



Appeal Decision

Site visit made on 18 December 2024

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2025

Appeal Ref: APP/C1570/W/24/3345364

Old Cottage, Start Hill, Stane Street, Great Hallingbury, Essex CM22 7TG

- 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 Craig and Patrick Huber and O'Sullivan of The Spartan Group Holdings Ltd and PMJ Services Ltd against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/0585/FUL.
 - The development proposed is closure of existing access and formation of new access from the highway. Demolition of outbuildings and erection of 9 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for closure of existing access and formation of new access from the highway. Demolition of outbuildings and erection of 9 dwellings at Old Cottage, Start Hill, Stane Street, Great Hallingbury, Essex CM22 7TG in accordance with the terms of the application, Ref UTT/24/0585/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. The documentation before me indicated that an application for costs would be submitted. However, there is not a formal costs application before me. I have therefore not considered this matter further.

Preliminary Matters

3. On 12 December 2024, a revised National Planning Policy Framework (the Framework) and updated Housing Delivery Test results were published. I have sought further views from the main parties on this and have taken those comments into account in reaching my decision. I will refer to the updated paragraph numbers in this decision.

Main Issue

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

Reasons

5. Older residential development along the B1256 in proximity to the site generally consists of detached dwellings in large plots to one side of the road, and smaller, generally semi-detached properties to the other. However, at my site visit, a newer pattern of development was emerging. A number of sites were under construction, with access being taken from the B1256, and dwellings laid out in a more suburban form with some facing onto the B1256.

6. The form of the proposed development would be consistent with this newer pattern of development. There would be a single access point to the development and dwellings arranged around the access road, other than Plots 8 and 9 which would front onto the B1256. Behind the site, and further to the west is a substantial industrial estate. It is not in dispute that the site was previously developed. The proposal would therefore not result in the loss of rural character, nor would the proposal be incongruous or poorly related to the pattern of surrounding development.
7. It is typical in cul-de-sac layouts for dwellings to be arranged around the access road and for this to also form the turning head. Parking spaces are provided to each dwelling, with varied positions dependent on the design and layout of that plot. The parking spaces are well dispersed across the site and would be clearly within the private spaces of the dwellings. They would not be perceived as, nor operate in the form of a parking court or as part of the general access.
8. While some are in the form of tandem parking, this is a common layout in residential development and would not be uncharacteristic of the surrounding modern development. It would be easily managed by future occupiers of the properties. This is acknowledged in the extract from the Essex County Council Parking Standards document in the Council's statement, which confirms that tandem parking is 'acceptable on-plot'.
9. Given the small number of dwellings in both this and the neighbouring developments, the use of percentages in assessing the provision of tandem parking does not serve any useful purpose. Bin storage locations for the proposed dwellings are shown within the well-proportioned rear gardens, reducing the potential for parking spaces to be lost to bin storage.
10. Consequently, I find that the use of tandem parking in the proposed layout does not indicate that the site is not sufficient to accommodate the development proposed or that it would be uncharacteristic.
11. I have not been directed to any policies within the development plan that would require publicly accessible open space to be provided as part of this development. The Framework is clear at paragraph 103 that the need for open spaces should be assessed as part of the plan making process. While the District-Wide Design Code has been adopted since the Council made its decision, it is a supplementary planning document and would not justify the imposition of additional requirements on development beyond those set out in the adopted development plan. Furthermore, the Council's claims as to the amount of open space required are unsubstantiated as the standard set by N1.7C requires assessment against an existing baseline, no information of which has been provided.
12. Even if I were to consider that open space was now required, the Council sets out that these spaces function as 'left-over spaces'. The Design Code, at N1.4C confirms that such spaces would not count towards open space provision. They therefore would not be subject to the wider requirements for open space, such as N1.1C and N1.5C cited by the Council.

13. The proposal must be assessed on its own merits. While it may involve more dwellings and have a larger developed footprint than the extant permission¹, that is not a reason for refusal in its own right. The Council has not elaborated on how the proposed layout has 'squeezed' additional units onto the site. Nor has it identified the harm that would arise from these additional units. The garden spaces were identified as adequate in the officer report and the committee minute does not contradict this. The potential effect of permitted development rights could be controlled by condition were it deemed to be necessary and so would not justify refusing permission.
14. The proposed dwellings would all be set in appropriately sized plots with sufficient amenity space. Acceptable parking and turning space would all be provided within the site. I have no reason to conclude that the proposal would result in an unacceptable over-development of the site.
15. I therefore conclude the proposed development would have an acceptable effect on the character and appearance of the area. It would be in accordance with Uttlesford Local Plan (2005) Policy GEN2 which requires development to have regard to adopted supplementary planning documents and be compatible with surrounding buildings with respect to scale, form and layout.

Other Matters

16. The B1256 has a 40mph speed limit in the vicinity of the site. Appropriate visibility to allow safe access onto the highway has been provided. While there is a gradient change on the site, there is a level area adjacent to the highway which would allow drivers to safely exit the site onto the road. Should further issues arise, there are powers under highways legislation to address speed limits.
17. Concerns related to water pressure and the effects this would have on occupiers and the fire service would be addressed through other legislation. I have no reason to think that appropriate provision for drainage could not be made. There is no substantive evidence before me that an additional 9 dwellings would have an adverse effect on service provision in the surrounding area.
18. The proposed dwellings would have an acceptable relationship with neighbouring properties with respect to sunlight and daylight, overlooking and loss of privacy. Matters related to drainage and parking arrangements of properties outside the appeal site would not fall within the remit of this appeal, although I note the layout plan does show access to the rear of Old Cottage for parking.

Conditions

19. 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 57 of the Framework and the advice in the Planning Practice Guidance (PPG). I have made amendments to some of them for consistency and clarity purposes. I have removed clauses in conditions which would allow for approved details to be altered in writing as this would not provide certainty. It is not reasonable for conditions to require the approval of other bodies, so such references have been removed. Nor is it reasonable for a condition to refer to measures

¹ UTT/21/3339/FUL

secured on a previous permission so conditions have been amended to address this.

20. The appellant's statement of case confirmed that the extant permission for seven dwellings has been implemented, and my observations on site were that works were taking place. Notwithstanding, as those works could not implement this permission in advance of it being granted, I have amended where necessary conditions to become pre-commencement. The appellant has agreed to this.
21. I have imposed conditions stipulating the timescale for the commencement of works and the approved plans to define the terms of the permission. It is reasonable and necessary for details of materials and a landscaping scheme to be approved in the interests of the character and appearance of the area. As the site is for a sensitive end use, a condition should unexpected contamination be encountered is both reasonable and necessary.
22. Given the proximity of the site to Stansted Airport, it is necessary for the identified noise attenuation measures to be installed. It is not necessary to require a verification report as to the effectiveness of these measures as a matter of course. Also due to this proximity, conditions with regard to external lighting, glint and glare from solar panels and construction management are reasonable and necessary. The external lighting condition can include requirements with respect to upward glare so a further condition in this regard is not necessary. Control over lighting also extends to ensuring there would not be an adverse effect on bats.
23. I have combined conditions managing the adverse effects of the construction process on the living conditions of surrounding occupiers, highway safety and the safe operation of Stansted Airport into a single condition. It is necessary for this to be a pre-commencement condition as the development cannot proceed safely without ensuring these measures are secured. I have removed requirements for a site access as one was present at the time of my site visit and vehicle routing as such measures would not be enforceable.
24. The ecology information submitted as part of this appeal does not detail any precautionary methods of working and as such would serve no planning purpose. I have imposed a new condition, requiring such details to be submitted before the development commences. This should include details of further mitigation for the protection of great crested newts should they be found on the site during construction. It is necessary for this to be pre-commencement.
25. Biodiversity enhancement is also reasonable and necessary. There is no evidence before me that regard has been had to the aerodrome safety concerns raised by Stansted Airport with respect to birds, so requiring compliance with measures identified in the ACJ ecology letter of 10 April 2024 may not be reasonable.
26. It is reasonable and necessary to ensure that appropriate provision is made to manage foul and surface water. I have amended the condition to require that it is also maintained. It is reasonable and necessary to ensure that the site access is provided with appropriate visibility prior to the first occupation of the dwellings in the interests of highway safety. I have reverted to the condition suggested by the local highway authority with respect to the provision of

parking and turning as it is more precise and amended it to require the visitor parking to be provided and retained in the interests of highway safety. It is not necessary to require further details of the access to be secured by condition as the access is shown on the approved plans. The red line for the site does not sit immediately adjacent to the footpath so it is not reasonable to require the developer to undertake works to land which is not within their ownership or control. Nor is it reasonable or precise to require unspecified works to the highway to be carried out. The previous site access had been removed at the time of my site visit, so a condition requiring this would not be necessary. Given the sufficient amenity space within the dwellings, it would not be necessary to require cycle parking to be provided, as future occupiers could make appropriate provision as suits their own requirements.

27. The proposed dwellings would be set in appropriately sized gardens where the utilisation of permitted development rights would not result in unacceptable amenity space for future occupiers, the site appearing overdeveloped nor would there be an adverse effect on character and appearance. The proposed condition would therefore not be reasonable or necessary. The bathroom and en-suite windows at Plot 4 would largely face towards the side elevation of Plot 5 which does not have any windows in the side elevation. There is a sufficient distance between the plots that it would not be necessary to restrict the materials and opening of those windows.
28. The Framework sets out at Footnote 51 that planning policies should make use of the optional technical standards for accessible and adaptable housing where this would address an identified need for such properties. The development plan does not refer to these standards, nor is there any evidence before me of identified needs. It therefore would not be reasonable to impose this requirement. The provision of electric vehicle charging is secured through building regulations, so a condition would not be necessary. I have not been directed to any policy in the development plan that would require developers to make provision for a travel pack or provide travel tickets. This condition would therefore not be necessary. Details of materials are secured through a different condition so it is not necessary to specify that unbound materials should not be used.

Conclusion

29. For the reasons given above the appeal should be allowed.

Jennifer Wallace

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 drawing nos 2023-740-002 Rev B; 2023-740-010 Rev A; 2023-740-012; 2023-740-014 Rev A; 2023-740-016; 2023-740-018 Rev A; 2023-740-020 and 2304450-D003 and OS 2055-20.1 C.
- 3) Prior to any works above slab level, a schedule of the types and colours of the materials (including photographs) 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 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.

The landscaping details to be submitted shall include:

- a) proposed finished 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 planting or features, 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.

All planting, seeding or turfing and soil preparation comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. 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. All landscape works shall be carried out in accordance with the guidance contained in British Standards.

- 5) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 6) The development hereby permitted shall be constructed in accordance with the construction details provided in Section 7 of the Environmental Noise

Assessment submitted (dBC Consultation Ltd, reference 10699, dated 11 July 2023). The mitigation measures shall thereafter be retained as approved.

- 7) Before the development commences, 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 emanating from the site;
 - the control of dust, smoke or any other airborne waste/ debris;
 - the prevention of pools/ponds of water forming on the site;
 - the prevention of birds gathering on the site
 - the installation of lighting
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel and underbody washing facilities.

The development shall be carried out in accordance with the approved CMS.

- 8) Prior to its installation, details of any external lighting to be installed, including the design of the lighting units, 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. The scheme should demonstrate that all exterior lighting would be capped at the horizontal with no upward light spill and shall demonstrate how the scheme accords with the requirements of General Note: 08/23 (Institute of Lighting Professionals) 'Bats and Artificial Lighting at Night' or any equivalent update or replacement. External lighting shall only be installed and operated in accordance with the approved scheme.
- 9) Prior to installation of any solar energy technology, an Aviation Perspective Glint and Glare Assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate no harmful impact to operations at Stansted Airport and there should be no predictions of Red or Yellow Glare. The development shall be carried out in accordance with the approved assessment.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such permitted by virtue of Class E of Part 1 of Schedule 2 to the Order shall be installed.
- 11) Before the development commences, details of all precautionary working methods with respect to biodiversity shall be submitted to and approved in writing by the local planning authority. The submitted details shall include but not be restricted to precautionary measures with respect to transitory wildlife species likely to use the site and a Great Crested Newt Method Statement. This will contain precautionary mitigation measures and/or works to reduce potential impacts to Great Crested Newts during the construction phase. The development shall be carried out in accordance with the approved details.
- 12) 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 submitted details shall include detailed designs or product descriptions for biodiversity enhancements and locations for biodiversity enhancements on appropriate drawings. The development shall be carried out in accordance with the approved scheme and the mitigation measures thereafter retained.

- 13) Foul and surface water drainage shall be installed in accordance with the details within the Flood Risk Statement and Drainage Strategy (2304451-R01, March 2024) as described in section 5 and 6 of that strategy. The foul and surface water drainage shall be implemented prior to occupation of the development hereby approved and shall be retained and maintained.
- 14) Prior to the first 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 98 metres to the west and 2.4 metres by 107 metres to the east with a 1 metre off-set, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be retained free of any obstruction at all times.
- 15) No dwelling shall be occupied until the associated parking and/or turning head indicated on the approved plans serving that dwelling has been provided. The visitor parking shall be provided prior to the occupation of the final dwelling. The vehicle parking and turning heads shall be retained in this form at all times.

End of Conditions