



Appeal Decision

Site Visit made on 17 August 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2021

Appeal Ref: APP/C1570/W/21/3266785

Land adjacent to the Three Horseshoes PH, Molehill Green, Takeley, Bishops Stortford CM22 6PQ

- 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 Little Acre Homes Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1851/FUL, dated 31 July 2020, was refused by notice dated 27 November 2020.
 - The development proposed is erection of 4 no. detached dwellings with associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 4 no. detached dwellings with associated car parking and landscaping at Land adjacent to the Three Horseshoes PH, Molehill Green, Takeley, Bishops Stortford CM22 6PQ in accordance with the terms of the application, Ref UTT/20/1851/FUL, dated 31 July 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. I have considered the appeal in light of this revised document, having first given the parties an opportunity to comment on its content.
3. The appellant also submitted a late signed and dated Unilateral Undertaking (UU). I considered it would be appropriate to accept this and, in the interests of fairness, provided the Council with an opportunity to provide comments. No comments were received.

Main Issues

4. The main issues are (a) whether the development is in a suitable location for residential development, with particular regard to the effect of the development on the character and appearance of the area, including the setting of the Three Horseshoes Public House, which is a Grade II Listed Building; and (b) aviation safety relating to Stansted Airport.

Reasons

Location & Character and appearance

5. The appeal relates to an open area of land on a prominent corner location. It forms part of the grounds of the Three Horseshoes Public House. A short row of large semi-detached dwellings sit immediately adjacent to the site along Hall Road. There are open fields on the opposite side of the road leading into the village. There is woodland on the opposite side of Hall Road, behind which lies the edge of Stansted airport.
6. Policy S8 of the Uttlesford Local Plan (ULP) (2005) designates the area in which the site lies as a 'Countryside Protection Zone' (CPZ). The policy states that permission will only be granted for development that is 'required to be there' or is appropriate to a rural area. It goes on to state that there will be a strict control on new development and permission will not be granted if new buildings would promote coalescence between Stansted airport and existing development in the surrounding area or it would adversely affect the open characteristics of the CPZ.
7. The Council acknowledge that the development would not lead to coalescence with the airport. I have seen nothing that would lead me to a different conclusion. Nevertheless, other than assisting in meeting general housing needs, there is no reason for the development to be in a rural location. This conflicts with Policy S8. In addition, the introduction of built form into an area where none currently exists must adversely affect the open characteristics of the CPZ. This also leads to conflict with Policy S8. Accordingly, development of the site would not be considered acceptable in principle under this policy.
8. The Three Horseshoes is a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 states that special regard must be given to the desirability of preserving the setting of a listed building. This is largely reflected in paragraph 199 of the National Planning Policy Framework (the Framework) which states that great weight should be given to the conservation of designated heritage assets.
9. The pub is a timber framed building, with white rendered walls and a thatched roof. It sits back from the roadside, with parking to the front and side. There is a large open area to the rear of the building. The site forms part of another relatively large, grassed area to the side of the pub, which stretches to Hall Road. The significance of the pub appears to lie primarily in its age, architectural quality, including the retention of traditional features such as the thatched roof, and the important role it is likely to have played in the local community over an extended period.
10. The site clearly forms part of the pub's grounds and its setting. The open nature of the site allows some views of the building from the roadside, though these are likely to be fleeting and glimpsed in nature. They are also heavily filtered by intervening vegetation. The site does not therefore form part of the principal or most important views of the building. From outside the site, it therefore allows only limited opportunities for the appreciation of the asset. This is likely to be different for patrons using the site who will be able to see more of the building when moving around the space. Moreover, while not entirely clear how long the site has been associated with the pub, there is an obvious historical functional association with the building.

11. The loss of the site to housing would have a limited impact on how the heritage asset is appreciated, particularly from the roadside. Principal views of the building from the front of the pub, or within the remaining grounds, would not be affected. There is also no strong evidence to suggest the site is particularly important in terms of the history of the pub. Some of the area to the side would also be retained and would continue to be used in relation to the pub. Appreciation of the building from within the grounds would not therefore be diminished to any material degree.
12. Clearly, the development would not prejudice the continued use of the building as a public house or the remainder of the grounds for parking or as a beer garden. In terms of issues relating to noise, nuisance and general disturbance, the change of use would clearly alter the nature of the setting. However, I am not persuaded that tranquillity is necessarily a key feature of the setting of the pub. I am also not convinced that housing would be unacceptable in principle within the setting of a pub in this context. It would generally not be unusual for a village pub to be closely associated with dwellings. Indeed, there is housing near the pub already.
13. Although the loss of openness would have some effect on the setting of the pub, this would not result in unacceptable harm to the factors that provide the building with its significance. The architectural and historical merit of the building would remain intact, the most important views of the building would not be affected, the housing would not be so close as to result in the pub being cramped or diminished in the street scene or its plot and there would be no obvious impact on the pub's ability to function in the future. Thus, its significant role in the community would not be harmed. In coming to this conclusion, I have given great weight to the conservation of the asset. Nevertheless, I find that the impact on the setting and significance of the pub would be neutral.
14. In general terms, the development would clearly have an urbanising effect on the site. This is the inevitable consequence of development on open land. Although additional landscaping is proposed around the site, the dwellings would still be prominent features on the corner. At present, the road into the village is framed by the site and what the Council refer to as Mole Hill Green opposite. The site therefore helps to create an open and spacious 'gateway' to the settlement which reflects its largely rural character. The development would detract from this to a degree. However, the open aspect on the opposite corner would be retained, the housing would be set back from the roadside behind hedgerows and a wide grass verge. The overall impact would therefore be limited. The development would also constitute the continuation of an existing row of housing along Hall Road. As such, it would not appear wholly incongruous or disconnected from the existing built form.
15. The dwellings themselves would differ in appearance to those further along Hall Road. However, there appears to be no existing homogeneity of design in the area. Some additional variety would not be harmful in principle. While the design is simple, there would be nothing offensive about their appearance. There would be a degree of articulation in the roofline that would help break up the bulk and proposed materials, which would be agreed by condition, appear appropriate to the area. They also contain features, such as the front facing gable, which are present in dwellings nearby, would be of an appropriate

domestic scale and mass and would broadly continue the building line of neighbouring dwellings.

16. The Council's criticism of the fenestration on the side flank facing the road is noted and the lack of windows on the first floor will leave a relatively large area of blank wall. This would be mitigated to an extent by the retained landscaping, which would filter views of the dwellings, and the extensive setback from the road created by the wide grass verge, which would help to reduce any sense of visual intrusion. While this feature might detract from the appearance of the dwellings to a very small degree, this does not mean the design is of poor quality. In my view, the Council's concerns have been overstated in this regard.
17. In conclusion, the development would have an urbanising impact on the site. Nevertheless, the impact of this would be highly localised in extent and the rural character and setting of the settlement would not be undermined by the development. I also find that the scale, layout and design of the dwellings would be acceptable and sympathetic to that of nearby dwellings. The development would not therefore result in unacceptable harm to the broad character or appearance of the area.
18. In conclusion on this matter, the development would conflict with ULP Policy S8 which seeks to resist development within the CPZ and retain its openness. However, I find no undue conflict with ULP Policy GEN2 which seeks, amongst other things, to ensure development is compatible with the scale, form, layout, appearance and materials of surrounding buildings. In this regard, there would be no conflict with paragraphs 126, 130 and 134 of the Framework which seek, amongst other things to, ensure development is of a good quality design which is sympathetic to local character and history.
19. Moreover, I have found no conflict with ULP Policy ENV2 which seeks to ensure development affecting a listed building is in keeping with its scale, character and surroundings. As the development would preserve the significance of the pub, there would also be no conflict with the Framework's policies on the protection of heritage assets.

Aviation Safety

20. The objection from the Council to the development is that insufficient information had been submitted in relation to the height of the dwellings, a 'glint and glare' assessment for the use of solar panels and no details of exterior lighting. This reason for refusal derives directly from comments from the airport. There is no evidence to suggest that the Council sought additional information from the appellant to address these issues. Other than a basic assertion that more information was required, the airport's objection does not specify where or why harm might result from the development.
21. Notwithstanding the comments from the airport, the dwellings would be two storey in height and not dissimilar to what is in the locality of the site. Although development would extend the built envelope of the village, given the proximity of the housing to other built form, it seems unlikely that this could realistically result in aviation safety issues. The nature and position of the solar PV panels and details of exterior lighting could be adequately addressed by condition.

22. I am therefore satisfied that the concerns of the airport are either overstated or can be mitigated. The Council has referred to ULP Policy GEN2 in its reason for refusal on this matter. This does not refer to matters of aviation safety and thus its relevance is questionable. However, I am satisfied that the development would not conflict with any aspect of this policy. No other relevant policies have been identified.

Other Matters and Planning Balance

23. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The development would conflict with Policy S8 of the ULP. However, the overall impact on the openness of the CPZ is limited in scale and any visual impacts resulting from this would be localised. The appellant has also drawn my attention to several appeal decisions¹ where Inspectors have concluded that limited weight should be given to Policy S8 insofar as it no longer reflects the approach to development in the countryside set out in the Framework. In particular, that the policy establishes a more restrictive approach to development in the CPZ than the Framework would now advocate.
24. The Council has not disputed the appellant's conclusions on these cases or offered up other examples where different conclusions have been reached. On this basis, there is no clear reason why I should not come to the same conclusion as my colleagues. Thus, both in terms of its consistency with the Framework, and extent of harm caused, I have given only limited weight to the conflict with Policy S8.
25. The Council acknowledge in the reason for refusal that there is a housing land supply deficit. The appellant asserts that the Council can only identify a 2.68-year supply of deliverable housing land. This has not been specifically disputed by the Council. However, while not referred to directly by the Council in either their officer report or any subsequent evidence, they did submit data dated January 2021 which purports to provide the housing supply information as of March 2020. This appears to indicate a 3.11-year supply (with the 2.68-year figure attributed to March 2019). Although there is a lack of clarity in the evidence provided, there seems to be no dispute that the Council cannot demonstrate a five-year supply of deliverable housing land.
26. In this context, paragraph 11d of the Framework states that planning permission should be granted unless either the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. I have found no unacceptable harm in relation to heritage assets. As such, there are no policies in the Framework which provide a clear reason for refusing the development proposed. I must however still consider the requirements second part of paragraph 11d. of the Framework. This is often referred to as the 'tilted balance'.

¹ Appeal references: APP/C1570/W/19/3234530, APP/C1570/W/19/3234532, APP/C1570/W/19/3242550, APP/C1570/W/19/3243727

28. Whilst this would clearly have little impact on the overall deficit, the delivery of four new dwellings would make a tangible positive contribution to the housing land supply. As such, this carries substantial weight in favour of the development.
29. The appellant has argued that the development would facilitate the continued use of the pub and that without the development it would not be able to survive. There is no detailed viability evidence before me which substantiates these assertions. This naturally limits the weight that can be given to this factor. Moreover, apart from the UU, which would facilitate improvements to the windows, there is no mechanism before me which would ensure receipts from the sale of land would be used to maintain the pub. As such, I have given limited weight to this factor. Nevertheless, I consider the UU meets the necessary statutory tests and thus the potential for replacement of the windows is a benefit to which I give moderate weight.
30. The development would have moderate benefits in terms of additional support for local services and through temporary job creation. The appellant has suggested I should give weight to benefits associated with improvements to pedestrian links to the village and biodiversity and landscape enhancements. However, these are largely required by local or national policy or necessary to mitigate the impacts of development. On that basis, these garner limited weight in favour of the proposal. Similarly, while sustainability measures and energy efficient design is to be welcomed, this is no more than would be necessarily expected from new build housing in the current climate. Accordingly, benefits associated with this are limited.
31. The Council did not refuse permission based on access to facilities or sustainable transport. I have noted the concerns of interested parties about these issues. The Council's officer report notes while residents would most likely be reliant on the car, there is access to nearby services, facilities and employment by public transport. Paragraph 79 of the Framework also makes the point that housing in rural areas should be located where it can help maintain and enhance the viability of rural communities. It goes on to state that where there are groups of smaller settlements, development in one village may support services in a village nearby. Some potential for travel is therefore not ruled out or considered unacceptable in principle. In the overall balance, I therefore conclude that the access to services, facilities and alternative modes of travel to the car to be a neutral factor.
32. There is also no substantive evidence to suggest that services and utilities within the village would not be able to cope with a small increase in housing. The scale of development is such that it would not result in any material increase in pollution resulting from increases in traffic. In addition, the layout of the housing would ensure that it would have no unacceptable impacts on the living conditions of neighbours, whether through noise, overlooking or outlook.
33. Subject to conditions, the highway authority did not object to the development. This is a material consideration of significant importance. There would be a single point of access from Hall Road. Although my site visit can represent only a snapshot of normal conditions, I saw that while this may be a relatively fast-moving road, visibility in both directions would be good from the proposed access. There would also be sufficient space within the site for vehicles to ensure vehicles can enter or exit in a forward gear and sufficient off-street

parking. I therefore see no reason why the development should result in any harm to highway safety.

34. Finally, I have noted references to removal of existing trees from the site and I saw fencing on the Hall Road boundary at the time of my visit. Any works that have already taken place on the site are outside the scope of the appeal and are a matter for the landowner and Council.
35. Overall, I conclude that the adverse impacts of the development would not significantly or demonstrably outweigh the benefits when considered against the policies of the Framework as a whole. I am therefore satisfied that the development would benefit from the 'tilted balance' set out in paragraph 11d. This is a significant material consideration in favour of the development which is sufficient to outweigh the limited conflict with the ULP. On this basis, I am satisfied that subject to conditions, the appeal should succeed and permission should be granted.

Conditions

36. I have considered the suggested conditions from the Council in accordance with the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
37. I have imposed conditions requiring the approval of details of landscaping and materials in the interests of the character and appearance of the area. I have imposed conditions requiring the submission and approval of details of a Biodiversity Enhancement Layout in the interests of protecting and enhancing biodiversity. I have only imposed one of the two suggested conditions on this issue to avoid repetition. I am satisfied this will address the matters of concern to the Council. I have imposed conditions relating to archaeology owing to the potential for archaeological deposits in the area. I have also imposed a condition requiring details of a scheme for protecting future residents from noise from the airport. This is to ensure living conditions for future residents are acceptable. These measures include pre-commencement conditions, which are necessary to be such to ensure development proceeds in accordance with approved details.
38. I have imposed a condition requiring the details of any external lighting to be agreed. Owing to concerns from the airport, this is also a pre-commencement condition to ensure any issues relating to layout will not result in safety issues. For aviation safety reasons, I have imposed a condition requiring details of any solar panels to be agreed with the Council. However, this does not need to be agreed prior to commencement. It will be sufficient to address this before any panels are installed. I have imposed conditions relating to the nature and implementation of the proposed access, visibility splays, driveway, parking areas and pedestrian footway in the interests of highway safety. I have imposed the suggested condition requiring provision of electric vehicle charging points in the interests of climate change.
39. I have not imposed the suggested condition requiring the dwellings to be built to Building Regulations M4(2) accessible and adaptable homes standards. The Written Ministerial Statement of March 2015 and PPG is clear that the use of optional technical standards can only be applied where there is an adopted Development Plan policy which requires them. The policies referred to by the

Council do not set out a requirement for M4(2) homes. Accordingly, a condition requiring this is not justified or reasonable.

40. I have also not imposed the condition requiring the developer to provide residents with Residential Travel Packs which would include six one day travel vouchers for use with relevant local public transport operators. While the promotion of sustainable travel is to be welcomed, this is effectively a requirement for a financial contribution. I do not consider this to be appropriate for a planning condition. Moreover, the suggested condition is not clear in terms of what a Residential Travel Information Pack should contain and requires approval by Essex County Council. It is therefore not precise. In my view, the condition does not pass the relevant tests.

Conclusion

41. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: M02/02 Existing Site; M02/03 Proposed Site; M02/04 Proposed Site; M02/05 Existing and Proposed Street Elevations; M02/06 Existing and Proposed Side Street Elevations; M02/07 Existing Sections; M02/08 Existing and Proposed Side Street; M02/09 Proposed Typology Elevations (as amended).
- 3) Prior to commencement of development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently, these works shall be carried out as approved. The landscaping details to be submitted shall include:
 - a) Proposed finished levels
 - b) Means of enclosure
 - c) Car parking layout
 - d) Vehicle and pedestrian access and circulation areas
 - e) Hard surfacing, other hard landscape features and materials
 - f) Existing trees, hedges or other soft features to be retained
 - g) Planting plans, including specifications of species, sizes, planting centres, number and percentage mix
 - h) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
 - i) Details of siting and timing of all construction activities to avoid harm to all nature conservation features
 - j) Location of service runs
 - k) Management and maintenance details
- 4) All hard and soft landscape works 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.
- 5) Prior to commencement of development samples 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.

- 6) Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splays with dimensions of 2.4 metres by 215 metres as measured from and along the nearside edge in each direction, as shown on DWG no. 17345-WIE-ZZ-XX-DR-D-04001-P03 Rev. P03 (Titled – Site Access Hall Road Option). Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of obstruction at all times.
- 7) Prior to occupation of the development, the provision of a 2-metre footway from the site access extending to the south-east across the site frontage to a point on Molehill Green Road, as shown in principle on DWG no. 008 Rev. P01 (Titled – Proposed Footway Provision Indicative Layout), shall be provided.
- 8) Prior to the occupation of any of the dwellings hereby approved, the proposed private drive shall be constructed to a minimum width of 5.5 metres for at least the first 6 metres from the back of carriageway and provided with an appropriate dropped kerb crossing of the footway/verge.
- 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) The proposed development shall not be occupied until such time as the vehicle parking area indicated on DWG no. M02/04 (Titled - Proposed site) has been provided. The vehicle parking area and associated turning area shall be retained in this form at all times.
- 11) Prior to occupation all of the dwellings shall be provided with electric vehicle charging points. The charging points shall be fully wired and connected, ready for first use and retained for occupant use thereafter.
- 12) Prior to commencement of development a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Low Impact EcIA and Ecological Enhancement Plan (Hybrid Ecology Ltd, July 2020), including installation of bird and bat boxes, inclusion of native/wildlife friendly planting in any landscaping, hedgerow management, and pond restoration, 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.
- 13) Prior to commencement of development an external lighting design scheme shall be submitted to and approved in writing by the local planning authority. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter.
- 14) No development or preliminary groundworks of any kind shall take place until a programme of archaeological investigation has been secured in accordance with a written scheme of investigation (WSI) which has been submitted by the applicant and approved in writing by the local planning authority.
- 15) No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological investigation identified in the WSI defined in Condition 14. A recognised team of professionals should undertake the archaeological work.

- 16) The applicant shall submit to the local planning authority a post excavation assessment (to be submitted within six months of the completion of the fieldwork, unless otherwise agreed in advance with the local planning authority). This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.
- 17) No development shall take place until a scheme for protecting the dwellings hereby approved 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.
- 18) No solar photovoltaic panels shall be installed on any dwelling hereby approved until details of their siting and specification have been submitted to and approved in writing by the local planning authority. The installation shall be carried out in accordance with the approved details and retained thereafter.