
Appeal Decision

Site Visit made on 21 September 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/C1570/W/20/3265617

Land east of Claypit Villas, Bardfield Road, Thaxted CM6

- 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 Crawford of Anomalies Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/19/3166/FUL, dated 20 December 2019, was refused by notice dated 2 July 2020.
 - The development proposed is residential development and associated infrastructure to erect 8 no. dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development and associated infrastructure to erect 8 no. dwellings at Land east of Claypit Villas, Bardfield Road, Thaxted CM6 in accordance with the terms of the application, Ref UTT/19/3166/FUL, dated 20 December 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) was published. The parties have had an opportunity to comment on the implications of the revised Framework during the appeal process. I have had regard to comments received and determined the appeal in accordance with the revised Framework.
3. During the course of the appeal, the appellant submitted a signed planning obligation by way of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 2 August 2021. This secures a financial payment to Essex County Council as the highway authority to implement a Traffic Regulation Order and the associated signing and road markings to allow the extension of the 30 mph speed limit. The Council has confirmed that it is satisfied with the submitted UU although it has not formally withdrawn its third reason for refusal. I will return to this later in this decision.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for new dwellings having regard to local and national policy for the delivery of housing;
 - the effect of the proposed development on the character and appearance of the area; and

- whether the proposed development makes adequate provision for affordable housing.

Reasons

Location of development

5. The appeal site is forms part of a larger field which lies on the south side of Bardfield Road and to the east of the settlement of Thaxted. It is outside the settlement boundary for Thaxted and is therefore within the countryside for planning purposes. Policy S7 of the Uttlesford Local Plan 2005 (ULP) restricts development in the countryside to that which needs to take place there, or is appropriate to a rural area including residential infilling.
6. The appeal proposal would not be a form of development that needs to take place in the countryside. Furthermore, it would not constitute infilling. As such it would be in conflict with this policy. However, the Council has confirmed that as of April 2020 it has a 3.11 year housing land supply. This is a significant shortfall in supply. In such circumstances, Policy S7 which is more restrictive than the Framework in respect of boosting the supply of housing, is considered out-of-date.
7. The appeal site is located reasonably close to services and facilities within the settlement and some 800 metres from a bus stop. Future occupants of the proposal would therefore not be reliant on the private car in order to meet their day-to-day needs. This is a positive aspect of the scheme.
8. I conclude that the appeal site would not be a suitable location for housing, having regard to local and national policy for the delivery of housing. It would therefore conflict with Policy S7 of the ULP. However, I attribute limited weight to this conflict due to the absence of a five year supply of housing land. I return to this in the Planning Balance below.

Character and appearance

9. Development along Bardfield Road takes a linear form, extending out from the centre of Thaxted. The appeal site lies beyond the developed area within an area of open fields on the southern side of Bardfield Road. It is next to a site with planning permission¹ for nine houses, directly adjacent to the built up edge of the settlement. At the time of my site visit, there was evidence of some groundworks having been undertaken to this site and a shipping container was positioned between it and the appeal site.
10. Development on the opposite side of the road extends in a linear form beyond both the eastern edge of the site and the more spacious 'allotment gardens' directly opposite the appeal site. This site has been allocated as a rural exception site for affordable housing. The appeal site, due to the absence of built development on either side and forming part of a larger field has a rural character. The opposite side of the road, with more development, has a more semi-rural character.
11. The appeal site lies within an area of sensitive rural setting as defined in the Thaxted Neighbourhood Plan 2017-2033 (TNP), described as having a strongly undeveloped open rural character and a low capacity for change.

¹ Council Ref: UTT/17/3571/FUL

12. The proposed development would take a linear form with houses set behind an access road running parallel to Bardfield Road, separated from it by boundary vegetation. The proposed houses would comprise semi-detached properties and two bungalows at the eastern end of the site where it adjoins the fields. These are intended to provide a softer edge to the proposed development.
13. The proposal would extend built development on the more rural, southern side of Bardfield Road into the open countryside and the rural setting of the village. However, the rural setting to the village on this side of Bardfield Road is extensive and the wide open fields would be retained both beyond the edge of the proposed development and to its rear. The proposal would not extend further into the countryside than the linear development on the opposite side of the road and in this context, would not appear to significantly encroach into the open countryside. It would, nonetheless, cause some moderate harm to the rural character along Bardfield Road and the wider sensitive rural setting of the village.
14. The proposed form of linear development, set back behind an access road, is characteristic along the southern side of Bardfield Road and is the form agreed for the adjacent approved development. The appeal proposal has been presented in the context of that adjacent scheme and would appear as a continuation of this pattern of development along Bardfield Road. However, due to the adjacent site having not been developed, the appeal proposal would appear as an anomalous block of development visually and physically separated from the settlement. This would be harmful to the rural character on this side of the road. To overcome this, a Grampian condition could be imposed to ensure the adjacent scheme substantially comes forward prior to any development on the appeal site occurring.
15. Grampian conditions prohibit development authorised by the planning permission until a specified action has been undertaken, in this instance the substantial construction of the adjacent site to provide the visual link required to protect the character and appearance of the area. Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. I am satisfied that there is a reasonable prospect of the adjacent scheme coming forward. The appellant has confirmed such an approach would be acceptable. The Council has offered no views.
16. I conclude that the proposed development would cause moderate harm to the character and appearance of the area. It would therefore conflict with Policy S7 of the ULP insofar as it permits development where its appearance protects or enhances the particular character of the part of the countryside within which it is set. It would also conflict with Policies TX LSC1 and TX LSC2 of the TNP. These policies together seek to protect the countryside for its intrinsic character and beauty, to protect Thaxted's sensitive rural setting, restricting development in these areas to affordable or special needs housing and seeking development that protects and enhances the landscape and contributes to local distinctiveness and sense of place.

Affordable housing

17. Policy H9 of the ULP sets out that the Council will seek to negotiate on a site by site basis an element of affordable housing of 40 per cent of the total provision of housing on appropriate allocated and windfall sites, having regard to the up

to date Housing Needs Survey, market and site considerations. The supporting text of the policy sets out that 40 per cent affordable housing will be sought on sites of 0.5 hectares or of 15 dwellings or more. It recognises that smaller sites within the rural areas could provide a useful contribution to the Council's supply of affordable housing.

18. Paragraph 64 of the Framework states that provision of affordable housing should not be sought for residential developments that are not major developments. It defines major development in relation to housing, as development where ten or more homes will be provided or the site has an area of 0.5 hectares or more. Paragraph 65 sets out that where major development involving the provision of housing is proposed, at least 10 per cent of the homes to be available for affordable home ownership, subject to a number of exceptions.
19. Policy H9 pre-dates the Framework. It requires a higher level of provision on a larger scheme. The policies are therefore not consistent. However, the scheme proposes eight dwellings on a site of 0.3 hectares. It would therefore not meet the definition of major development as set out in the Framework. It would also not meet the thresholds set out under Policy H9. On that basis, there would be no requirement for affordable housing to be provided.
20. The Council considers that the site has been artificially split from the adjacent development of nine dwellings. The Council and a number of interested parties have stated that these two sites are in the same ownership. The Council has indicated that this appears to be the case based on a perusal of both applications and the similarities between both schemes in terms of their design and layout and their position adjacent to each other. If this were to be the case, then the two schemes would amount to a development of seventeen dwellings and the affordable housing requirements under Policy H9 would apply.
21. The applicant for the adjacent scheme was Mr O Hookway as set out on the decision notice for that scheme. From the limited details of that scheme provided, it is indicated that the client was either Go Homes or New Homes Bardfield Road Ltd. These are not the same names or companies as for the appeal before me as set out in the application form and stated in the banner heading above. The appellant has stated that historically the land was in the same use but has been under different control since 6 December 2017. However, that was almost four years ago and I have been provided with no substantive evidence to link these two sites more recently. Any similarity between the designs does not provide firm evidence that they are linked.
22. On this basis, I cannot conclude that the sites should be considered together. Consequently, I find that the scheme, due to the number of houses proposed, would not trigger a requirement for affordable housing provision. It would therefore not conflict with Policy H9 of the ULP as referred to above.

Other Matters

23. There are local concerns about the numbers of houses being built within the village, its impact on the character of the village, traffic levels, local services and infrastructure. There is no evidence that eight dwellings would give rise to unacceptable traffic impacts or lead to undue pressure on local schools or the local surgery. I also have no firm evidence to show that the proposal would

lead to an unacceptable strain on water supplies nor that it would have inadequate drainage. I note the Council has not raised this as a concern.

24. It has been suggested there are limited employment opportunities locally, however, I have no substantive evidence of this.

Planning Obligation

25. The signed UU makes provision for financial contributions to allow the 30 mph speed limit to be extended. This would bring the proposed development and its access onto a road within a 30 mph limit. Concerns have been raised about the safety of this access. The planning obligation would mitigate this. I am satisfied that the obligation sought meets the three tests set out in paragraph 57 of the Framework for planning obligations. As a result, I have taken the completed planning obligation into account.

Planning Balance

26. The council cannot demonstrate a five year supply of deliverable housing sites. At 3.11 years supply, the shortfall is significant. In such circumstances, housing development should be subject to the presumption in favour of sustainable development, as set out in paragraph 11 d) of the Framework.
27. The adverse impacts arising from the proposal relate to the unsatisfactory location of the development and its harmful effect on local character and appearance. It would also conflict with relevant development plan policies.
28. I have found that the scheme would not be required to provide affordable housing. This is a neutral factor.
29. The adverse impacts associated with this proposal in terms of character and appearance would not be great. They therefore do not significantly and demonstrably outweigh the benefits of eight additional dwellings when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development should be applied.

Conditions

30. The Council has proposed a number of conditions should the appeal be allowed in addition to those which I have already referred to earlier in my decision. I have considered these and imposed them where they meet the tests set out in paragraph 56 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
31. A condition specifying the plans is necessary in the interests of certainty. A condition requiring details of materials to be agreed is reasonable in the interests of the character and appearance of the area.
32. In the interests of highway safety, I have imposed conditions requiring the provision of an access to meet visibility requirements, a dropped kerb pedestrian crossing, parking and turning areas, appropriate surfacing of the vehicular access, for any gates to be inward opening and for all construction related activity to be contained within the site during construction. To promote sustainable travel, I have imposed a condition requiring cycle storage and a Travel Plan. For the same reason, a condition requiring the provision of electric vehicle charging points is reasonable and supported by the Council's adopted interim climate change policy.

- 33. Conditions securing works in accordance with the submitted Updated Ecological Survey Report (AA Environmental, January 2020) and for biodiversity enhancements in relation to protected species are both reasonable and necessary in the interests of ecology and biodiversity.
- 34. A condition requiring details of protection against noise from air traffic is necessary in order to protect the living conditions of future occupants due to the proximity of the site to Stansted airport. Whilst no such condition was imposed on the adjacent development, that does not justify omitting the condition on this scheme which I have dealt with on its own merits.
- 35. A condition requiring any land contamination found to be reported and remediated is necessary to accord with legislation set out in the Environmental Protection Act 1990 and to protect future occupants.

Conclusion

- 36. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed.

Rachael Pipkin

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: 2017-942-2-01, 2017-942-2-003, 2017-942-2-010, 2017-942-2-011, 2017-942-2-020, 2017-942-2-021 A, 2017-942-2-030, 2017-942-2-031, 2017-942-2-040, 2017-942-2-041 and 2017-942-2-002 A.
- 3) No development shall take place until a minimum of seven of the new dwellings authorised by the approved scheme, Application Ref: UTT/17/3571/FUL or any approved modification or replacement of that planning permission, for proposed residential development and associated infrastructure to erect 9 no. dwellings at Land East of Claypit Villas, Bardfield Road, Thaxted have been built to a standard whereby they could be occupied.
- 4) Prior to commencement of works above slab level, details of the following external finishes (including samples and/or photographs as appropriate) must be submitted to and approved in writing by the local planning authority: walls, roof, windows and doors.

The development must be carried out in accordance with the approved details and shall not be changed without prior written approval from the local planning authority.

- 5) Prior to occupation of any dwelling, the provision of an access formed at right angles to Bardfield Road, as shown in principle on drawing no. 2017-942-2-002 A to include but not limited to a minimum 5.5 metre carriageway width and clear to ground visibility splays with dimensions of 2.4 metres by 120 metres, in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be always retained free of any obstruction.
- 6) Prior to occupation of any of the proposed dwellings, the provision of a dropped kerb pedestrian crossing across Bardfield Road shall be provided west of the proposed site access, as shown in principle on drawing no. 2017-942-2-002 A.
- 7) No dwelling shall be occupied until the associated parking and/or turning areas indicated on the approved plans has been provided. The vehicle parking and turning heads shall be always retained in this form.
- 8) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 9) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back edge of the carriageway.

- 10) No dwelling shall be occupied until the associated cycle parking facilities, as shown in principle on DWG no. 2017-942-2-002 A are to be provided and always retained.
- 11) 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.
- 12) The proposed electric vehicle charging points including a single charging point for each of the dwellings shall be provided, fully wired and connected, ready to use before first occupation of the development. The provision of ducting for future installation shall also be included. The electric vehicle charging points shall be retained thereafter.
- 13) Parking, storage facilities and wheel cleaning facilities shall be provided on site from commencement and throughout the period of construction.
- 14) All mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Updated Ecological Survey Report (AA Environmental, January 2020) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works, to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 15) Prior to any works above slab level, a Biodiversity Enhancement Strategy for Protected and Priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) Purpose and conservation objectives for the proposed enhancement measures.
 - b) detailed designs to achieve stated objectives.
 - c) locations of proposed enhancement measures by appropriate maps and plans.
 - d) persons responsible for implementing the enhancement measures.
 - e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

- 16) No development shall take place until a scheme for protecting the proposed dwellings from noise from air traffic has been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until such a scheme has been implemented in accordance with the approved details, and shown to be effective, and it shall be retained in accordance with those details thereafter.
- 17) If contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning

Authority. An investigation and risk assessment shall then be undertaken by a competent person, in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11'. A written report of the findings should be forwarded for approval to the Local Planning Authority. Following completion of remedial measures, a verification report shall be prepared that demonstrates the effectiveness of the remediation carried out. No part of the development should be occupied until all remedial and validation works are approved in writing.

End of schedule