



Appeal Decision

Site visit made on 27 June 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Appeal Ref: APP/C1570/W/22/3313842

Land South of Grange Place, High Lane, Stansted Mountfitchet CM24 8YG

- 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 Queensbury Homes against the decision of Uttlesford District Council.
- The application Ref UTT/22/2370/FUL, dated 24 August 2022, was refused by notice dated 26 October 2022.
- The development proposed is the erection of two buildings to accommodate nine apartments and associated works including hard and soft landscaping and provision of covered car parking.

Decision

1. The appeal is allowed.

Procedural Matters

2. The Council originally refused the planning application for four reasons. However, after the submission of this appeal, the Council has confirmed that the concerns expressed in respect of ecology and flood risk could be satisfactorily addressed. I have no reason to disagree and have therefore proceeded on this basis.
3. Prior to determining the planning application, the Council amended the address of the appeal site. However, I have considered the address used on the application form and believe it to be an accurate description of the appeal site's location. I have therefore used it to outline the site's location.

Main Issues

4. The main issues relevant to this appeal are:
 - the effect of the development upon the character and appearance of the surrounding area; and
 - whether the proposed development would have an acceptable overall level of density.

Reasons

Character and appearance

5. The appeal site consists of an undeveloped area of land located on the periphery of the settlement. The surrounding land uses include several buildings which adjoin the appeal site's side boundaries. The appeal site itself, includes several mature trees and other planting. The front boundary of the

site is marked by wooden fences. The appeal site is situated between roads shown on the submitted plans as being High Lane and Gall End Lane.

6. The proposed development would result in an overall increase in the level of built form at the appeal site. This would be in addition to areas of hardstanding. In result, the proposed development would result in a more urbanised appearance and a loss of the site's open character. This would be exacerbated by the overall height of the proposed buildings.
7. In addition, Gall End Lane serves as a transitory space between the built form of the settlement and the open countryside beyond. The proposed development would therefore result in buildings that are viewable from this road. This would result in a loss of this character. However, the overall effect of this would be limited by reason of the set back from the boundary of the site and the fact that the proposal would be viewed against a backdrop containing buildings.
8. As a result, the proposed development would erode the more rural and verdant character that is a feature of this part of the settlement. Therefore, the less developed character of the vicinity would be eroded by the scheme. These adverse effects would be exacerbated due to several outbuildings that would be sited within the gardens of the proposed development.
9. The proposed development would include some landscaping. However, owing to the amount of space within the development for this to take place, it would not mitigate the overall effect of the increase in built form. In addition, any such landscaping would potentially take some time to become established, which would limit its effectiveness as a means of mitigating the form of the development. This does not therefore overcome my previous concerns.
10. Furthermore, the proposed development would be readily perceptible from neighbouring properties, as well as the adjoining land. In addition, some elements of the development would be visible from the nearby road network. This means that the scheme would be potentially experienced by a great number of people which would render it strident.
11. The surrounding area features buildings constructed to differing designs and proportions. This includes different heights, footprints, roof shapes and materials. In addition, buildings are set back from the road by varying amounts.
12. In consequence, the roof shape and use of Juliet balconies within the proposed development would not result in harm to the character of the surrounding area. Therefore, these features would assist to a limited degree in allowing the building to harmonise with its surroundings. Furthermore, the proposed development could be constructed from materials that would allow it to assimilate to the surrounding area.
13. Whilst these matters would reduce the harm to the character and appearance of the surrounding area, it would not completely overcome it as the open and less developed character of the appeal site will still be eroded.
14. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policy GEN2 of the Uttlesford Local Plan (2005), and the Essex Design Guide. Amongst other matters, these seek to ensure that developments are

compatible with the layout of surrounding buildings; safeguard important environmental features in its setting; and that developments are appropriate to the setting and context.

Density

15. The proposed development consists of nine dwellings arranged within two buildings. Furthermore, the proposed dwellings would each contain two bedrooms each. In addition, the dwellings also contain items such as living rooms, kitchens, bathrooms, and other circulation spaces in the buildings.
16. In considering this appeal, the Council has raised concerns regarding the fact that the proposed dwellings would have a floor space greater than the minimum specified within the Nationally Described Space Standards. However, the council has not been able to direct me to any adopted planning policies that required developments to be carried out in accordance with the Nationally Described Space Standards.
17. Considering the absence of any adopted policy, I am unable to find any harm arising from the approach taken by the developer. This is because the Nationally Described Space Standards are intended to be a minimum level of provision, rather than a maximum. The development would add to the delivery of housing within the local area as they would provide a differing type and scale of home.
18. Given that the proposed development would feature a layout that would ensure appropriate living conditions for the future occupiers of the dwellings and would not erode the living conditions of the neighbouring occupiers, I am unable to find harm regarding the number of dwellings that have been proposed within the development.
19. Although this approach has meant that there is a lower level of dwellings within the development than might otherwise be the case, I have not been directed towards any form of planning policy or guidance that seeks to establish a minimum density within new residential developments. Owing to the fact that the appearance of the development would be broadly similar to other schemes elsewhere within the surrounding area, I do not believe that the scheme would be harmful in this regard.
20. In addition, on my site visit, I noted a significant number of dwellings in the surrounding area. Several of these are in proximity to other buildings. In result, the fact that the appeal scheme would result in dwellings that are located near to one another would not result in any adverse effects given the similarities with other developments elsewhere. In result, I do not believe that the proposed development would not fully optimise the use of the site.
21. I therefore conclude that the proposed development has an acceptable level of density. The development, in this regard, would comply with the requirements of the National Planning Policy Framework (the Framework). Amongst other matters, this seeks to ensure that developments make efficient use of land and take into account the identified need for different types of housing.

Other Matters

22. The proposed development would, by reason of its scale, result in an increase in the level of traffic travelling to and from the site. However, due to the

number of dwellings proposed, any such increase is unlikely to be large. Therefore, the development would not result in an erosion of highway safety or impinge upon the free flow of traffic. In addition, the development would feature sufficient car parking.

Planning Balance

23. The evidence before me indicates that the council cannot currently demonstrate a five-year housing land supply. Accordingly, the provisions of paragraph 11(d) of the Framework apply. This states that planning permission should be granted unless 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.
24. In this particular instance, the proposed development would have an adverse effect upon the character and appearance of the surrounding area. However, any such harm would generally be of a low level and therefore can be ascribed a limited amount of weight.
25. Conversely, the proposed development would result in the provision of nine new dwellings. although the council has taken steps in order to reduce the deficit in the five-year housing land supply, there does remain a notable shortfall. Therefore, the proposed development would go some way in order to addressing this need. However, given the scale of the development, this would not result in a substantial increase in the housing supply. In consequence, I give it a moderate amount of weight in my assessment.
26. Furthermore, the proposed development would generate some economic benefits arising from the construction and operation of the dwellings. given that some of these effects would be limited in impacts and owing to the number of people that are likely to reside within the proposed scheme, these economic benefits are likely to be of a limited level and therefore attracts a limited amount of weight.
27. In result, given the limited harm that would arise from the development and the limited to moderate benefits that would arise from the grant of Planning Permission, I do not find that the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits. In result, and in line with the provisions of Paragraph 11(d) of the Framework, planning permission should be granted.

Conditions

28. I have given consideration to the list of conditions as suggested by the Council. In addition to the standard implementation condition, a condition is necessary to specify the approved plans.
29. In order to allow the development to assimilate with its surroundings, a condition covering the materials from which the buildings are constructed is necessary. However, given the point in which such materials would be used, this does not need to be a pre-commencement condition. In addition, it has not been demonstrated that such details should include photographs. For similar reasons, a landscaping scheme should be secured by condition. However, owing to the point that these details should be implemented, a pre-commencement condition is not needed.

30. In order to ensure that the development does not have an adverse effect on living conditions of neighbours, a condition requiring a Construction Management Plan is necessary. Given that needs to take effect from the outset, these details need to be agreed prior to the commencement of development. However, I have amended the wording suggested by the Council to omit references to vehicle routing as these may be outside of the control of the appellant.
31. To prevent an adverse effect on flood risk and to avoid adverse effects on the environment, conditions regarding drainage provision and maintenance; contamination; landscape and ecology management; ecology mitigation; electric car charging; and external lighting are necessary. In addition, to prevent an erosion of highway safety conditions regarding access; surface treatments; and the provision of access gates are necessary.
32. The Council has suggested conditions regarding the provision of travel vouchers to future occupiers. However, it has not been demonstrated how this would deliver a permanent change to public transport. Therefore, it is unnecessary. The Council has requested a condition requiring that developments be constructed in accordance with elements of the Building Regulations. However, given that the policy support to which I have been directed is not explicit in requiring this, I am unable to conclude that such a condition is a necessity.
33. It has been suggested that conditions are imposed regarding the positioning of lighting. However, as I have already concluded that the imposition of a condition regarding any lighting is required, such a condition would represent unnecessary duplication. Although, the Council has suggested a removal of permitted development rights, the Framework is unambiguous that there should be clear justification for doing so. Owing to the size of the appeal site, the set back of the buildings from the highway and relationship with neighbouring properties, I am not persuaded that there is clear justification. Accordingly, I have not imposed this condition.
34. Where necessary, I have removed references to mechanisms by which alternative details might be agreed to provide certainty regarding the approval.

Conclusion

35. For the preceding reasons, I conclude that the appeal should be allowed, and planning permission granted, subject to conditions.

Benjamin Clarke

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans. W799 A; W800 0; W801 1; W802 2; W803 3; W804 4; W805 5; W806 6; W807 7; W808 8; W809 9; W810 10; W811 11; W812 12; W813 13; W814 14; W815 15; W816 16; W817 17; W818 18; and W819 19.
3. Prior to any above ground works taking place, a schedule of the types and colours of the materials to be used in the external finishes shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in full accordance with the approved materials.
4. Prior to any above ground works taking place, details of all hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details prior to occupation of the dwellings hereby approved. The landscaping details to be submitted shall include:
 - a) proposed finished ground levels (earthworks to be carried out);
 - b) means of enclosure of the land (boundary treatments);
 - c) hard surfacing and other hard landscape features and materials;
 - d) existing trees, hedges or other soft features to be retained;
 - e) details of soft landscaping and planting, including specifications of species, sizes, planting centres, number and percentage mix;
 - f) details of siting and timing of all construction activities to avoid harm to all nature conservation features; and
 - g) management and maintenance 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.

5. Prior to commencement of the development hereby approved, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period.

The CMP shall provide for:

- a) the parking of vehicles of site operatives and visitors,
 - b) loading and unloading of plant and materials,
 - c) storage of plant and materials used in constructing the development,
 - d) wheel and underbody washing facilities.
6. Prior to commencement of the development hereby approved, a Reptile Mitigation Strategy shall be submitted to and approved in writing by the local

planning authority. This shall be informed by up-to-date reptile surveys and shall include the identification of an appropriate off-site receptor site, where it is identified this is necessary to conserve any on-site reptile populations.

The Reptile Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance of the receptor area(s).
- i) Details for monitoring and remedial measures (where necessary).
- j) Details for disposal of any wastes arising from works.

Thereafter, the Reptile Mitigation Strategy shall be carried out in accordance with the approved details and all features shall be maintained as such at all times.

7. Prior to commencement of the development hereby approved, a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution shall be submitted to and approved in writing by the local planning authority. The scheme shall be maintained thereafter.

8. Prior to any above ground works, details of nine integrated bird and nine integrated bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details, and retained thereafter.

9. Prior to any above ground works, the renewable energy/climate control and water efficiency measures associated with the development shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be occupied until all the approved renewable energy/climate control and water efficiency measures have been implemented.

10. Prior to any above ground works, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- a) Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of TheCIRIA SuDS Manual C753.
- b) Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year plus 40% allowance for climate change storm event subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.

- c) Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- d) Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- e) Final modelling and calculations for all areas of the drainage system.
- f) The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
- g) Detailed engineering drawings of each component of the drainage scheme.
- h) A final drainage plan which details exceedance and conveyance routes, First Floor Levels (300mm above flood level) and ground levels, and location and sizing of any drainage features.
- i) A written report summarising the final strategy.

The scheme shall subsequently be implemented prior to occupation of the development hereby approved.

11. If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant/developer shall notify immediately and in writing the Local Planning Authority and work must be halted on the part of the site affected by the unexpected contamination. Any land contamination identified shall be remediated to the satisfaction of the local planning authority prior to occupation of the development hereby approved to ensure that the site is made suitable for its end use.

12. Prior to occupation of the development hereby approved, a maintenance plan detailing the maintenance arrangements, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed in writing by the Local Planning Authority. If any part of the site will be maintainable by a maintenance company, details of long-term funding arrangements should be provided.

13. Prior to occupation of the development hereby approved, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP will be secured by the developer with the management body(ies) responsible for its delivery. The LEMP shall set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed (with the local planning authority) and implemented (by the developer) so that the development delivers the fully functioning biodiversity objectives of the approved scheme.

14. Prior to occupation of the development hereby approved, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 58.5 metres to the North and 2.4 metres by 58.5 metres to the South, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times, and retained thereafter.

15. Prior to occupation of the development hereby approved, the width of the access at its junction with the carriageway shall be 6 metres and at right angles to the existing carriageway. Thereafter, the private drive hereby approved shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back of footway and retained thereafter.

16. Prior to occupation of the development hereby approved, the vehicle parking and turning areas indicated on the approved plans shall be provided. Thereafter, the vehicle parking and turning areas shall be retained as such at all times in relation to the development hereby approved and shall not be used for purposes in connection with the airport.

17. No unbound material shall be used in the surface treatment of the vehicular access within 10 metres of the highway boundary.

18. 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. Thereafter, the gates shall be retained as such in perpetuity.

19. Prior to occupation of the development hereby approved, an electric vehicle charging point shall be provided on site. Thereafter, the charging point shall be fully wired and connected, ready to use and retained thereafter.

20. Prior to first occupation of the development, details of any external lighting to be installed on the site, including the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, only the details thereby approved shall be implemented.

21. All ecological mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Ground Control, December 2022) and the Aerial Tree Inspection letter (Ground Control Ltd, November 2022). 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. Thereafter, the appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details. The enhancement measures and/or works shall be carried out strictly in accordance with the approved details and shall be retained thereafter.