



Appeal Decision

Site visit made on 22 August 2023

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/J1915/W/23/3316579

Land north of St James Way and west of Thorley Street, Bishops Stortford

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of reserved matters consent subject to conditions.
 - The appeal is made by Wrenbridge (FREOF V Bishops Stortford) LLP against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0510/REM, dated 2 March 2022, was approved on 25 August 2022 and reserved matters consent was granted subject to conditions.
 - The development permitted is approval of reserved matters for layout, scale, appearance and landscaping of 3/21/1749/VAR (approved under outline planning 3/18/2253/OUT) for E(g)(ii), E(g)(iii), B2 and B8 uses including servicing, landscaping, means of enclosure and associated works and infrastructure.
 - The condition in dispute is No.4, which states that: Prior to occupation of the first unit hereby approved, a Servicing and Delivery Plan shall be submitted to the Local Planning Authority for approval in writing in consultation with the Highway Authority. The Servicing and Delivery Plan shall contain details of:
 - the delivery and servicing arrangements (including refuse storage and collection) for the proposed units,
 - areas within the development site that will be used for loading and manoeuvring of delivery and servicing vehicles,
 - access to / from the site for delivery and servicing vehicles,
 - the HGV plan and routing register to be kept by all occupiers to evidence that HGVs visiting the site have travelled via the A120, Bishops Park Way and St James Way when travelling to and from the M11 and A10 (unless otherwise making a delivery to the town itself),
 - how the landowner will communicate the provisions and responsibilities of the Servicing and Delivery Plan to future occupiers to ensure they are complied with in perpetuity.The development shall be implemented in accordance with the details approved.
 - The reason given for the condition is: In the interests of maintaining highway efficiency and safety; in accordance with Policies 5 and 16 of Hertfordshire's Local Transport Plan (adopted 2018).
-

Decision

1. The appeal is allowed and the reserved matters consent Ref 3/22/0510/REM for approval of reserved matters for layout, scale, appearance and landscaping of 3/21/1749/VAR (approved under outline planning 3/18/2253/OUT) for E(g)(ii), E(g)(iii), B2 and B8 uses including servicing, landscaping, means of enclosure and associated works and infrastructure, at Land north of St James Way and west of Thorley Street, Bishops Stortford, granted on 25 August 2022, by East Hertfordshire District Council, is varied by deleting condition 4.

Background and Main Issues

2. The appeal site is allocated under Policy BISH5 of the East Herts District Plan (adopted October 2018) as forming part of a major mixed use urban extension, comprising, amongst other things, 4-5 hectares of new employment land. The site also has outline planning permission, including permission for means of access, for up to 4 hectares of employment land, comprising a mixture of B1, B2 and B8 uses and a car showroom.
3. The appellant is seeking a variation of the disputed condition that reflects the wording that was agreed with Officers and was set out in the Officer report and recommendations, before the Planning Committee resolved to impose an amended condition, which the appellant had no opportunity to make representations upon.
4. In reaching my decision I must have regard to the relevant legislation and guidance regarding planning conditions. The reserved matters being considered in this case are layout, scale, appearance and landscaping. The Planning Practice Guidance (PPG) relating to the use of planning conditions, states at Paragraph:025 Reference ID: 21a-025-2014036 that: *"The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters. Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted."* The views of the two main parties have been sought on the relevance of this guidance to the appeal and I have taken these comments into account in reaching my decision.
5. The main issues are therefore whether the condition is reasonable and necessary having regard to the scope of the reserved matters approval, and if so, the effect of varying or deleting the condition on highway efficiency and safety.

Reasons

Whether the condition falls within the scope of the reserved matters

6. The condition in dispute requires a servicing and delivery plan to be submitted to and approved in writing by the local planning authority prior to the occupation of the first unit on the site. The condition includes a list of the details that should be included within this plan.
7. Details identifying how and where refuse will be stored and collected, and identifying areas within the site to be used for the loading and manoeuvring of delivery and servicing vehicles, are relevant in terms of considering the layout and appearance of the site. However, I note that the submitted plans identify space for the storage of waste and recycling bins within the curtilage of each unit. The submitted plans also show that there would be space to the front of each unit to enable the loading and unloading of servicing and delivery vehicles, including associated manoeuvring space, without obstructing the highway. As such, having regard to paragraph 56 of the National Planning Policy Framework (the Framework), which makes clear that planning conditions should be kept to a minimum, and only used where they meet the relevant tests, I consider it unnecessary to condition the submission of further details in relation to these matters.

8. The condition also seeks details of access to and from the site for delivery and servicing vehicles. The evidence before me confirms that means of access to the site was approved alongside the outline planning permission and is not a reserved matter. The plans submitted with the reserved matters application clearly identify satisfactory means of vehicular access to and from each individual unit within the site. The submitted plans show a single means of access to and from the site, via a new roundabout on the A1184 St James Way. The roundabout and initial site access were already in place at the time of my site visit. Given the nature of this previously approved new access road, which is designed to cater for this type and scale of development, I consider it unnecessary to condition the submission of further details regarding access to and from the site for delivery and servicing vehicles.
9. The condition also seeks to secure a HGV plan and routing register, together with details of how the land owner would communicate the provisions of this to future occupiers of the development, to ensure it is complied with in perpetuity. The condition states that the plan should ensure that HGVs travelling to and from the appeal site to and from the M11 and A10, do so via the A120, Bishops Park Way and St James Way (unless otherwise making a delivery to the town itself), in the interests of highway efficiency and safety.
10. The principle of a major employment development in this location, and its associated traffic implications, will already have been extensively considered and accepted, prior to allocating the site for this form of development and again prior to granting outline planning permission, including means of access. The routing of HGV traffic outside of the appeal site, apart from being incredibly difficult to enforce, would not in my view fall within the scope of the matters reserved for consideration under this application or appeal.
11. I therefore conclude that the condition in dispute is not directly relevant to the reserved matters and consequently, my deletion of the condition would not conflict with Policies 5 and 16 of the Hertfordshire Local Transport Plan (2018), which seek amongst other things to limit the impacts of development on the transport network and to encourage HGVs to use the primary route network.
12. As I have found that the condition in dispute falls outside of the scope of the reserved matters, it is not necessary for me to consider the Council's reasoning behind it further. Whilst I have considered the variation of the wording of the condition as suggested by the appellant and previously recommended by Officers, this would also fall outside of the scope of the reserved matters and would fail the relevant tests for conditions.

Other Matters

13. A large number of objections have been received in relation to the variation or deletion of the condition in dispute. These relate primarily to concerns regarding highway safety (including the safety of pedestrians and cyclists), air quality concerns, noise, vibration and damage to local buildings and infrastructure, due to increased HGVs travelling along the A1184 (to the south of the appeal site) through Sawbridgeworth and Spellbrook. Despite being a classified A road, I am advised that this route passes schools and residential areas and is already heavily congested, has poor air quality, and that the road and footpaths are narrow in parts.

14. Whilst I acknowledge and have had regard to all of the concerns raised, and fully understand the reasoning behind them, the condition in dispute was imposed purely on highway safety and efficiency grounds and falls clearly outside of the scope of the reserved matters that are up for consideration as part of this stage of the proposal.
15. There is also no evidence before me to suggest that the reserved matters proposal falls outside the parameters agreed by the outline planning permission.

Conclusion

16. For the reasons given above, I conclude that the appeal should succeed. I will vary the reserved matters consent by deleting the disputed condition.

R Bartlett

INSPECTOR