



Appeal Decisions

Site visit made on 30 May 2018

by R A Exton Dip URP MRTPI

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

Decision date: 14th June 2018

Appeal A Ref: APP/X1925/W/17/3188488

Land adjacent Elm Tree Farm, Hambridge Way, Pirton SG5 3QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by CALA Homes against the decision of North Hertfordshire District Council.
 - The application Ref 17/02023/1DOC, dated 4 August 2017, sought approval of details pursuant to condition No 6 of planning permission Ref 15/01618/1, granted on 27 May 2016.
 - The application was refused by notice dated 2 October 2017.
 - The development proposed is described as outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description).
 - The details for which approval is sought are: Construction Management Plan & Traffic Management Plan - Holwell only route by CALA dated 4/8/17, Construction Route Plan - Arrival and Departure via Holwell by Waterman Infrastructure & Environment Ltd dated 4 August 2017
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Appeal B Ref: APP/X1925/W/17/3193466

Land adjacent Elm Tree Farm, Hambridge Way, Pirton SG5 3QY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by CALA Homes against the decision of North Hertfordshire District Council.
 - The application Ref 17/2807/1DOC, dated 2 November 2017, sought approval of details pursuant to condition No 6 of planning permission Ref 15/01618/1, granted on 27 May 2016.
 - The application was refused by notice dated 18 December 2017.
 - The development proposed is described as outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description).
 - The details for which approval is sought are: Construction Management Plan & Traffic Management Plan - Holwell route by CALA dated 2/11/17, Road Safety Appraisal by Mayer Brown dated 27th October 2017.
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Decision Appeal A

1. The appeal is allowed and the Construction Management Plan & Traffic Management Plan - Holwell only route by CALA dated 4/8/17, Construction Route Plan - Arrival and Departure via Holwell by Waterman Infrastructure & Environment Ltd dated 4 August 2017, submitted pursuant to condition No 6 attached to planning permission Ref 15/01618/1 granted on 27 May 2016 in

accordance with the application Ref 17/02023/1DOC dated 4 August 2017 and the plans submitted with it are approved.

Decision Appeal B

2. The appeal is allowed and the Construction Management Plan & Traffic Management Plan - Holwell route by CALA dated 2/11/17, Road Safety Appraisal by Mayer Brown dated 27th October 2017, submitted pursuant to condition No 6 attached to planning permission Ref 15/01618/1 granted on 27 May 2016 in accordance with the application Ref 17/2807/1DOC dated 2 November 2017 and the plans submitted with it are approved.

Application for costs

3. Applications for costs in respect of both appeals were made by CALA Homes against North Hertfordshire District Council. These applications are the subject of a separate decision.

Procedural Matters

4. As set out above there are 2 appeals relating to the same site. Furthermore both appeals relate to the same condition of the same planning permission. The main issue for both appeals is therefore the same. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the 2 proposals together.
5. In its reasons for refusal the Council has referred to Policy T1 of the emerging Local Plan¹. I have very limited information regarding the current status of this document and the degree of any unresolved objections. I can therefore afford it very limited weight.

Background and Main Issue

6. Outline Planning permission was granted for a residential development of up to 82 dwellings with associated infrastructure, public open space and planting. Condition No 6 of that permission states, 'Prior to commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area for construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details of construction vehicle routing to and from the site'. The reason for the condition is, 'In the interests of maintaining highway efficiency and safety'.
7. Other than the requirement for the specified information, condition No 6 does not make or imply any other requirements. Furthermore, it carries no requirement for any of the measures approved in writing by the Council to be carried out. Consequently, irrespective of what might have been the Council's intentions when imposing the condition, there would be no means for it to effectively enforce the condition. I therefore consider that the purpose of the condition can only be to provide the Council with information about the matters specified within it.
8. In refusing the applications, the Council's substantive concern relates to the details of the construction vehicle routing to and from the site. It does not

¹ The North Hertfordshire District Submission Local Plan (2011-2031)

raise any concerns regarding the other requirements of condition No 6. In light of this, the main issue is therefore whether or not the details submitted adequately convey the details of the proposed construction route.

Reasons

9. The appeals site lies within a rural area served by country roads. The outline planning application was subject to an assessment of highway safety as part of its consideration by the Council. The fact that the Council granted outline permission suggests that it did not think that it would be impossible for construction traffic to access it efficiently and safely. The imposition of condition No 6 appears to be at the request of the Highway Authority and is typical of such conditions imposed on planning permissions for major residential developments.
10. Sometimes, the discharge of a condition can be a process of evolution. In some cases further or amended information is requested after the initial submission. This appears to be the case in respect of Appeal A. A number of amendments and further pieces of information were submitted during the Council's consideration of the application. The submission that was considered by the Council's committee contains much more information than was specifically required by the wording of condition No 6. It included details of a construction route with arrival from the A600 (Bedford Road), through Holwell, Pirton Road, Waterloo Lane (also referred to as Waterloo Road in some documents) and Holwell Road to the appeals site. The departure route would be the reverse of this. The submission proposed the creation of 1 new passing place and 2 areas of highway widening. It also included proposals to monitor and repair damage to road surfaces and schedule the timings of deliveries to avoid conflict with local bus services.
11. The information submitted in respect of Appeal B proposes use of the same construction route as Appeal B. However, it is a much more basic submission and does not include many of the measures contained within Appeal A.
12. I understand that the proposed measures contained with Appeal A in particular have given interested parties a degree of expectation about the level of control that condition No 6 can exert. However, as I have explained above, condition No 6 only requires the submission and agreement of details. It does not require the development to be carried out in accordance with the details. Compliance with the approved details would therefore be entirely at the discretion of the appellant or any future developer of the appeal site. I can therefore place only minimal weight on the proposed measures in assessing the appeals. I must assess whether or not the details submitted adequately convey the details of the proposed construction route.
13. At the time of my site visit I travelled the proposed construction route in both directions. I found that the information submitted in respect of both appeals clearly identified the construction route. Where measures were proposed such as highway widening and passing places it was clear where and how these would occur. Based on the evidence before me and taking account the scope of condition No 6, I therefore conclude that the details contained in both appeal submissions are adequate. Consequently, they would accord with Policy T1 of the emerging Local Plan insofar as it requires suitable documents for the assessment of transport matters to be provided where required.

Other matters

14. I note interested parties comments on the possibility of a dedicated construction traffic route to the appeals site. However this is not a matter for these appeals. I have assessed the appeals proposals on their own merits. The possibility of other construction traffic routes to the appeals site therefore carries minimal weight.
15. I also note interested parties comments on other matters including the effect of the appeals proposals on the amount of construction vehicles, highway congestion, loss of vegetation, disturbance to wildlife, response times for emergency services, pollution, noise and disturbance. However, these are not matters for these appeals either. As I have identified above, the scope of consideration in these appeals is very narrow due to the wording of condition No 6. The other matters identified by interested parties therefore carry minimal weight.

Conclusion

16. For the reasons given above, and taking all other matters raised into account, I conclude that the appeals should be allowed.

Richard Exton

INSPECTOR