

Appeal Decision

Site visit made on 4 October 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 15th November 2016

Appeal Ref: APP/C1570/W/16/3154504

Land to the west of 8 Water Lane, Stansted Mountfitchet, Essex CM24 8BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Smith against the decision of Uttlesford District Council.
 - The application Ref UTT/16/0075/OP, dated 5 January 2016, was refused by notice dated 6 June 2016.
 - The development proposed is described on the application form as an outline application for the redevelopment of the former gas holder site to provide for residential use.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the redevelopment of the former gas holder site to provide for up to 12 residential properties at land to the west of 8 Water Lane, Stansted Mountfitchet, Essex CM24 8BJ. Permission is therefore granted in accordance with the terms of the application, Ref UTT/16/0075/OP, dated 5 January 2016, subject to the conditions set out in the schedule to this decision letter.

Procedural matter

2. The application is in outline with access and scale being considered at the outline stage. The description of development on the application form is to provide for residential use and the Council determined the application on the basis of the 12 residential units shown on the illustrative plans. However, the application and appeal documents refer to up to 12 dwellings. Given that layout is a reserved matter I have dealt with the appeal on this basis and amended the description of development to reflect the scope of the application.

Main Issues

3. The main issues are the effect of the proposal on:
 - (i) the character and appearance of the area;
 - (ii) the living conditions of future occupiers of the development with particular regard to private amenity space and parking provision; and
 - (iii) highway safety.
-

Reasons

Character and appearance

4. The appeal site is located on the north side of Water Lane and backs onto Stansted Brook which is set at a lower level. To the east of the site are two terraces of residential properties and to the west, and beyond the brook, is further residential development. There is an office building opposite the site on the south side of Water Lane beyond which is a car park associated with the railway station.
5. The plans submitted with the application include an illustrative layout showing 12 residential units and streetscene elevations. The maximum height of the development would be about 9 metres with a distance from front to rear elevations also of about 9 metres.
6. The front elevation plan shows that the scale of the proposed development would be similar to the existing property at 8 Water Lane. Whilst I acknowledge that this is an illustrative plan, in terms of scale, it demonstrates that the development would not be overbearing especially when it is considered in the context of the immediately adjoining development to the east of the site.
7. I also acknowledge that the site slopes downwards in a westerly direction. However it has been indicated that the height of the proposed dwellings would also step down to follow the land levels of Water Lane.
8. The Council have also suggested that the illustrative proposal would represent an overdevelopment of the site (and therefore a cramped form of development), and have related this concern to the amount of private amenity space provided for each dwelling. However, given the illustrative nature of the submitted plans and that the supporting statement for the application indicates that the proposal is for up to 12 dwellings, this is a matter for the reserved matters dealing with the layout of the site.
9. For the above reasons the development, as illustrated in respect of scale, could be built in such a way that no harm would result to the character and appearance of the area. Therefore the development would accord with Policy GEN2 of the Uttlesford Local Plan 2005 (LP) which seeks, amongst other matters, to ensure that development protects the character and appearance of the area.

Living conditions

10. The amount of the private amenity space and parking provision available for future residents has been determined on the basis of the illustrative plans. However, as layout (and consequently garden sizes and parking provision) is a reserved matter, this is a matter for determination at a later stage, and is not for consideration at this juncture.
11. Notwithstanding that, the illustrative drawings indicate that there would be sufficient land available to ensure that adequate provision for both private amenity space and parking space is made for the future occupants of the development. Therefore the development would accord with Policies GEN2 and GEN8 of the LP which seeks, amongst other matters, to ensure that new

development meets the reasonable needs of all potential users including parking provision.

Highway safety

12. The Council's reason for refusal refers to an inadequate level of parking provision, but their appeal statement refers to the adequacy of the access to serve the development and the intensification of the level of traffic movements along Water Lane. Notwithstanding this difference in the Council's concerns, they have not provided any substantive evidence to demonstrate that either of these matters would give rise to a highway safety concern. I also note that the Highway Authority has not raised any objections in respect of the development which cannot be overcome by planning condition. However, I have had regard to the comments made in several of the representations regarding the application, particularly in relation to the increase in traffic and concerns over the level of parking provision and its impact on highway safety.
13. The development would make provision for the widening of Water Lane across the frontage to the site. Whilst layout is a reserved matter, access is being considered at the outline stage. In that respect, the widening of Water Lane and the access points shown on the plan are being considered as part of this appeal. Given the increased width of Water Lane across the frontage of the site, and the access points shown on the submitted plans, I consider that the development could be accessed safely from Water Lane.
14. Turning to the effect of additional traffic, from my site visit I saw several pedestrians walking along the lane past the site and to/from the footbridge over the railway line. Notwithstanding the restrictive nature of Water Lane, traffic speeds are likely to be low and as such despite the narrow width of the road and no pedestrian footway the increase in traffic levels associated with up to 12 dwelling is not likely to give rise to significant highway safety issues.
15. The illustrative drawings indicate one car parking space per residential unit. However, the layout of the site is a reserved matter not for consideration at the outline stage. Notwithstanding that, the site is located in a sustainable location with easy access to the railway station which has regular services throughout the day. It is also within easy walking distance to a number of local facilities in Stansted Mountfitchet. The availability of good public transport links and local services would assist in the reduction of journeys made by the private car. Should the development consist of two bedroom units (as indicated in the appellant's statement) with one parking space per residential unit the amount of traffic would not therefore be significant.
16. For the above reasons, the proposed development would not be detrimental to highway safety. As such the proposal accords with Policy GEN8 of the LP which amongst other matters seeks to ensure that new development provides appropriate parking provision.

Other matters

17. Whilst the majority of the site lies within Flood Zone 1, parts of the site are located within Flood Zones 2 and 3 as defined by the Environment Agency. The application was also supported by the site specific Flood Risk

Assessment (FRA) which, following correspondence with the Environment Agency, included compensatory flood storage measures within the site to offset any loss of such flood storage as a result of the built form of the development.

18. I note that the Environment Agency ultimately raised no objections to the development subject to conditions relating to the carrying out of the development in accordance with the FRA, the compensatory flood storage measures, and the minimum finished floor level of the development (as well as conditions relating matters related to contaminated land). I have no reason to disagree with the conclusions of the Environment Agency.
19. Whilst not featuring as a reason for refusal of the application, the Council initially suggested that the development should provide for affordable housing by means of a section 106 agreement. However, no such agreement was completed. Notwithstanding that, in an email from Jaspreet Lyall to Ian Reilly on the 17 October 2016 timed at 16:51, the Council confirmed it no longer required such affordable housing provision and I have no reason to disagree with that view.
20. The Council still required a legal agreement for the on-going management (and maintenance) of the landscaping element of the development which I take to be the communal element on the illustrative scheme. However, as the layout of the site is a reserved matter, it is not clear at this stage whether such an agreement would be necessary. In any case, if such an agreement was necessary, this could be secured at the reserved matters stage. Whilst the Appellant has subsequently completed a unilateral undertaking, given my conclusions above I give this no weight in the consideration of this appeal.
21. I have also had regard to the living conditions of the neighbouring properties. Given the distance to the residential properties on the north side of the brook, I consider that the development would not result in any excessive overlooking or loss of privacy.
22. In terms of outlook the development of the site would inevitably lead to some change over the existing situation. From the illustrative layout, combined with the scale of development, to my mind this would not lead to an unacceptable impact from 14 Water Lane, or any of the other nearby residential properties.

Conditions

23. Other than the standard reserved matters conditions, it is also necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
24. Conditions relating to the mitigation of flood risk are necessary to ensure that the development does not increase flood risk in the wider area and to ensure that future residents are not put at undue risk.
25. As the site has been recorded as being a post medieval gas works, there is the possibility of archaeological remains. Therefore a condition is also required to ensure that any remains are properly investigated.

26. A construction method statement is also necessary given the nature of Water Lane in the interests of highway safety. In respect of the proposed widened carriageway, a condition is necessary to ensure that suitable access points can be achieved for the development. In respect of the width of the actual driveways/parking spaces, given that layout is a reserved matter it is not clear whether each access would need to be 5 metres in width. Given that the final layout is still to be determined and that the vast majority of the site frontage is to be widened (and therefore arguably creating one very large access to the highway), this matter is best considered as part of the reserved matters submission for layout.
27. Given the historical use of the site, it is necessary to ensure that suitable measures are taken in relation to potential contaminated land issues, including drainage and foundations matters which may have an impact on ground or controlled waters.
28. With the exception of the archaeological investigations, contaminated land matters, and a construction method statement, it is not necessary for any of the suggested conditions to be agreed pre-commencement. It is necessary for these matters to be agreed prior to any works commencing as the archaeological and contaminated land investigations relate to matters below ground level and should be resolved before any ground disturbance works occur. In respect of the construction method statement, this needs to be agreed prior to any works so that the development does not create unacceptable problems during the entire construction period.
29. The suggested conditions relating to the proposed landscaping and materials are not necessary as they would form part of a subsequent reserved matters submission.
30. Whilst potentially beneficial to the future occupants of the dwellings, I do not consider that the provision of a residential travel information pack is necessary to make the development acceptable in planning terms. Additionally, the conditions suggested in relation to the physical state of Water Lane (both before and after the construction of the development) are not necessary and relate to matters which would be controlled under other legislation.
31. The Council consider that the condition recommended by the County Council Ecologist can be dealt with as part of the landscaping reserved matters and I have no reason to disagree.
32. Finally, from the limited information before me, I do not consider it necessary for any future reserved matters submission to indicate a wheelchair nominated unit.

Conclusion

33. Taking all matters into consideration, for the reasons given above I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans - 001 (Site location plan); 102 (in respect of access) and 103 (in respect of scale).
5. The development hereby permitted shall be carried out in accordance with the 'Site Specific Flood Risk Assessment, Water Lane, Stansted Mountfitchet, October 2015' and the compensatory flood storage measures detailed within the Flood Risk Assessment and associated plan No 46995/P/003. The mitigation measures shall be fully implemented prior to the first occupation of any part of the development, or within any other period as may subsequently be first agreed in writing by the local planning authority.
6. The finished floor levels of the development shall be set no lower than 66.68m AOD.
7. No development shall take place, including any preliminary ground works, until the developer has secured and fully implemented a programme of archaeological works in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority.
8. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:-
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of plant and materials used in constructing the development
 - iv. wheel and under-body washing facilities
9. The reserved matters for layout shall include full details of the widened carriageway (as shown in principle on illustrative drawing No 102). The approved widened carriageway shall be provided in full prior to the first occupation of any dwelling and shall be retained as such for the life of the development.
10. No development shall take place until a scheme that includes the following components to deal with the risks associated with the contamination of the site has been submitted to and approved in writing by the local planning authority.

- i. A site investigation scheme to provide for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - ii. The results of the site investigation and detailed risk assessment referred to and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - iii. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identify any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
11. No occupation of the development shall take place until a verification report demonstrating completion of the works set out in the remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. If required, it shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long term monitoring and maintenance plan shall be implemented as approved.
12. If, during construction works, contamination not previously identified is found to be present at the site then no further development (unless otherwise first agreed in writing by the local planning authority) shall be carried out until the developer has submitted to and gained approval in writing from the local planning authority a remediation strategy detailing how the unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved prior to the first occupation of the development.
13. There shall be no infiltration or surface water drainage into the ground unless otherwise first agreed in writing by the local planning authority following details which demonstrate that there is not an unacceptable risk to controlled waters.
14. Piling or any other foundation design which utilise penetrative methods shall not be used unless it would not give rise to an unacceptable risk to groundwater and such foundation details have been submitted to and approved in writing from the local planning authority.