
Appeal Decision

Site visit made on 6 September 2022

by C Shearing BA MA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2022

Appeal Ref: APP/C1570/W/21/3282617

Sabre House, Dunmow Road, Stebbing, Essex CM6 3LF

- 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 Mr K Newnham against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0333/OP, dated 1 February 2021, was refused by notice dated 10 August 2021.
 - The development proposed is described as 'demolish all buildings and remove commercial uses (car sales and airport parking etc) and construct residential development of up to 9 dwellings'.
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Decision

1. The appeal is allowed and outline planning permission is granted to demolish all buildings and remove commercial uses (car sales and airport parking etc) and construct residential development of up to 9 dwellings at Sabre House, Dunmow Road, Stebbing, Essex CM6 3LF in accordance with the terms of the application, ref UTT/21/0333/OP, dated 1 February 2021, subject to the conditions in the schedule below.

Application for Costs

2. An application for costs was made by Mr K Newnham against Uttlesford District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the banner heading above is taken from the application form. I have removed reference to the renewal of the 2017 planning permission, as this is not a description of development.
4. The proposal seeks outline permission, with all matters reserved except for access. I have considered the appeal on this basis and have treated any plans in relation to all other matters as illustrative.
5. During the course of the appeal, the Stebbing Neighbourhood Development Plan 2019-2033 (SNP) has been made and now forms part of the development plan. I have sought comments from the main parties on this matter and I have taken the responses received into account in the determination of this appeal.

Main Issue

6. The main issue is whether the site is in a suitable location for housing with particular regard to accessibility to services and facilities.

Reasons

7. Policy S7 of the Uttlesford Local Plan 2005 (the LP) defines the countryside as those areas that are not within the settlement or other site boundaries. For the purposes of this policy the appeal site is therefore within the countryside. Policy S7 states that planning permission will only be given for development that needs to take place there, or is appropriate to a rural area. It goes on to include considerations relating to character and appearance.
8. While the LP does not specifically define development that is appropriate to a rural area, paragraph 2.2.8 of the LP describes that the Plan does not intend to prevent evolution of economic activity that is part of life in rural areas and is in sympathy with its character. It lists examples of development that may be permitted in rural areas, including re-use of rural buildings, suitable farm diversification, outdoor sport and recreation uses, and affordable housing and other facilities to meet local community needs.
9. The proposed development does not fit within those development types specifically listed within the LP. Neither has substantive evidence been put forward to suggest that the proposal needs to take place in this location, or that it would be appropriate to a rural location, thereby conflicting with the aims of Policy S7 of the LP.
10. In terms of accessibility to services and facilities, the appeal site is in a distinctly rural area between Braintree to the East and Great Dunmow to the west. During the time of my site visit I found Dunmow Road not to be heavily trafficked, but with vehicles moving at high speeds, including heavy goods vehicles. In combination with the absence of pavements and lighting in the vicinity of the appeal site, and varying degrees of grass verge along Dunmow Road, the road is particularly unwelcoming to pedestrians and not conducive to a safe and attractive route for pedestrians walking in the carriageway, or for cyclists.
11. The appellant has identified the nearest bus stops which provide access to various nearby settlements. To reach most of these bus stops, however, would require users to walk in the road. The nearest bus stop to the north could be accessed via an informal footpath. However, this is an unlit and partially unmade path and it is unlikely to provide an attractive option for occupants of the site on a regular basis. Consequently, it is unlikely that the local bus services would be frequently used by the site's occupiers. Some more pleasant cycle routes may exist across the wider area, yet these would still require the use of the busy highway described above. As a result of these factors, it is highly likely that future occupiers of the site would be reliant on private cars to cater for their day to day needs.
12. Taken together, for the above reasons, the development would be poorly connected to nearby settlements, communities and associated services and would undermine the Council's strategy in relation to the location of new housing.
13. Even if Policy S7 of the LP were to be out of date and afforded limited weight, there would, nonetheless, be conflict with paragraph 79 of the National Planning Policy Framework (the Framework) which states that, to promote sustainable development in rural areas, housing should be located where it will

enhance or maintain the vitality of rural communities to promote sustainable development.

Other Matters

14. Notwithstanding the Council's reason for refusal, its appeal statement raises concern for visual harm to the countryside, although no convincing evidence is submitted to support this. While certain forms of development on the appeal site may cause harm to the rural character and appearance of the area, given the existing structures and uses on the site, I do not consider that this concern is insurmountable. A solution appropriate to the character and appearance of the area could be achieved through subsequent reserved matters applications. I do not therefore find conflict with paragraph 174 of the Framework insofar as it requires planning decisions to contribute to and enhance the natural and local environment, including character and beauty of the countryside.
15. The SNP contains site allocations for housing which meet, and exceed, the area's indicative housing requirement figure provided by the Council. Despite not being one of the allocated sites, Policy STEB9 within the Housing and Design chapter of the SNP states that it provides additional guidance to Policy S7 of the CS and gives a list of the types of proposals that will be supported within the defined countryside. One of the criteria states that priority will be given to development on previously developed land, as defined by the Framework, and which the main parties agree the site to be. Considered as a whole, I do not find there to be conflict with the basket of policies contained within the SNP.
16. I have had regard to the matters raised by third parties. In light of the defined site boundaries and the existing uses on the site, there would not be a harmful encroachment on the accessible green spaces of Stebbing Green. As the required visibility splays are available, and in the absence of substantive evidence to the contrary, I do not find the proposed access would cause harm to highway safety. Neither do I have substantive evidence to demonstrate that future occupiers would be subject to unacceptable levels of air pollution. Any future intentions to enlarge the development are not before me and are not for consideration as part of this appeal.

Planning Balance

17. The Council accept that it does not have an up-to-date housing land supply. As such, the provisions of paragraph 11 of the Framework are relevant to the appeal. The most important policies are deemed to be out of date and the Framework requires that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
18. The appeal scheme has been found to be poorly located for housing due to having poor accessibility to services and facilities, and being heavily reliant on use of private cars. To this harm I afford substantial weight.
19. There is dispute between the parties as to the extent of the shortfall in the Council's housing land supply, but the Council have provided a more up to date figure of 3.52 years for the period of 2021- 2026, as of 1 April 2021. This represents a significant shortfall and in this context, the delivery of up to 9 dwellings on the appeal site represents a significant benefit to the District's

housing stock. In addition, the proposed homes would be on a medium sized site, which paragraph 69 of the Framework acknowledges as one which can make an important contribution to meeting the housing requirement of an area, and which are often built-out quickly.

20. The parties agree the site is previously developed land which appears on the Council's brownfield register and which paragraph 119 of the Framework identifies can play a role in the effective use of land in meeting the need for homes and other uses. While the previous planning permission for nine houses on the appeal site¹ is no longer extant, that permission informed the Council's five year land supply statement in January 2021 as a windfall site acknowledged to provide housing during the period up to 2033, thereby highlighting the importance of the site to the delivery of housing in the District at that time. For these reasons, taken together in the context of the Council's significant housing shortfall, I ascribe substantial weight to the benefit of the delivery of housing through the appeal scheme.
21. Furthermore, the appeal scheme has the ability to deliver environmental benefits through the removal of the existing commercial uses on the site which include car storage and parking. I also note that, while the 2017 permission is no longer extant, the circumstances at the time of that approval have not substantially changed, particularly insofar as the application of the development plan and the site specific circumstances are concerned. Together these matters attract moderate weight in favour of the development.
22. In addition, there would be economic benefits in terms of jobs created during the construction phase, which add further weight in favour of the development. While there could be visual and ecological improvements to the appeal site, as I do not have details of these matters before me, I afford these minimal weight as benefits of the proposal. Similarly, the absence of objections from certain consultees is a neutral matter and I do not give weight in favour of the development as result of the Officer's recommendation for approval, which was part of the Council's decision making process.
23. Overall, while I have found that harm would arise as a result of the appeal scheme, those adverse impacts described would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. In line with paragraph 11d) of the Framework, the presumption in favour of sustainable development therefore applies, and planning permission should be granted.

Conditions

24. The Council and its consultees have suggested conditions that they consider would be appropriate, I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
25. As planning permission for the development is granted at outline stage with all matters reserved except for access, a condition is necessary to secure matters of appearance, landscaping, layout and scale, with the standard conditions specifying when the reserved matters applications must be submitted and

¹ UTT/17/2480/OP approved 28 November 2017

when the development must be commenced by. A condition listing the approved drawings is also necessary to provide clarity to the parties.

26. A suite of highways conditions has been suggested. As the proposed access already exists with good visibility, and as the appellant has provided a plan of the access, I consider that the inclusion of these drawings in the approved plans condition is sufficient to secure the visibility splays and safe access. To preserve highway safety I have imposed a condition requiring those visibility splays shown to be maintained free of obstruction at all times, and also conditions relating to the positioning of any gates and the use of a bound surface at the point of access. As the plans show only a single access, and in the absence of evidence to suggest the other accesses need to be removed to make the development acceptable, I do not find it necessary to condition the removal of other accesses. Given the site specific circumstances here relating to the size of the appeal site and the nature of Dunmow Road in the vicinity of the site, I do not consider it necessary to condition a Construction Management Plan.
27. With regard to a Residential Travel Information Pack and vouchers for the new homes, while the intentions would promote use of sustainable transport by future occupiers, as I have found the surrounding highways to be particularly unwelcoming for pedestrians, the Pack could inadvertently cause harm to pedestrian safety. For this reason it would not meet the test of necessity or reasonableness.
28. In the absence of evidence as to why it is necessary in planning terms, I have not conditioned that all new dwellings exceed the building regulations standards for accessibility. Similarly, as electric vehicle charging points now fall under building regulations, I consider such a condition is not necessary in planning terms.
29. As the site is within an area of archaeological interest, a condition is imposed to ensure that any findings are dealt with appropriately. I have separated this into two conditions to allow them to be discharged in turn. The first needs to be a pre-commencement condition to ensure that provision for investigation is established from an early stage. To promote biodiversity, a condition is imposed to secure the biodiversity enhancements specifically listed in the appellant's ecological report. Given the scale of those enhancements, I do not find further details of their location are necessary.
30. In the interests of the safety of future occupiers and in light of the previous uses of the site, conditions are imposed relating to land contamination. One of those is pre-commencement to ensure that a remediation scheme is carried out at an early stage. Given the proximity to the dual carriageway of the A120, a condition is also imposed relating to noise insulation to ensure the development delivers an acceptable standard of accommodation.

Conclusion

31. In light of the above reasoning, and having regard to all matters raised, I conclude that the appeal is allowed.

C Shearing

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) An application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 5) Any gates installed to the vehicular access shall be inward opening only and shall be set back a minimum of 12 metres from the back edge of the carriageway.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans only insofar as they relate to matters of access: 2021-441-001 'Location Plan', 2021-441-003 'Existing Site Plan', 2021-441-005 'Site Visibility Splays'.
- 7) The visibility splays shown on drawing 2021-441-005 'Site Visibility Splays' shall remain free of obstruction at all times.
- 8) No development or ground works shall commence until details of a scheme for the investigation of archaeological remains on the site have been submitted to and approved in writing by the local planning authority. This shall include a programme for archaeological trenching, a mitigation strategy detailing the methods of excavation and preservation of any remains, and a timetable for implementation of these works. The development shall be carried out in accordance with the approved details.
- 9) Prior to commencement of any development above the existing ground level, a post-excavation archaeological assessment shall be submitted to and approved in writing by the local planning authority, including where necessary, post-excavation analysis, preparation of a full site archive and a report ready for deposition at a local museum, and a publication report.
- 10) Prior to the first occupation of any part of the development, the biodiversity enhancements listed within section 10 of the report 'Ecological Survey and Assessment for Sabre House Stebbing' by Essex Mammal Surveys, dated January 2021, shall be installed in full and shall be maintained at all times.
- 11) No development shall take place until a land contamination remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of

the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- 12) The land contamination remediation scheme shall be implemented in accordance with the approved timetable of works. Within two months of the completion of measures identified in the approved remediation scheme, a validation report, demonstrating the effectiveness of the remediation carried out, shall be submitted to the local planning authority.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 14) Development shall not commence above the slab level of any new dwelling until a scheme of sound insulation for the new dwellings has been submitted to, and approved in writing by, the local planning authority. The scheme must demonstrate that suitable internal noise levels can be achieved as set out in BS 8233: 2014. The measures must be implemented in full and in accordance with the approved details prior to occupation of any dwelling hereby permitted.