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# Appeal Decision

Site visit made on 8 February 2023

**by David Smith BA(Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 February 2023**

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**Appeal Ref: APP/C1570/W/22/3291446**

**Eastfield Stables, May Walk, Stansted, CM24 8SS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
  - The appeal is made by NB Investments UK Limited against Uttlesford District Council.
  - The application Ref UTT/21/2687/FUL, is dated 24 August 2021.
  - The development proposed is improvement of existing vehicular access point and the construction of a single storey wellness hub building and associated car, cycle and motorcycle parking area.
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## Decision

1. The appeal is allowed and planning permission is granted for improvement of existing vehicular access point and the construction of a single storey wellness hub building and associated car, cycle and motorcycle parking area at Eastfield Stables, May Walk, Stansted, CM24 8SS in accordance with the terms of the application, Ref UTT/21/2687/FUL, dated 24 August 2021, subject to the conditions in the attached schedule.

## Preliminary Matter

2. If the Council had been able to decide the application within the prescribed period, it would have been refused. The putative reasons allege that insufficient opportunity has been taken to make the location more sustainable and that the introduction of significant built form in the countryside would have a harmful impact on the open landscape character of the area.

## Main Issues

3. These are:
  - Whether the proposed development would be in a suitable location having regard to relevant national and local policies; and
  - The effect on the character and appearance of the countryside.

## Reasons

4. The appeal site is adjacent to Elsenham Road (B1051) at the southern end of the larger Eastfield Stables site. At the northern end are buildings that have been converted into residential use. The M11 motorway and Elsenham village lie to the east. May Walk is a public bridleway immediately to the west.
5. The proposed wellness hub building is shown to be divided into three separate units. Informal interest in occupying them has been expressed for palm

healing, facial aesthetics, a nail bar and yoga classes. Access would be gained from Elsenham Road via an entrance that has been created but is not in use and which would be improved.

#### *Location*

6. The proposed development would be outside any defined settlement limits and would therefore be in the countryside for planning policy purposes. Policy S7 of the Uttlesford Local Plan of 2005 says that the countryside will be protected for its own sake and establishes that new building will be strictly controlled. Planning permission will only be given for development that needs to take place there or is appropriate to a rural area. Whilst those receiving treatments may find a rural setting more relaxing and beneficial, such uses could equally occur within a settlement and do not require a countryside location. The proposal would therefore be contrary to Policy S7.
7. In a compatibility assessment undertaken in 2012, that policy was found to be partly consistent with the National Planning Policy Framework. Paragraph 85 of the Framework recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. That would be the case here. The restrictive approach of Policy S7 takes no account of the need to support a prosperous rural economy in line with the Framework. Therefore, in deciding this appeal, the weight to be given to the conflict with Policy S7 is limited.
8. The proposed development would be reasonably close to the edge of Elsenham. However, in assessing an appeal for 11 dwellings, the Inspector considered that links by sustainable transport modes are not well developed with only a narrow footpath on one side of the B1051 and some distance to the nearest bus stop (Ref: APP/C1570/W/21/3271985). Although provision within the proposal would be made for cycle parking and the Council considers the location of the site to be sustainable, that assessment holds good.
9. Paragraph 85 nevertheless also acknowledges that sites may be in locations that are not well served by public transport. Development should, however, exploit any opportunities to make a location more sustainable but the scope to achieve this for a relatively modest development such as this is limited and it is not a pre-requisite in any event. In practice, some trips to and from the site could be made by sustainable modes of transport as it would be feasible to walk or cycle from Elsenham. However, the likelihood of this occurring would not be high.
10. Therefore, it cannot be concluded that the development would encourage movement by means other than the car as expected by criterion e) of Local Plan Policy GEN1. However, the importance to be given to that conflict is tempered by the provisions of paragraph 85 and also the Framework's acknowledgement that sustainable transport solutions will vary between urban and rural areas.
11. When judged against the development plan the proposal would not be in a suitable location. However, the harm to be attributed to the conflict with relevant policies regarding the countryside and access is reduced by the provisions of the more recent Framework.

### *Character and appearance*

12. Although there is quite an agglomeration of buildings at the northern end of the land controlled by the appellant company, the appeal site is clearly separated from that group. It is also at a lower level and largely grassed. As such, the appeal site retains the character of a paddock.
13. The parcel of land to the east is referred to as a commercial site but this is not obvious from what I observed. The sales particulars provided do not refer to it as such but only to the steel structure that is in place and a planning permission for a stable block. Although a rough track runs through the appeal site this does not confer on it the status of previously developed land. These factors therefore do not materially affect the assessment to be undertaken.
14. Local Plan Policy S7 expects that the appearance of development should protect or enhance the particular character of the part of the countryside within which it is set. The Framework also provides that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.
15. The proposed building would be 25m by 10m. It would be finished in black weatherboarding with clay roof tiles and would have a sturdy, rural appearance that would be suitable for its setting. The proposed parking area alongside it would be fairly modest in size. There would nonetheless be an intrusion into undeveloped and open land, albeit on a limited scale. Because of its extent, the proposal would not lead to a physical coalescence between Elsenham and Stansted Mountfitchet.
16. The proposed building would be well screened from Elsenham Road by the wide belt of woodland alongside the road. Similarly views into the site from May Walk would be limited by the trees and existing banking. Just because new development in the countryside would be well hidden from public gaze does not make it acceptable. However, the practical implications of its siting are that the effect on the appearance of the countryside would be insignificant.
17. Although appropriately designed the proposed building would detract from the rural character of the countryside and so would be at odds with Policy S7. However, the level of harm would be at the lower end of the scale. Furthermore, the broad support for business development provided by the Framework, limits the weight that should be attached to this policy conflict.

### **Other Matters**

18. Visibility splays to the requisite standard can be achieved and there are no technical highway objections. The proposed development would be unlikely to generate significant traffic volumes. No formal access would be provided from May Walk. There would be no unacceptable impact on highway safety and relevant parts of Local Plan Policy GEN1 would be complied with.
19. The original location of the proposed building would have negatively impacted the successional habitat conservation value and the potential for protected fauna associated with very early secondary woodland. To mitigate this, the wellness hub was re-located further from this small area. The Council is now satisfied that the proposal would avoid impacts to potentially sensitive habitats and protected and priority species.

20. Policy RS3 of the Local Plan seeks to retain services in rural areas and so is not relevant to the consideration of a proposed use. Similarly, Policy RS1 is concerned with accessibility to ensure social inclusion which could be achieved wherever the proposed building was located. Neither of these policies therefore favour the proposal.

### **Planning Balance**

21. The proposed development would not be in a suitable location when judged against relevant Local Plan policies and would cause limited harm to the character of the countryside. As such, it would not accord with the development plan as a whole. However, the weight to be given to this conflict is modest because those policies do not fully reflect the provisions of the Framework, especially those relating to business uses in rural areas.
22. The Council accepts that some of its policies are only partly compliant with the Framework and that paragraph 11 d) is therefore engaged. Indeed, the policies which are most important for determining this appeal are out-of-date.
23. The Framework indicates that planning decisions should enable the expansion of all types of business in rural areas through well-designed buildings. The proposed wellness building would meet that expectation. The site would also be physically well related to Elsenham and the development would be sensitive to its surroundings in line with paragraph 85 of the Framework. The proposal therefore reflects the type of development that may have to be accepted outside existing settlements in order to support the rural economy. National policy also aims to enable and support healthy lifestyles and the use of the proposed building would be likely to increase well-being.
24. Although these benefits cannot be quantified, they would be considerable. Set against that, the adverse impacts identified would not significantly and demonstrably outweigh them. Therefore, the presumption in favour of sustainable development applies and paragraph 11 d) indicates that permission should be granted. There are no other material considerations to override this finding.

### **Conditions**

25. The plans should be specified in the interests of certainty. The access, parking and turning areas should be provided before the building is first used to ensure that it functions properly and safely. For visual reasons, details of hard surfacing should be approved. The plans indicate that additional planting is to be undertaken and a condition is required to secure suitable native species.
26. Given the potential for great crested newts to be present in the vicinity of the site, precautionary measures should be taken during construction. Measures to enhance the natural environment should also be included, given the location of the site and the policies to this effect in the Framework. Details of any lighting should also be provided to ensure that it is sensitive to bats.
27. Where necessary the wording of the suggested conditions has been adjusted for simplicity and clarity.
28. There is no indication of the likelihood of contamination of the land. Given the nature and layout of the proposed development there is no need for a condition expecting investigation and/or remediation. The Council has put forward a

condition requiring a vehicle charging point for each dwelling. Whilst the Framework promotes sustainable transport neither it nor the Local Plan contains specific policies regarding provision at destinations such as this.

### **Conclusion**

29. 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 succeed.

*David Smith*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings ES/WB/001A and ES/WH/002A and the revised location plan.
- 3) The development hereby permitted shall not be occupied until the access onto Elsenham Road, internal access road, car and cycle parking area have been provided in accordance with drawing ES/WB/001A. Thereafter the car and cycle parking area shall be retained for those purposes.
- 4) No development above ground level shall take place until details of the hard surfacing materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and completed prior to the first occupation of the development hereby permitted.
- 5) The development hereby permitted shall not be occupied until a scheme of soft landscaping has been submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out within timescales specified by the local planning authority.
- 6) No development shall take place until details of precautionary mitigation measures and/or works to reduce potential impacts to great crested newts during the construction phase have been submitted to and approved in writing by the local planning authority. The approved measures and/or works shall be implemented in accordance with an agreed timescale and retained during the construction phase.
- 7) No development above ground level shall take place until details of measures to enhance biodiversity have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented in accordance with an agreed timescale and retained thereafter.
- 8) No development above ground level shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. Those details should demonstrate how the lighting would be sensitive to bats and not prevent or disturb them from using their territory. The approved lighting shall be implemented in accordance with an agreed timescale and retained as such thereafter.