Planning Inspectorate

Appeal Decision

Site visit made on 17 December 2024

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2025

Appeal Ref: APP/C1570/W/24/3351924
Start House, Bedlars Green Road, Tilekiln Green, Great Hallingbury, CM22 7TH

- 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 Mr Jason Hector against the decision of Uttlesford District Council.
- The application Ref is UTT/23/2352/FUL.
- The development proposed is the erection of one dwelling to rear of Start House

Decision

1. The appeal is allowed and planning permission is granted for the erection of one dwelling to rear of Start House Bedlars Green Road, Tilekiln Green, Great Hallingbury, CM22 7TH in accordance with the terms of the application ref UTT/23/2352/FUL, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published during the appeal. The main parties were given the opportunity to comment and I have considered the revised Framework in my decision

Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance

4. The appeal site is an area of land that lies behind the two properties of Start House and Hill View, and was formerly part of the rear garden to Start House. It lies within the countryside, as defined by saved Policy S7 of the Uttlesford Local Plan 2005. The Policy states development will only be permitted if its appearance protects or enhances the particular character of the part of the countryside within which it is set. The site also falls within the Countryside Protection Zone (CPZ) around Stansted Airport, as defined by saved Policy S8. That Policy states permission will not be granted for new buildings that promote coalescence between the airport and existing development in the surrounding countryside, or if it would adversely affect the open characteristics of the CPZ.

5. The absence of built development on the appeal site lends an element of openness to the immediate area. However, a communication tower lies to the east of the site,

whilst to the north is a cycleway/footway beyond which can be seen large commercial buildings. In addition to Start House and Hill View, a further dwelling can be seen from the site, currently under construction along Bedlars Green Road. As such, the appeal site appears as an enclosed parcel of land surrounded by a variety of commercial and residential development. Accordingly, I observed its contribution to the wider rural and countryside character to be limited.

6. The appeal site previously formed part of the garden of Start House and has since been separated. The proposed development would see the erection of a single storey dwelling at the site, accessed via an extension to the existing vehicular access from Bedlars Green Road, which currently serves Start House. While it would introduce built form at the currently undeveloped site, its plot size and coverage would be comparable to the adjoining properties and, combined with the modest scale of the dwelling, would retain the open character and appearance of the area.

7. Although the appeal site is set higher than the road, the positioning of the proposal relative to Start House and Hill View, in addition to its flat roof and the limitation of the building to a single storey, would mean there would be little visibility from the road, ensuring it is a subtle addition to the streetscene that does not read as prominent or visually disruptive. The design of the dwelling, with its flat roof, render, and timber-clad elevations differs from the immediately adjoining houses. However, the design approach is suitable for the modest height and simple form of the property and, among the mix of building forms in the wider vicinity, would not be harmful to the character of the area.

8. In views of the property and the wider area from the road and from the adjoining cycle/footway, the proposal would thus appear as part of the small group of housing in this part of Bedlars Green Road, such that there would not be a resulting visual impression of back-land development but rather a cluster of residential dwellings set within comparable plots. The existing access drive and parking areas serving Start House and the new house under construction are clearly visible from the road. The extension of this drive to serve the new property would change the appearance of the raised part of the appeal site through the new engineering for the road. This change, though, would be seen in the context of a developed road frontage along Bedlars Green Road within a cluster of development, rather than appearing as a jarring addition to an open and undeveloped part of the rural countryside. As such, it would assimilate with the immediate character of this section of the street.

9. On the main issue I conclude that the proposal would not be harmful to the character and appearance of the area of the part of the countryside within which the appeal site is set, and would not adversely affect the open characteristics of the CPZ. It would therefore be consistent with saved Policies S7, S8 and GEN2 of the Local Plan, and with the objective set out in the Framework, insofar as they seek good design in new developments.

Other matters

10. The proposal would provide an additional dwelling in a sustainable location, adjacent to existing housing and close to employment and service centres, making more effective use of land that the main parties agree is previously developed. The appellant informs me the Council is unable to demonstrate a 5 year housing land supply, and this is not disputed by the Council. In light of this, and given the

Framework is clear that small sites can make an important contribution to meeting housing requirement, I attach moderate weight to this benefit. The dwelling would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy, and I attach modest weight to these matters.

11. Policies S7 and S8 of the Local Plan state that planning permission will only be granted in the CPZ or open countryside for development that needs to take place there. However, I find this blanket approach to protecting the countryside and the CPZ to be inconsistent with the more positive approach of the Framework. My findings in this regard are supported by the submitted Compatibility Assessment and previous appeal decision[1] As such, I attach limited weight to any conflict between the proposal and these policies in this specific regard.

12. The Council found that the existing access to the road would be acceptable for use by the proposed dwelling, with sufficient parking provided for the property. From my observations at the site visit I concur with that finding. The single storey dwelling that is proposed would be distant enough from existing adjoining properties to ensure no overbearing effect to existing occupiers, nor any loss of privacy. There is also nothing substantive before me to suggest harm arising due to the presence of the nearby mast. These are examples of a lack of harm, which are neutral in the planning balance.

13. Saved Policy H4 of the Local Plan concerns back land development that sets out criteria to be satisfied relating to the development of land that does not have a road frontage. I have commented earlier that, due to the proposed development appearing as a cluster of residential dwellings set within comparable plots, there would not be an impression of back land development. However, in any event I have also found that the proposal would not lead to a harmful effect on the amenity of neighbouring properties, and would lead to the more effective use of land for housing. I am therefore satisfied there would not be a conflict with Policy H4.

14. The dwelling would be close to Stanstead Airport, the M11 and an industrial site. The application was accompanied by a Noise Impact Assessment (NIA). The Council's Environmental Protection Officer (EPO) commented that there would be noise to the development, but recommended a planning condition be attached if permission was to be granted. The Planning Officer's Delegated Report stated that no objection would be raised to the dwelling on the grounds of noise due to other dwellings existing in close proximity, subject to this condition being attached. I am satisfied that a condition requiring the measures set out in the NIA would ensure a dwelling with reasonable and adequate noise mitigation.

15. Due to the location close to the Airport the Safeguarding Authority for Stanstead Airport responded during the course of the planning application. They raised no objection on the grounds of harm to aviation safety but required conditions be attached. I concur that this matter can be addressed in such a fashion.

Planning balance

16. Given my findings on the lack of housing supply, paragraph 11 (d) of the Framework is engaged. This indicates that in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and

[1] APP/C1570/W/22/3308532

demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

17. The proposal would result in conflict with certain aspects of Policies S7 and S8 of the Local Plan. It would not accord with the development plan as a whole. However as outlined above, I attach only limited weight to any associated harm. I have also found the proposal would comply with the aims of these policies and the Framework insofar as they relate to securing high quality design and protecting the character and appearance of the area. While some harm may arise due to noise impacts, as such effects can be mitigated through the imposition of a planning condition, this also attracts limited weight.

18. The government's objective is to significantly boost the supply of homes, and there is considerable support in the Framework for new housing. There is, on the evidence before me, a shortfall in housing within the Council area, which the proposal would address. Although a single dwelling, for the reasons given above I attach moderate weight to this. I have also attached modest weight to employment arising during construction and support for local services.

19. Therefore, taking account of all matters outlined, I find that the adverse impacts of the proposal would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole. As such the presumption in favour of sustainable development would apply.

Conditions

20. I have attached the conditions suggested by the EPO relating to noise mitigation, for the reasons given earlier. The EPO also identified the site being close to a former landfill site and recommended a condition be attached to address this matter. I concur this is necessary, and no objection has been raised to this by the appellant.

21. I have attached the conditions required by the Safeguarding Authority for Stanstead Airport relating to measures during construction and restrictions on permitted development rights to ensure safety of flights, and refer to the need for notification to the Authority and to the Civil Aviation Authority if the conditions are not attached. The appellant has not raised objection to these measures and I agree they are necessary, reasonable and relevant to the development being permitted; this includes the removal of permitted development rights, since those restrictions are in the interests of aviation safety.

22. The application to the Council was accompanied by an ecological survey, with mitigation and enhancement measures. The Council's ecological advisor found this information acceptable and recommended approval subject to conditions, which I have attached since they are necessary and reasonable. No objection has been raised to this.

23. Finally, I have attached a condition relating to commencement and specifying the approved drawings in the interest of precision and proper planning.

Conclusion

24. For the reasons given, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

C J Leigh

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: RMDS/SH23/001, RMDS/SH23/002, RMDS/SH23/003 & RMDS/SH23/004.

3) No development approved by this permission shall take place until a Phase 1 Desk Study report documenting the ground conditions of the site with regard to potential contamination has been submitted to and approved in writing by the Local Planning Authority. This report shall adhere to BS10175:2011.

   a) Where shown to be necessary by the Phase 1 Desk Study, a Phase 2 Site Investigation adhering to BS 10175:2011 shall submitted to and approved in writing by the Local Planning Authority.

   b) Where shown to be necessary by the Phase 2 Site Investigation a detailed Phase 3 remediation scheme shall be submitted for approval in writing by the Local Planning Authority. This scheme shall detail measures to be taken to mitigate any risks to human health, groundwater and the wider environment. Any works which form part of the Phase 3 scheme approved by the local authority shall be completed in full before any permitted building is occupied.

   c) Prior to occupation the effectiveness of any scheme shall be demonstrated to the Local Planning Authority by means of a validation report (to incorporate photographs, material transport tickets and validation sampling), unless an alternative period is approved in writing by the Authority. Any such validation should include responses to any unexpected contamination discovered during works.

   d) If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the land owner shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.

4) Details of a scheme of noise mitigation measures in full compliance with all recommendations of the submitted acoustic report (dated 24th August 2023 Project Ref: 10275) shall be submitted to the Local Planning Authority for written approval prior to above ground works. Once approved the scheme shall be implemented in full prior to the use commencing and permanently retained thereafter.

5) Measures to minimise and manage the creation of dust and smoke should be implemented for the full duration of all construction works, including demolition and excavation, in accordance with the advice of Stansted Airport and the Civil Aviation Authority.

6) During construction and in perpetuity, robust measures are to be taken to prevent species of birds that are hazardous to aircraft being attracted to the site, including regular inspection of roofs to ensure that gulls are not nesting there. In the event of any increased population, the site owner should commit to manage hazardous birds and/or adopt additional habitat management in order to mitigate the risk, in liaison with Stansted Airport.

7) The percentage of berry bearing and fruit bearing plants within any approved planting scheme for the site are to be limited as to not exceed 10% of the total planting species mix.

8) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no reflective materials (including solar PV) other than clear or obscure glass shall be added to the building.

9) Notwithstanding the provision 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.

10) The use of radio frequency (RF) emitting devices in this location has the potential to interfere with Stansted Airport's Communication, navigation, and surveillance (CNS) equipment. RF devices are to be approved by Stansted Airport prior to energisation

11) No lighting shall be fitted directly beneath any roof lights that will emit light upwards – only downward facing ambient lighting to spill from the roof lights upwards – with automatic blinds to be fitted that close at dusk.

12) All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Survey Update (Hybrid Ecology Ltd., February 2024).

13) Prior to commencement of works a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

    a) Risk assessment of potentially damaging construction activities.

    b) Identification of "biodiversity protection zones".

    c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

    d) The location and timing of sensitive works to avoid harm to biodiversity features.

    e) The times during construction when specialist ecologists need to be present on site to oversee works.

    f) Responsible persons and lines of communication.

    g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

    h) Use of protective fences, exclusion barriers and warning signs.

    The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

14) Prior to any works above ground level a Biodiversity Enhancement Layout for bespoke biodiversity enhancement, in accordance with the recommendations of the Ecological Survey Update (Hybrid Ecology Ltd., February 2024), shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following:

a) detailed designs or product descriptions for bespoke biodiversity enhancements; and

b) locations, orientations and heights for bespoke biodiversity enhancements by appropriate maps and plans.

The enhancement measures shall be implemented in accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter."

15) Prior to occupation of the development hereby permitted a lighting design strategy for biodiversity in accordance with GN: 08/23 (ILP) shall be submitted to and approved in writing by the local planning authority. The strategy 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.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

END OF SCHEDULE