



Appeal Decision

Site visit made on 18 June 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2024

Appeal Ref: APP/C1570/W/23/3333029

Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Stuart Richardson of NB Investments UK Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2239/FUL.
 - The development proposed is erection of 3 holiday let cottages.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 3 holiday let cottages at Eastfield Stables, May Walk, Elsenham Road, Stansted CM24 8SS in accordance with the terms of the application, Ref UTT/23/2239/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have also dealt with another two appeals¹ adjacent to this site. Those appeals are the subject of separate decisions.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for development with regard to the policies of the development plan for development in the countryside and access; and
 - the effect of the proposed development on the character and appearance of the countryside.

Reasons

Suitable Location

4. The appeal site lies in the countryside. Uttlesford Local Plan (2005) (LP) Policy S7 seeks to protect the countryside for its own sake and sets out that there will be strict control on new building. It confirms that development will only be allowed where it needs to take place there or is appropriate to a rural area. There is no evidence before me which demonstrates that there would be a need for the proposed development, nor why in and of itself it would be appropriate to a rural area. The approval of the commercial wellness hub does not equate to policy compliance for this proposal.

¹ APP/C1570/W/24/3337011 and APP/C1570/W/24/3340838

5. The site lies within reasonable proximity to Elsenham and is linked by a footpath that runs alongside the B1051. This would allow for access by walking or by cycle, although I do not have any substantive detail before me of any facilities within Elsenham which would be attractive to tourists. Due to the limited width of the footpath and speed of passing traffic, the footpath may not be attractive to pedestrians. A road subject to the national speed limit may not be attractive to cyclists. I therefore could not conclude that the proposal would encourage movement other than by means of the private car.
6. The proposal would therefore not be a suitable location for development with regard to the policies of the development plan for development in the countryside and access. It would be contrary to LP Policy S7 which seeks to protect the countryside for its own sake and only allow development that needs to be there. It would also be contrary to LP Policy GEN1(e) which requires development to encourage movement by means other than driving a car.

Character and Appearance

7. At my site visit, I observed the wellness hub building which had walls and a roof and some surrounding areas of broken hardstanding. There was also an access road which led to the dwellings and other buildings at the opposite end of the site.
8. The proposed three holiday cottages would be accommodated in a modest single storey building. Parking would be provided adjacent to the parking areas for the wellness hub, to the opposite side of the access road. There would be a reasonable separation between these buildings. There would be considerable open land separating the site from the residential development, and a more limited area to the boundary with the B1051. The proposal would therefore not appear cramped when viewed in conjunction with the wellness hub, nor would it materially harm the open characteristics of the countryside. The position of the proposed building means it would not affect the overall separation between Stansted and Elsenham.
9. There would inevitably be increased activity arising from the proposed development. However, this would be limited given the small scale of the proposed holiday lets. Given the likely levels of existing activity in the immediate vicinity of the site arising from the development to north of the site and the likely increase in activity anticipated from the wellness hub, this would not be materially harmful to the character of the area.
10. The proposal therefore would not cause unacceptable harm to the character and appearance of the area. It would therefore comply with LP Policy S7 as it would protect the character of the area.

Other Matters

11. The application was accompanied by a preliminary ecological appraisal (PEA) which identified that the proposal would have an acceptable effect on biodiversity subject to mitigation and enhancement measures. I have no reason to reach a different conclusion. There is no substantive evidence before me that this site functions as a public open space.
12. A parking space is shown for each unit which is considered acceptable given the modest size of the proposed holiday lets. There is no substantive evidence before me that the additional traffic generated by three holiday lets would

harm other users of May Walk, where drivers should exercise due care and attention. Nor is there any substantive evidence before me that the access to the B1051 or the additional trips generated by three units would have an adverse effect on highway safety.

13. I have determined this appeal on its own planning merits which are unlikely to be in identical circumstances to decisions taken on other sites. I have also had regard to the extensive planning history of the site. This is not a proposal for permanent residential accommodation and should not be assessed on that basis. Any future applications would fall to be determined on their own merits, and their effect on nature conservation assets would be considered at that time. I have not been directed to any policy requirement for there to be an explicit community benefit arising from the proposal.
14. Suitable landscaping could be secured by condition. The effect on landscaping secured on another permission would be a separate matter for the Council to address.
15. The red line for the application site does not include all of the access road across the paddock and so this would not form part of the development to be considered. The planning system should not seek to duplicate controls imposed by the building regulations.

Planning Balance

16. The proposal conflicts with the policies for development in the countryside which seek to protect the countryside for its own sake. However the weight I attach to this conflict is reduced because LP Policy S7 is out of date as it does not acknowledge the importance of a prosperous rural economy. It also conflicts with LP Policy GEN1(e) as it would not encourage movement by means other than the private car. This is also out of date as it does not contain any acknowledgement that options for maximising sustainable transport solutions vary between urban and rural areas. This reduces the weight I attach to the conflict with those policies.
17. I have not been made aware that the proposed development would harm any areas or assets of particular importance, therefore paragraph 11(d)(i) of the National Planning Policy Framework (the Framework) is not engaged.
18. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The Framework confirms that the sustainable growth of all types of businesses should be enabled in rural areas provided new buildings are well-designed. I am satisfied that would be the case here. The economic benefits would be moderate. However, the adverse impacts I have identified – the conflict with the locational policies of the development plan and the limited opportunities for modes of transport other than the private car, would not significantly and demonstrably outweigh the benefits of allowing the proposal.

Conditions

20. The Council has suggested conditions should I be minded to allow the appeal. I have had regard to these in light of the tests set out in paragraph 56 of the Framework and I have made amendments to some of them for consistency, certainty and clarity purposes, including removing tailpiece provisions. In the interests of certainty, I have imposed conditions stipulating the timescale for the commencement of works and the approved plans.
21. The approved plans indicate materials but do not include details of all colour finishes. It is reasonable and necessary for these details to be approved to ensure the appearance of the proposal would be acceptable. It is not necessary for this detail to include photographs. Landscaping would be important in integrating the development into its rural surrounds and can be secured by condition. It is not however reasonable to require compliance with unspecified British Standards.
22. A construction method statement would be reasonable and necessary to protect the living conditions of adjacent residents. It is reasonable and necessary to ensure that access and parking are provided prior to the first occupation of the holiday lets and to require their retention. It is also reasonable and necessary to ensure that any gates would be positioned in such a way that there would be sufficient space for a car to fully pull off the highway and to limit the use of unbound material to prevent it from moving onto the highway.
23. It is reasonable and necessary to impose a condition restricting the occupation of the property to holiday lets. I have replaced the condition suggested by the Council with one that restricts occupation to 3 months in any calendar year and additionally requires a register of occupiers to be kept to ensure the condition is enforceable.
24. The PEA made a number of recommendations which are reasonable and necessary in the interests of biodiversity. I amended the suggested condition to require compliance with the requirements in relation to the construction phase and nesting animals. Lighting and enhancements are subject to separate conditions to ensure appropriate schemes are provided and that any further lighting installations are controlled in the interests of biodiversity and flight safety given the proximity of the site to Stansted Airport. Any boundary treatments would be assessed as part of the landscaping condition.
25. The provision of electric vehicle charging points and provision of water and energy efficiency measures are controlled by the building regulations. There are no requirements in the development plan for additional measures. It would not be reasonable or necessary to impose these conditions.

Conclusion

26. The proposed development conflicts with the development plan when read as a whole. For the reasons given above, I have attached limited weight to this conflict, and there are no other material considerations which would weigh against the proposal. The policies of the Framework are a material consideration which weigh strongly in support of the appeal as the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposed development.

27. I therefore consider that in the specific circumstances of this case, the material considerations indicate that the decision should be taken other than in accordance with the development plan. Accordingly, the appeal should be allowed.

J Downs

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 the following approved plans except insofar as they show exterior lighting details for which no permission is given: ES/HL/RESUB/001; ES/HL/RESUB/002 Rev B; ES/HL/RESUB/003 and ES/HL/RESUB/004 Rev B
- 3) Prior to any works above slab level, 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 works above slab level, 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;
- g) management and maintenance details;
- h) any water landscaping works (including any ponds and water features) and drainage 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 any works above slab level, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The statement shall specify the provisions to be made for the control of noise and dust emanating from the site and shall be consistent with the best practicable means as set out in the Uttlesford Code of Development Practice. Thereafter, the approved CMS shall be adhered to throughout the construction period.
- 6) Prior to occupation of the development hereby approved, the vehicular access shall be constructed at right angles to the highway boundary and to the

existing carriageway as shown on the approved drawing. Thereafter, the access shall be retained as such at all times.

- 7) 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 and shall not be used other than for the benefit of the occupants of the holiday lets hereby approved. The vehicle parking area shall not be used for any purpose other than the parking of vehicles that are related to the use of the development hereby approved.
- 8) 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.
- 9) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
- 10) The development shall be occupied as holiday accommodation only and shall not be occupied as a sole or main place of residence or by any persons for a period exceeding 3 months in any calendar year. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home addresses and their date of arrival and departure from the accommodation.
- 11) The development hereby approved shall be carried out in accordance with the details contained in section 4.2 of the Preliminary Ecological Appraisal (Open Spaces, July 2023) insofar as they relate to the construction phase of the development and nesting birds.
- 12) Prior to occupation of the development hereby approved, a lighting design scheme for biodiversity in accordance with General Note: 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The scheme shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.Thereafter, all external lighting shall be installed in accordance with the specifications and locations set out in the approved scheme and shall be maintained in accordance with the scheme at all times.
- 13) Prior to its installation, any further exterior lighting shall be submitted to and approved in writing by the local planning authority. The submitted details shall include the design of the lighting unit, any supporting structure and the extent of the area to be illuminated, Thereafter, only the details thereby approved shall be implemented.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
- 15) Prior to any works above slab level, a Biodiversity Enhancement Layout for biodiversity enhancements shall be submitted to and approved in writing by the local planning authority.

The Biodiversity Enhancement Layout should be in accordance with the details contained in section 4.2 of the Preliminary Ecological Appraisal (Open Spaces, July 2023) and shall include:

- a) detailed designs or product descriptions for biodiversity enhancements; and
- b) locations for biodiversity enhancements on appropriate drawings.

Thereafter, the enhancement measures shall be implemented in accordance with the approved details prior to occupation of the development hereby approved and shall be retained in that manner thereafter.