
Appeal Decision

Site visit made on 7 November 2016

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 14th November 2016

Appeal Ref: APP/C1570/W/16/3155971

Land north of Leigh Drive, Stansted Road, Elsenham, Essex, CM22 6BY

- 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 The Crown Estate against the decision of Uttlesford District Council.
 - The application Ref UTT/15/3090/OP, dated 5 October 2015, was refused by notice dated 12 April 2016.
 - The development proposed is an outline planning application for up to 20 (Class C3) dwellings and open space, including details of vehicular access, with all other matters (layout, scale, appearance and landscaping) reserved for future approval.
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Decision

1. The appeal is allowed and planning permission is granted for up to 20 (Class C3) dwellings and open space, including details of vehicular access with all other matters (layout, scale, appearance and landscaping) reserved for future approval at Land north of Leigh Drive, Stansted Road, Elsenham, Essex, in accordance with the terms of the application, Ref: UTT/15/3090/OP, dated 5 October 2015, subject to the conditions in the attached schedule.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved for future consideration save for the site access. A layout plan has been submitted which advocates a layout based on a perimeter block arrangement with an attenuation basin to the north of a community building zone, a woodland belt along the southern boundary of the appeal site and an open space in the south east corner. The plan is marked as 'illustrative' and thus it is not a firm proposal but rather an indication as to how the site could be developed. I have considered the appeal accordingly.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on housing choice.

Reasons

4. The appeal site is a parcel of open grassland located on the western side of the village situated between Elsenham Recreation Ground and Alsa Wood. During my site visit I observed that residential development has commenced to the north and south west of the appeal site. As part of this, a spine road now

- marks the western boundary of the appeal site. The appeal scheme is an outline application for up to twenty dwellings. An indicative housing mix was submitted with the application but as the scale and design are matters reserved for future consideration, the housing mix is not a matter before me.
5. As part of a larger development for 155 homes, outline planning permission was granted by the Council in 2013 for a 55 bed extra care housing facility within the appeal site (Ref. UTT/0142/12/OP). A planning obligation linked to this approval required a contract for the construction of the extra care housing to be entered into prior to the occupation of the 75th open market house.
 6. In an attempt to deliver the extra care housing, consultants Carter Jonas were commissioned to undertake a marketing exercise in an attempt to find a developer that would construct the extra care housing facility. The site was marketed between January 2014 and July 2014 but a developer was not forthcoming. Following this period of marketing Carter Jonas concluded that there was a lack of interest from outside parties in delivering the development.
 7. Whilst the campaign was limited to only seven months, and is thus a limited snap shot in time, I have not been presented with substantive evidence to suggest it was unreasonably short or unduly narrow in scope and coverage. Nor have I seen substantive evidence to suggest the market has changed significantly since July 2014 which would justify remarketing. Additionally, there is nothing before me to suggest the marketing campaign undertaken by Carter Jonas was in any way flawed, such as an inflated asking price or that the site was offered with unrealistic or unreasonably prohibitive terms.
 8. As such, and based on the evidence before me, the conclusion of Carter Jonas, that there is no interest from outside parties in developing the site for extra care housing, appears a reasonable one. This is conclusion shared by the Council's planning officers. Moreover, I have not been presented with substantive evidence to suggest any need for extra care housing in the area is particularly acute or that any latent need could not be addressed elsewhere.
 9. Consequently, without substantive evidence that there is both a high need for extra care housing and a market demand from developers to build it, it is unnecessary to prevent alternative development options at the appeal site from being considered.
 10. In this respect, the appellant is proposing a residential development that is likely to have a broad mix of housing, including affordable housing, bungalows and smaller properties. Whilst the final mix would be addressed at the reserved matters stage, the submission to date has shown an intention to provide a broad mix that would address local housing needs. As such, I am satisfied the development has the potential to positively support housing choice in the area alongside the other developments being constructed nearby.
 11. In coming to this view I note the preference of the Council and some third parties would be for the development to be predominately comprised of bungalows and housing for the over 65s. This is a matter to be discussed and negotiated at the reserved matters stage. In my view, this does not affect the principle of developing the site for more general housing given the site's planning history, its accessible location and the apparent lack of demand from developers in respect to delivering extra care housing.

12. I therefore conclude that the development would support a greater housing choice in the area and would thus adhere to saved Policies H9 and H10 of the Uttlesford District Local Plan 2005 (LP), which seeks secure affordable housing and a housing mix that includes smaller properties in order to achieve a mixed and balance community. I find these aims consistent with Paragraphs 7, 14 and 50 of the National Planning Policy Framework (the Framework). As such, when considered against local and national policy as a whole, the proposal would be sustainable development.

Other Matters

13. I have been presented with a legal agreement pursuant to s106 of the Town and Country Planning Act 1990 that has been engrossed by both the appellant and the Council. The obligations contained in this agreement would deliver 40% of the houses as affordable housing. Having carefully considered the obligation I consider it is necessary so ensure the development would adhere to Policy H9 of the LP. It is thus necessary to make the development acceptable in planning terms. It is also directly related to the development and fairly and reasonably related in scale and kind to the development. Consequently, I have taken the obligation into account as a reason for granting planning permission.
14. The community building zone is located outside of the appeal site. Nevertheless, the illustrative master plan identifies a possible access point to this site and a building footprint. There is nothing before me to suggest the appeal scheme would prejudice the delivery of the community building. I have not been presented with substantive evidence to suggest the development could not adhere to any necessary parking standards or that it would lead to highway safety or aviation concerns. In this respect there is not an objection from the Local Highway Authority at Essex County Council or Stansted Airport. Nor have I seen substantive evidence that existing local infrastructure could not support the future occupants of the proposed homes. I note that there may be a local preference for the site to be used as public open space, but as there is already planning permission to develop the site I do not consider this, or the loss of agricultural land, to be a determinative matters.
15. I noted and carefully considered the concerns raised by interested parties but these have not altered my findings on the main issue or my overall conclusion.

Conditions

16. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council in its appeal statement. In addition to the standard conditions required to be imposed on outline planning consents, it is necessary in the interests of safeguarding biodiversity to secure a mitigation and enhancement plan. It is also necessary to attach conditions in respect of surface water drainage to prevent harmful impacts arising from localised flooding and to secure a safe highway access and layout.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) Approval of the details of the layout, scale, landscaping and appearance (hereafter called "the Reserved Matters") shall be obtained from the Local Planning Authority in writing before development commences and the development shall be carried out as approved.
- 2) (A) Application for approval of the Reserved Matters shall be made to the Local Planning Authority not later than the expiration of 3 years from the date of this permission.

(B) The development hereby permitted shall be begun no later than the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.
- 3) No development shall take place until a Biodiversity Mitigation & Enhancement Plan has been submitted to and approved in writing by the Uttlesford Planning Authority. The Plan shall include provision for habitat creation and management during the life of the development hereby permitted and in accordance with the general principles outlined within the Phase 1 Habitat Survey (September 2014), and a Bat Survey (October 2014) and, without prejudice to the foregoing, shall include:
 - (A) Aims and objectives of mitigation;
 - (B) Extent and location of proposed works;
 - (C) A description and evaluation of the features to be managed;
 - (D) Sources of habitat materials;
 - (E) Timing of the works;
 - (F) Selection of specific techniques and practices for preparing the site and creating/establishing vegetation including specific planting schemes detailing the native species that will be used;
 - (G) Details of the location, height, design and luminance of all fixed lighting for both construction and occupation phases of the development to minimise impacts on foraging bats;
 - (H) Detailed descriptions of biodiversity enhancement measures that will be taken within the development and outside of the development footprint;
 - (I) Prescriptions for management actions, both short and long-term;
 - (J) Provisions for the long-term management of the area demonstrating the feasibility of delivery of biodiversity enhancement and long-term management, including details of funding for the management. The development hereby permitted shall be implemented in accordance with the approved plan.
- 4) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment revision 6 dated 2 November 2015 and the following mitigation measures detailed within the FRA:
 - Limiting the discharge from the application site to 5l/s with over all discharge of the development limited to 8.2l/s
 - Provide attenuation storage for within the application parcel and within the wider development (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.
 - Provide the necessary amount of treatment in line with the CIRIA SuDS guide (C697)

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Furthermore, details of the management and maintenance of any basin shall be submitted to and approved in writing by the Local Planning Authority. Any attenuation basin shall thereafter be managed and maintenance in accordance with the approved details.

- 5) The development hereby permitted shall not be commenced until such time as a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
- 6) Prior to occupation of any dwelling, the provision of an access formed at right angles to the spine road as shown in principle on TPA Drawing No: PL101 to include but not limited to minimum 5.5 metre carriageway width with 2 x 1.8 metre wide footways and visibility splays with dimension of 43 metres x 2.4 metres x 43 metres as measured from and alongside the nearside edge of the carriageway. Such visibility splays shall be provided before the access is first used by vehicular traffic and shall be retained free of any obstruction in perpetuity.