existing POW camp.
- Detrimental impact and harm to the rural character of the site.
- Urbanising and domesticating the site unduly.

13.16 **N) Other matters**

13.16.1 From 1 October 2013 the Growth and Infrastructure Act inserted two new provisions into the Town and Country Planning Act (1990) ('the Act'). Section 62A allows major applications for planning permission, consents and orders to be made directly to the Planning Inspectorate (acting on behalf of the Secretary of State) where a local planning authority has been designated for this purpose.

13.16.2 The Planning Inspectorate will appoint an Inspector to determine the application. The Inspector will be provided with the application documents, representations and any other relevant documents including the development plan policies. Consultation with statutory consultees and the designated LPA will be carried out by the Planning Inspectorate.

13.16.3 The LPA also must carry out its normal notification duties, which may include erecting a site notice and/or writing to the owners/occupiers of adjoining land.

13.16.4 The LPA is also a statutory consultee and must provide a substantive response to the consultation within 21 days, in this case by 15th March 2024. This should include a recommendation, with reasons, for whether

planning permission should be granted or refused, and a list of conditions if planning permission is granted.

- 13.16.5** The Planning Inspectorate will issue a formal decision notice incorporating a statement setting out the reasons for the decision. If the application is approved the decision will also list any conditions which are considered necessary. There is no right to appeal.

14. CONCLUSION

- 14.1** Due to the nature of this application process, it is not possible to provide a detailed assessment of any traffic and transportation, design considerations relating to this proposal. Neither have any neighbour considerations been factored into this assessment.

- 14.2** Following the above assessment and tilted balancing exercise, the harm caused by the proposed development is considered to outweigh the overall benefits of the scheme due to its impact on the Green Belt, when assessed against the policies in this Framework taken as a whole (NPPF Paragraph 11d (ii)). In the circumstances, the proposal would represent sustainable development in accordance with the NPPF.

- 14.3** The unique application process that is presented by this submission, requires the Local Planning Authority to advise the Planning Inspectorate whether or not it objects to this proposal. Having regard to the limited opportunity to consider the proposals the Planning Committee is invited to provide its comments on this proposal.

APPENDIX 1- APPEAL DECISION



The Planning Inspectorate

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 are 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 undoubtedly 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 be 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