



Appeal Decision

Site visit made on 22 February 2022

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 16 March 2022

Appeal Ref: APP/C1570/W/21/3278239

The Gate Inn, 74 Thaxted Road, Saffron Walden CB11 3AG

- 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 Cordage 26 Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/20/3429/FUL, dated 21 December 2020, was refused by notice dated 4 June 2021.
 - The development proposed is the conversion of existing restaurant (A3) to provide two dwellings (C3), including part demolition of single storey rear elements, with the erection of three detached dwellings (C3) to the rear of the site, utilising the existing access off Thaxted Road, with associated parking and hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing restaurant (A3) to provide two dwellings (C3), including part demolition of single storey rear elements, with the erection of three detached dwellings (C3) to the rear of the site, utilising the existing access off Thaxted Road, with associated parking and hard and soft landscaping, in accordance with the terms of the application Ref UTT/20/3429/FUL and the conditions set out in the schedule at the end of this decision.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on bats as a protected species.

Reasons

3. The original planning application was accompanied by an Ecological Appraisal Report (EAR). This report has been updated during the appeal process and a revised version dated 25 June 2021 takes into account bat survey work undertaken during May and June 2021. All species of British bat are protected by the Wildlife and Countryside Act 1981 (As amended). Bats are also a protected species listed in the Conservation of Habitats & Species Regulations 2017 and all bat roosting sites receive legal protection even when bats are not present.
4. The survey work has considered foraging and commuting opportunities and potential roost or hibernation sites. I am satisfied that the survey work has been carried out to a required standard by reputable ecologists and at an appropriate time of year to inform realistic but precautionary findings. This included dusk emergence surveys (visual and with electronic bat detectors), inspections of the buildings on site for bat roost suitability and assessment of features around the site for bat commuting and foraging. The outputs from

the survey work have been suitably incorporated into the updated June 2021 EAR¹, including appropriate mapping. In summary, the main pub building has moderate suitability for bat roosting and the detached garage building only a low suitability for roosting. The surveys recorded no evidence of bats either within the buildings or emerging or re-entering the buildings. Survey work did detect bats flying in the vicinity of the buildings. Trees and hedges in immediately adjacent properties have potential to provide some bat foraging habitat and the proximity of The Slade watercourse, a short distance to the west, could function as a corridor for bats to access countryside around the town.

5. Given the relatively low occurrence of bats at the appeal site, the EAR advises that demolition and alteration of existing buildings would not have an adverse effect on bats and could appropriately proceed. I am satisfied with the evidence and survey work that has informed this assessment. The EAR also advises that the appeal scheme would have no impact on commuting and foraging bats (and by association bat populations in general in the local area) but notes that additional landscaping at the appeal site would enhance biodiversity including for bats in the vicinity of the appeal site. Additionally, the EAR recommends that the standard of external lighting should take into account potential effects on bat activity. This is a matter which could reasonably be secured by condition to ensure that there would be no adverse impact on this protected species.
6. I therefore conclude that, with the additional bat survey work and updated EAR, it has been satisfactorily demonstrated that the appeal proposal would not have an adverse effect on bats as a protected species. The proposal would therefore accord with Policy GEN7 of the Uttlesford Local Plan (ULP) 2005 which requires appropriate survey work for protected species and suitable mitigation where relevant to ensure no harmful effects on wildlife/nature conservation. It would also comply with national policy at paragraphs 174 and 180 of the National Planning Policy Framework (NPPF). In considering the evidence available, including the updated EAR, Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC), which places a duty on decision makers to have regard to the purpose of conserving biodiversity, has been discharged accordingly.

Other Matters

7. There is considerable local concern regarding the loss of The Gate Inn as a community facility and source of employment in this part of the town. I have not been directed to a specific development plan policy² that seeks to protect pubs, restaurants or small employment sites within the built-up environment of Saffron Walden. Nonetheless, the appellant has submitted evidence of the efforts to market the site as a going concern (Savills Report, December 2020). Whilst this shows a reasonable degree of interest in the site, this did not translate into serious offers for a pub/restaurant use. Overall, I am satisfied that a fair and reasonable effort has been made to market the site, which has demonstrated that there is little prospect of a viable pub or restaurant use being sustained at the site. As such any social harm from the loss of the pub/restaurant use would be limited.

¹ Including plans on pages 45-46 of survey locations

² The LPA has provided a copy of the emerging Saffron Walden Neighbourhood Plan. As this plan has not yet been 'made' it is of very limited weight in this decision, not yet being part of the adopted development plan.

8. Community concern is also raised regarding impact on the character and appearance and living conditions (overlooking) in this part of Saffron Walden, in particular the proposed layout of the three detached dwellings to the rear of The Gate Inn building. This area comprises a large plot mainly given over to car parking with a detached ancillary garage building. I observed that there is some variety to the pattern and appearance of residential development on this part of Thaxted Road, including development at depth a short distance to the north at Long Row Close and contemporary development to the south at Chalk Place. Accordingly, the proposed layout and appearance of the appeal proposal would not result in significant harm to the character and appearance of this part of the town. The proposed plots 3-5 would be reasonably set back from the Gate Inn building and other dwellings on Thaxted Road such that a reasonable degree of spaciousness would be retained and no significantly harmful loss of privacy would arise. As such, the appeal proposal would not result in a harmful overdevelopment of the site. Overall, the design and appearance of the appeal scheme would accord with ULP Policy GEN2 and the general principles in the Essex Design Guide. It would also conform with NPPF paragraphs 119, 120 d), 124, 126 and 130 a), b), c) and e) in terms of making effective use of land and achieving well designed places.

Conclusion and conditions

9. The appeal proposal, now that it is informed by appropriate evidence on bats, would accord with the development plan and as such should be approved. Whilst the loss of a facility in this part of the town would give rise to some limited social harm, this would not significantly and demonstrably outweigh the benefits of the proposal, including, notably, the delivering much needed new homes in a highly sustainable location. The appeal proposal would amount to sustainable development and so the appeal must succeed.
10. The Local Planning Authority (LPA) has suggested a number of proposed conditions which it considers necessary were the appeal to be allowed. I have considered the suggested conditions in light of the content of the Planning Practice Guidance on the use of conditions and the guidance at paragraphs 55 and 56 of the NPPF.
11. In addition to the standard time limit condition (1), I have added a condition (2) requiring the development is carried out in accordance with the approved plans. This additional condition is needed in the interests of proper planning and for the avoidance of doubt. I have amended the list of the approved plans from that on the LPAs decision notice to exclude those plans that were superseded by later iterations prior to determination by the LPA, as well as the illustrative street scene plans and swept path analysis plans, which are for information, rather than determinative. Notwithstanding the detail on the plans, condition (3) requiring submission of details of external materials and openings is required to ensure a satisfactory appearance. For similar reasons, it is also necessary to impose a condition (22) requiring the submission of details for landscaping, and for their successful implementation.
12. In respect of highway safety, including ensuring appropriate off-street parking and avoiding unbound surfacing material, landscaping and gateways affecting the highway, conditions (4), (5), (8), (9) and (10) are all necessary. Conditions (6) and (7) are both necessary to ensure the site maximises its sustainable location and encourages modal shift in accordance with Essex

County Council relevant cycle parking standards and guidance on travel planning. Given the proximity of commercial uses directly to the east of the site on Shire Hill and traffic on the B184 Thaxted Road, conditions (11) and (12) requiring noise mitigation measures and their implementation are both necessary to ensure acceptable living conditions for future occupiers of the proposed dwellings. Given the historic use of the site, conditions (13), (14), (15) and (16) are all necessary in order to secure a suitably precautionary and sequential approach to potential contamination in order to protect the health of future occupiers of the proposed dwellings.

13. As dealt with under the main issue for this appeal, conditions (17), (18) and (19) are all necessary to ensure that biodiversity on the site is protected and enhanced and that any lighting scheme is designed and implemented having regard to biodiversity, in particular foraging and commuting bats. To support the transition to a low carbon future, a condition (20) requiring the installation of electric vehicle charging points is necessary. I have also imposed a condition (21) requiring the dwellings to be constructed to the M4(2) Building Regulations standard for accessible and adaptable dwellings to ensure the proposed housing meets the needs of the community, including those with reduced mobility in accordance with the LPAs Supplementary Planning Document 2 on accessible homes. A further condition (23) is necessary requiring submission of the details of the boundary treatment between proposed plots 1 and 2 in order to maintain privacy and therefore a high standard of amenity for future occupiers of these dwellings.
14. Whilst I have concluded in the decision that the appeal proposal would not result in an overdevelopment of the site, it would result in a highly efficient use of the land area available. Accordingly, I have imposed a condition (24) removing certain permitted development rights for the enlargement of the dwellings in order to maintain the character of the area and the living conditions of future occupiers, particularly an appropriate amount of private amenity space.

David Spencer

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 accordance with the following approved plans:
 - 20.77 00.00 A Site Location Plan
 - 20.77 00.01 A Existing Site Plan
 - 20.77 10.01 A Floor Plans for Plots 1 and 2
 - 20.77 10.02 C Floor Plans for Plots 3-5
 - 20.77 10.03 A Elevations for Plots 1 and 2
 - 20.77 10.04 C Elevations for Plots 3-5
 - 20.77 10.05 A Existing Sections
 - 20.77 10.07 B Proposed site Sections
 - 20.77 10.09 C Revised Block Plan showing turning area & cycle stores

3 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
- Doors

The development must be carried out in accordance with the approved details

4 Prior to the occupation of any of the proposed dwellings, the proposed private drive shall be constructed to a 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.

5 No dwelling shall be occupied until the associated parking and/or turning head indicated on DWG no. 10.09 C (Titled – Proposed site plan) has been provided. The vehicle parking and turning head shall be retained in this form at all times.

6 Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

7 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. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

8 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

9 Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary.

10 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 footway.

11 Prior to reaching slab level of the development hereby approved, a noise scheme for the protection of the occupiers of the proposed dwellings from noise from roads and from the adjacent industrial units, shall be submitted to and approved by the Local Planning Authority. The scheme shall ensure that reasonable internal and external noise environments are achieved in accordance with the provisions of BS8233:2014 and BS4142:2014.

12 No dwellings shall be occupied until the details within the noise scheme providing protection for those dwellings has been implemented in accordance with the approved details and has been demonstrated to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter.

13 Prior to the commencement of the development hereby approved a Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination shall be submitted to and approved in writing by the Local Planning Authority. This report shall adhere to BS10175:2011.

14 Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation adhering to BS 10175:2011 shall be submitted to and approved in writing by the Local Planning Authority.

15 Where shown to be necessary by the Phase 2 Site Investigation a detailed Phase 3 remediation scheme shall be submitted for approval in writing by the Local Planning Authority. This scheme shall detail measures to be taken to mitigate any risks to human health, groundwater and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.

16 Prior to the occupation of the development hereby approved, the effectiveness of the remediation scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the Authority. Any such validation should include responses to any unexpected contamination discovered during works.

17 The development hereby approved shall be carried out in accordance with the details contained in the Ecological Appraisal Report (Hampshire Ecological Services Ltd, August 2021) 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 (ECoW) 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.

18 Prior to reaching the slab level of the development hereby approved a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures contained within the Ecological Appraisal Report (Hampshire Ecological Services Ltd., August 2021), with all integrated bird boxes facing north to south-east, all external bird boxes facing north to east and Swift boxes grouped so that there are 2-3 boxes in each location, 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 prior to occupation and all features shall be retained in that manner thereafter.

19 Prior to the occupation of the development hereby approved 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 plans, 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. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

20 A minimum of a single electric vehicle charging point shall be installed at each of the houses as per the approved site plan (20.77.10.09 D). These shall be provided, fully wired and connected, ready to use before first occupation.

21 The dwellings hereby permitted must be built in accordance with Requirement M4(2) (Accessible and adaptable dwellings) of the Building Regulations 2010 Approved Document M, Volume 1 2015 edition.

22 Prior to commencement of development hereby approved a detailed landscaping plan and planting schedule shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved. The planting schedule shall include specifications of species, sizes, number and percentage mix for new planting areas, including for external boundary treatments and internal means of enclosure. These details should ensure there is not impact or obstruction to the public footpath to the north of the site. 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.

23 Prior to occupation of Plots 1 and 2, details of a screening fence/wall on the rear boundary of these plots shall be submitted to and approved in writing by the local planning authority. The fence/wall must be installed thereafter in accordance with the approved details prior to occupation of Plots 1 and 2.

24 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Class A (enlargement of dwelling), or Class B (Additions to roof) of Part 1 of Schedule 2 shall take place without the prior written permission of the local planning authority.

SCHEDULE ENDS.