
Appeal Decision

Site visit made on 16 August 2021

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 5th October 2021

Appeal Ref: APP/C1570/W/20/3262201

Land south of Mill House, Wendens Ambo, Essex CB11 4JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mill House Court Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2498/FUL, dated 4 October 2019, was refused by notice dated 21 August 2020.
 - The development proposed is the erection of a block of 8 residential units together with associated infrastructure, works and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a block of 8 residential units together with associated infrastructure, works and landscaping at Land south of Mill House, Wendens Ambo, Essex CB11 4JX in accordance with the terms of the application, Ref UTT/19/2498/FUL, dated 4 October 2019, subject to the conditions set out in Schedule 1 of this decision.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effects of the proposal on the setting of the nearby conservation area.

Reasons

4. The appeal relates to this rectangular plot of land which forms part of a larger area of built development adjacent to the railway track and Audley End station. To the north is Mill House, which has recently undergone conversion to residential units and immediately to the east sits The Old Mill which is a 3 to 4 storey building in residential use. The wider area contains a number of commercial buildings, within the Bearwalden Business Park.
5. To the west of the site is an area of open land, separated from the appeal site by a substantial hedge. Beyond that and another substantial hedge, is the Cricket Ground which is within the Wendens Ambo Conservation Area, the hedge line forming the boundary. The boundary of the Conservation Area is over 100m from the appeal site at this point. The Council considers that the

proposal will have an undue visual effect on the open and rural setting of the Conservation Area, due to its scale and mass. To the west of the Cricket Ground sit the Grade I Listed St Mary's Church.

6. The proposal would sit within an area of numerous other buildings which sit on the west side of the railway line. The buildings vary in height some being 3 to 4 storeys in height. Within the Council's submitted documents it is notable that the form of the proposed building, being linear with a pitched roof, and its general appearance was assessed as being in keeping with the others in this area. I agree with that conclusion.
7. Within the Conservation Area Appraisal document the areas of open space which are identified as important are the churchyard, the Cricket Ground and The Wick (open land further west of the nearby Church). Contrary to the Council's statement, the open land immediately to the west of the appeal site is not mentioned. The Appraisal also identifies views from the Cricket Ground towards the Church as being important and this would be unaffected by the proposal. The open land to the west of the appeal site creates an open, green buffer between the Conservation Area and the area of built development, including the appeal site. The dense hedges at the edge of the Cricket Ground and at the edge of the appeal site afford a considerable degree of visual separation.
8. The views from within the Conservation Area, out towards the appeal site are not identified within the Appraisal as being of particular importance. From the Church and the Cricket Ground these are of open green space within the foreground and dense hedges. Beyond these there are houses on Royston Road and the built forms within the immediate surrounds of the appeal site, which included the Old Mill and the bridge structure at the railway station. Within the Conservation Area are the rather utilitarian structures associated with the use of the Cricket Ground. Therefore, whilst the views from the Church and Cricket Ground include open green areas and hedges in the foreground, they also currently include built forms on Royston Road and around the appeal site.
9. From within the Conservation Area, the proposal would represent an addition to the existing buildings which would be in scale and character with those buildings. It would be filtered in part by vegetation and, in my view would not be as prominent as the nearby houses on Royston Road, when viewed from the churchyard and parts of the Cricket Ground. I consider that the change to the setting of the Conservation Area that would be brought about by the proposal would be incidental and inconsequential, having no effect on its character, appearance or significance.
10. The Council's submitted Officer's report includes a comment in relation to the effects of the proposal on St Mary's Church; however, the concluding reason for refusal does not mention this and the Council's submitted statement makes no allegation of harm in this respect. Therefore, I find that there is no need to undertake a detailed assessment of the effects of the proposal in this respect, save to say that I agree with the conclusion that no harm would arise from the proposal on the setting and significance of the church.

Conditions

11. I have considered the advice within the National Planning Policy Framework and the Planning Practice Guidance in relation to the use of conditions. The Council has submitted a schedule of preferred conditions, which has also been sent to the appellant and I shall use this as the basis of my considerations. I shall include a condition which identifies the approved drawings for clarity. Due to the presence of commercial uses and the railway line, a condition regarding acoustic insulation and ventilation is necessary. In order to provide for wildlife, conditions relating to suitable measures and a lighting scheme are necessary.
12. I have included conditions relating to the provision of car parking, cycle parking and a travel plan so that residents are provided with suitable means to park vehicles and cycles and so that suitable alternatives to the use of private vehicles are identified. I have also included a condition requiring a vehicle charging point so that provision is made for electric vehicles. So that the development has an acceptable appearance conditions relating to materials and landscaping are included and I have included a condition which sets out how any unforeseen contamination is dealt with. So that the construction process does not give rise to undue disruption, I have included a condition requiring a Construction Management Plan.

Conclusions

13. For the reasons set out above, I conclude that the proposal would have no unacceptable effect on the setting of the conservation area, or the listed church and raises no conflict with Policies ENV1 and GEN2 of the Uttlesford Local Plan. I have considered the additional comments made by local people and note that the issues raised were considered by the Council. For the same reasons, I conclude that there would be no harm arising from the proposal in relation to overlooking, parking, highway safety and other matters. As a consequence, the appeal is allowed.

S T Wood

INSPECTOR

SCHEDULE 1, CONDITIONS

- 1) The development hereby permitted shall begin not later than years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MCW-CD-OO-DR-A-0001 P2; MCW-CD-OO-DR-A-0003 P2; MCW-CD-XX-DR-A-0002 P1; MCW-CD-XX0DR-A-0005 P4; MCW-CD-ZZ-DR-A-01402 P2; MCW-D-02-DR-A-01102 P5; MCW-D-OO-DR-A-01100 P6; MCW-D-OO-DR-A-01101 P5; MCW-D-RF-DR-A-01103 P3; MCW-D-ZZ-DR-A-01401 P2; MCW-D-ZZ-DR-A-01301-S2-Rev P3; MCW-D-ZZ-DR-A-01302-S2-Rev P3.
- 3) The glazing and ventilation specification of the dwellings shall be designed to provide acoustic insulation performance, with provision for ventilation, sufficient to achieve the noise criteria set out in BS 8233: 2014. All works which form part of the specification shall be completed before any part of the noise-sensitive development is occupied.
- 4) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (MKA Ecology Limited, September 2019) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This includes due diligence for nesting birds and reptiles, retention of beech tree ensuring the tree remains unlit, amendment of European Protected Species Licence to reflect changes in the new planning application, and wildlife sensitive lighting.
- 5) Prior to slab level of the development hereby allowed a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (MKA Ecology Limited, September 2019), shall be submitted to and approved in writing by the local planning authority. The enhancement measures shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter
- 6) Prior to the occupation of the development hereby allowed, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other external lighting be installed without prior consent from the local planning authority.

- 7) The proposed development shall not be occupied until such time as the vehicle parking area indicated on DWG no. MCW-CD-00-DR-A-0003 Rev. P2 (Block Plan Proposed) has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
- 8) The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.
- 9) Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 10) Prior to commencement of the development, details of all hard and soft landscaping (including planting, hard surfaces and boundary treatment) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. All planting, seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner, and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.
- 11) Prior to works above slab level of the development allowed being commenced, details of materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials. Subsequently, the approved materials shall not be changed without the prior written consent of the local planning authority.
- 12) No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Plan shall be adhered to throughout the construction period and shall provide for the following all clear of the highway:

- i. Safe access to the site;
 - ii. The parking of vehicles of site operatives and visitors;
 - iii. Loading and unloading of plant and materials;
 - iv. Turning of vehicles;
 - v. Storage of plant and materials used in constructing the development;
 - vi. Wheel and underbody washing facilities.
- 13) If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.
- 14) A scheme for the provision of electric vehicle charging point(s) shall be submitted to and agreed in writing by the local planning authority. These shall be provided, fully wired and connected, ready to use before first occupation and thereafter retained in the approved form.