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: 6th December 2019

Appeal Ref: APP/C1570/W/19/3228069
Land at Pound Hill, Little Dunmow, Essex

- 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 Enodis Group Limited against the decision of Uttlesford District Council.
- The application Ref UTT/18/0440/OP, dated 6 February 2018, was refused by notice dated 13 December 2018.
- The development proposed is described as '18 dwellings (use class C3), vehicular access, public open space, sustainable drainage systems and all other associated hard/soft landscaping and infrastructure'.

Decision

1. The appeal is allowed and planning permission is granted for 18 dwellings (use class C3), vehicular access, public open space, sustainable drainage systems structural landscaping and infrastructure at Land at Pound Hill, Little Dunmow, in accordance with the terms of the application, Ref: UTT/18/0440/OP, dated 6 February 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. An application for an award of costs was made by Uttlesford District Council against Enodis Group Limited. This application will be the subject of a separate Decision.

3. The planning application was submitted in outline with all matters of detail reserved for future consideration save for the access to the site and its landscaping. However, the landscaping details are not provided in full, relating only to the structural landscaping and not matters such as boundary treatment. I have assessed the proposal on this basis and treated the drawings, in so far as they relate to the reserved matters, as being an illustration of how the proposal could ultimately be configured.

4. The appellant has indicated a willingness to revise the number of dwellings proposed down to sixteen. However, no formal confirmation to this effect has been submitted or revised drawings deposited. Moreover, the planning obligation refers to eighteen homes. I have therefore considered the proposal based on that originally submitted to the Council.

5. The appellant has suggested that there were two reasons for refusal, but the decision notice has only one and the Council has confirmed there was no error in this respect. I have considered the proposal accordingly.

Main Issue

6. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, with particular reference to the layout.

Reasons

7. The appeal site encompasses a parcel of land between a pocket of housing on the periphery of Little Dunmow focussed on Moor Lane, and a grouping of semi-detached houses positioned further to the east along Station Road. The appeal site is a wooded parcel of land largely comprising immature self-seeded plants. It provides a pleasant relief in the largely open arable landscape.

8. The layout of Little Dunmow is broadly characterised by a loose and irregular linear character with buildings arranged close to the back edge of the street with gardens behind. Discernible building lines are therefore evident along The Street and Grange Lane. This is a pattern of development that is also present along Station Road, with the bungalows to the west of the appeal site and the semis to the east having a linear arrangement. That said, the listed cottages along Moors Lane are arranged in depth, as is a recent modern development at Ainsworth Drive further to the east of the appeal site, which has a cul-de-sac type layout and suburban character.

9. The indicative layout of the appeal scheme shows eighteen homes arranged in a broadly linear arrangement behind an internal access road. A layout along these lines would have some synergy with the wider pattern of development in Little Dunmow. The Design and Access Statement explains that the design aims of the scheme include providing two storey housing that would respect the frontage linear character of the area, ensuring a gap with the listed buildings to the west, the establishment of a strong southern boundary, and the retention of a northern boundary hedge, in order to soften the proposal. These are rational design aims that have followed a contextual assessment. They provide a sound basis on which to deliver a scheme that would respect the wider scale and layout of existing development nearby.

10. However, the indicative layout shows seven properties in the south east corner of the site arranged at right angles to Station Road in a cul-de-sac type arrangement. In addition, a single dwelling is shown behind another property in the middle of the site. These aspects of the indicative layout would result in a cramped character with relatively diminutive plot sizes that would give a harmfully over developed appearance, with homes appearing squeezed in and unusually close to one another.

11. That said, the layout is a reserved matter, so the scheme need not be developed in the way indicated on the drawings. Space could be created to give a stronger linear character if smaller properties were proposed, similar perhaps to the semi-detached houses and bungalows to the east and west of the appeal site. Terraces or flats could also be used to deliver eighteen homes within an acceptable built footprint that would not appear cramped. Omitting garages and reducing the extent of internal roads would also give more space around the buildings for soft landscaping. The Design and Access Statement demonstrates there are many ways of arranging housing within the appeal site. As such, a final layout that includes the limitations I have identified need not be an inevitable consequence of permitting the appeal scheme.

12. In conclusion, eighteen homes at the appeal site would not result in an inherently unacceptable layout that would harm the character and appearance of the area. As such, a conflict with Policy GEN 2 of the Uttlesford Local Plan 2005 (LP) need not occur at the reserved matters stage.

Other Considerations

13. The appeal site is not within a defined settlement boundary and is therefore in the countryside for the purposes of applying the policies of the LP. Policy S7 of the LP has a broadly restrictive approach to developments such as that proposed taking place in the countryside. Moreover, the site is too large to be considered infilling in accordance with Paragraph 6.13 of the LP. Therefore, the proposal would be at odds with Policy S7 and this would harmfully undermine the adopted spatial strategy in the LP.

14. However, the Council are currently unable to demonstrate a five-year housing land supply as required to by the National Planning Policy Framework. The five-year supply is acute at only 2.68 years. In such circumstances, Paragraph 11 of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.

15. The conflict with Policy S7 of the LP is an adverse impact of the appeal scheme as the Framework seeks a genuinely plan led planning system and also requires recognition to be given to the intrinsic character and beauty of the countryside. However, a rigorous application of Policy S7 would frustrate the Council's ability to remedy its housing supply deficit. Moreover, Policy S7 is only partially consistent with the Framework because Paragraph 170 therein seeks to protect valued landscapes rather than the countryside for its own sake. As such, the conflict with Policy S7 is of moderate weight.

16. Moreover, the proposal would urbanise the appeal site resulting in some adverse impacts on the character and appearance of the countryside. However, the overall effect would be qualified by the retention of a strong landscaped perimeter, the potential to keep the houses low and reflecting the local vernacular, the presence of housing in the vicinity, including development either side, and the potential for a broadly linear layout, which would permit the proposal to integrate into its context and prevent a discordant incursion into the field behind. Overall, the impact on the countryside would be an adverse impact of moderate weight.

17. Benefits of the appeal scheme include a contribution towards the housing supply. This would be a benefit of moderate weight given the acute supply deficit and because the mix would include affordable housing. Future residents of the appeal scheme would be within walking distance of some facilities and a bus route passes the site. Thus, the occupants of the dwellings need not be reliant on private motorised transport. Nothing of substance has been presented to suggest the contribution from future residents would make a significant difference to the local economy or the vitality of the community. 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. Nevertheless, eighteen households would not be an insignificant number. Accordingly, this is a benefit of moderate weight.

18. The adverse impacts of the proposal accrue moderate weight as do the cumulative benefits. As such, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits. This indicates a decision should be taken other than in accordance with the development plan.

Other Matters

19. The appeal site is within the setting of a group of listed buildings to the west. These are vernacular cottages intrinsically linked with the rural landscape. The appeal scheme would urbanise this setting, but an adequate buffer could be retained if the western extent is left undeveloped in the way indicated on the indicative layout. As such, the proposal would preserve the setting of the listed buildings. Similarly, the proposal is sufficiently far enough away from the Little Dunmow Conservation Area to ensure its character and appearance would be preserved. I have seen nothing of substance to suggest local infrastructure would be unable to cope with the additional demands that would be imposed by the future residents of the appeal scheme or that house prices would be adversely affected to such an extent it would be a matter of public interest.

20. The appellant's ecological assessment has demonstrated that the proposal would not harm protected species and nothing of substance has been submitted to suggest otherwise. I am therefore content to rely on its findings. Similarly, the evidence before me, reviewed and supported by the Local Highway Authority, demonstrates the highway access can be provided safely and that the impact on the wider road network would not be severe. The evidence before me does not demonstrate the proposal would result in harmful levels of air or noise pollution. Construction related activities can be controlled through a planning condition.

21. The Parish Council has raised a legitimate concern that ribbon development such as that proposed could result in coalescence between Little Dunmow and Flitch Green, which has also expanded. When driving along Station Road there is a sense of Felstead, Flitch Green and Little Dunmow merging into one another. However, they are still distinct settlements being separated by arable fields. The field between the appeal site and Flitch Green is currently open and undeveloped and I have seen nothing to suggest this is likely to change. As such, the appeal scheme would not result in harmful coalescence.

22. The Council's emerging Local Plan is not at an advanced stage of preparation, with potential for further amendments following examination. As such, I share the view of the Council set out in its Statement of Case that the draft policies are of limited weight. Thus, they are not determinative to my considerations.

Planning Obligations and Conditions

23. A s106 legal agreement has been submitted and this includes obligations securing affordable housing in compliance with the development plan, landscaping works to soften the proposal, a restriction to ensure only one access is proposed in the interests of highway safety and bus stop improvements and provision of a travel information pack to support sustainable transport. These obligations are necessary to make the development acceptable, directly related to its impacts and fairly and reasonably related to its scale. I have therefore taken the obligations into account.

24. I have had regard to the advice in the Planning Practice Guide relating to planning conditions and the list suggested by the Council. It is necessary in the interests of safeguarding the character and appearance of the area to ensure the reserved matters are submitted and approved before development commences. I have included landscaping as a reserved matter as the details submitted with the appeal are not comprehensive, as they do not deal with how the central area of the site would be landscaped. To protect potentially unknown archaeology, it is necessary to secure a scheme of investigation. To protect the living conditions of future occupants it is necessary to impose conditions relating to the investigation and possible remediation of land contamination. In the interests of highway safety and living conditions, it is necessary to ensure visibility splays are provided and a construction management plan approved and implemented.

25. As the detailed design of the individual homes is a reserved matter it is unnecessary to impose a condition requiring a wheelchair adaptable home. Similarly, it is unnecessary to secure details of the carridgeway and pavement width as layout is a reserved matter. Details to keep the highway clean can be dealt with through the construction management scheme so a discrete condition dealing with this matter is unnecessary.

Conclusion

26. I have found that the layout of the appeal scheme need not be at odds with the character and appearance of the area and thus the development plan. That said, the location of the proposed development would be contrary to the development plan. Nevertheless, there are other considerations, namely the Framework, which outweigh this finding. This indicates that in this instance a decision should be made other than in accordance with the development plan. Thus, the appeal has succeeded.

Graham Chamberlain
INSPECTOR

Schedule of Planning 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. 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. 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 commence until a programme of archaeological investigation and fieldwork has been secured and undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The programme shall include details of trial trenching and an excavation/preservation strategy.

4. No dwelling shall be occupied until a post-excavation assessment has been submitted to and approved in writing by the local planning. The post excavation assessment shall include a post-excavation analysis and preparation of a full site archive and report ready for deposition at the local museum.

5. No development shall commence until a Phase 2 land contamination investigation report, as recommended by the previously submitted Create Consulting Engineers Ltd report dated December 2017 (Ref: CB/CS/P171319/02Revision B), has been submitted to and approved in writing by the Local Planning Authority.

   Where found to be necessary by the phase 2 report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority.

   The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.

6. No dwelling shall be occupied until a validation report has been submitted to and approved in writing by the Local Planning Authority. The validation report shall demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works.

7. No development or site clearance shall commence until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following: a) Risk assessment of potentially damaging construction activities; b) Identification of “biodiversity protection zones”; c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements); d) The location and timing of sensitive works to avoid harm to biodiversity features; e) The times during construction when specialist ecologists need to be present on site to oversee works; f) Responsible persons and lines of communication; g) The role and

responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period.

8. No development shall commence until a landscape and ecological management plan (LEMP) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP shall include the following: a) Description and evaluation of features to be managed; b) Ecological trends and constraints on site that might influence management; c) Aims and objectives of management; d) Appropriate management options for achieving aims and objectives; e) Prescriptions for management actions; f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); g) Details of the body or organization responsible for implementation of the plan; h) Ongoing monitoring and remedial measures.

   The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

9. No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas shall be constructed until the works have been carried out in accordance with the approved surface water strategy.

10. Prior to occupation of the development, all visibility splays shown on DWG no. 03/001 Rev M (dated 04.09.17) shall be provided clear to ground. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times thereafter.

11. No development or site clearance works shall commence 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 underbody washing facilities; and v. measures for keeping the highway and pavement clean.