



Appeal Decision

Hearing held on 11 June 2025

Site visit made on 11 June 2025

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2025

Appeal Ref: APP/Z1510/W/25/3359441

Land at Cranes Lane, Kelvedon, Essex CO5 9AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Geoff and Mrs Wendy Scott against the decision of Braintree District Council.
 - The application Ref is 23/00816/OUT.
 - The development proposed is outline application for the erection of around 100 dwellings (including 40% social/affordable housing), associated open space and a rural business court of around 2,500 square metres (Class E Use).
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the erection of around 100 dwellings (including 40% social/affordable housing), associated open space and a rural business court of around 2,500 square metres (Class E Use) at Land at Cranes Lane, Kelvedon, Essex CO5 9AX in accordance with the terms of the application, Ref 23/00816/OUT, subject to the conditions in the attached schedule.

Procedural Matters

2. The proposal is for outline planning permission, and the application form makes clear that approval is also sought at this stage for access to the development, but not for its layout, scale, appearance or landscaping. Drawings have been submitted showing the proposed access along with masterplans, layouts, sections and street elevations. I have treated the masterplans, layouts, sections and street elevations as illustrative.
3. Two options for access to the site were provided reflecting the potential works to the A12. There was discussion at the hearing as to how to ensure the correct design would be implemented. It was agreed that this could be determined following submissions in pursuant to a condition. I have taken this into account in coming to my decision.
4. A legal agreement under section 106 of the Town and Country Planning Act 1990 (the Act) was discussed at the hearing and submitted following it. For clarity, I will refer to this as the planning obligation in my decision. I have taken its provisions into account in coming to my decision as set out in my reasoning.
5. In determining this appeal involving listed buildings or their settings I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Preliminary Matter and Main Issues

6. The land at Crane's Lane is located outside the development boundary of Kelvedon. Policy LPP1 of the Braintree District Local Plan Section 2 (LP) states that development outside those boundaries should be confined to uses appropriate to the countryside. Residential development of the type proposed is not a use appropriate to the countryside. The parties agree that in all other respects this site is well related to local services and facilities and transport to services and facilities elsewhere. In addition, the neighbouring development approved under reference 17/00679/OUT between this site and the development boundary would also be located outside the development boundary. Nevertheless, the location of the proposed development outside the development boundary means it would conflict with Policy LPP1 of the LP.
7. As a result, the main issues are:
 - Whether the development would preserve the Grade II listed buildings known as Crabb's Farmhouse and Crabb's Barn or their setting (or significance).
 - Whether prospective occupiers would enjoy satisfactory living conditions, having particular regard to:
 - The need for ventilation/cooling in some dwellings as a result of noise mitigation systems required to ameliorate noise from the nearby A12 and railway; and
 - noise and disturbance arising from the use of Crabb's Farm/Barn.
 - The effect of the development on the Blackwater Estuary and Dengie Special Protection Areas (SPA) and Ramsar sites, and/or Essex Estuaries Special Area of Conservation (SAC) (the habitat sites).
 - Whether any other considerations would outweigh any harm resulting from the above.

Reasons

Listed buildings

8. Crabb's Farmhouse and Crabb's Barn are attached buildings surrounded by agricultural land a short distance outside Kelvedon. They are each listed grade II.
9. Crabb's Farmhouse is a timber framed, plastered building with a red plain tiled roof. The earliest part of the house, the middle section of 2 bays, was constructed around 1500 with a 2 bay extension, with lower eaves and ridge, added in the 16th century. A further one bay section was added to the right with a higher roof. Its significance as a heritage asset arises from its rural farmhouse character and historic agrarian links to the surrounding farmland.
10. Crabb's Barn was also originally constructed in around 1500 and comprises a timber framed and weatherboarded former barn with a roof of handmade red plain tiles. It is a 4 bay barn with a midstrey dating from the 17th century and with crownpost roof with axial bracing. The end is integral with the closest bay of the farmhouse adjacent. It has been converted for use as part of a wedding venue, but its significance is derived from its historic fabric and remaining agrarian character and appearance linked to the surrounding farmland.

11. The contribution of the site to the significance of those heritage assets arises predominantly from the open character of the site as farmland that would have been associated with the farmhouse and barn. It is that agricultural character that provides the setting to these listed buildings.
12. The proposal would result in development of the site with a substantial number of houses, bringing residential development of Kelvedon closer to these heritage assets and removing this agricultural gap to the village. Combined with the development of the adjacent fields between the site and village, this would affect the rural setting of the two listed buildings.
13. Nevertheless, the illustrative masterplan and layouts indicate that the area closest to the listed buildings would be retained as open, which is further supported through the legal agreement requiring that part of the site to be retained as open space. Landscaping details would also be provided at reserved matters stage. Although it would be likely to provide a more urban parkland character than the existing field, this would assist in minimising any effect on the listed buildings.
14. Over Cranes Lane from the listed buildings are open fields that would not be affected by the development and would retain some agricultural setting to the buildings. The agrarian links to this land are more visually obvious as the rear of the listed buildings reflect the current use of the property, with shepherds hut holiday accommodation, landscaping and outbuildings associated with the holiday and wedding venue uses of the property.
15. Access to the listed buildings is from Cranes Lane. The access improvements, whether or not they reflect changes to the A12, would alter the layout of the lane on its junction with London Road. There would be limited intervisibility between the access to the development and the listed buildings. Nevertheless, as a change to the character of Cranes Lane as a rural lane providing the approach to the listed buildings, this would contribute to the harm to the listed buildings.
16. Taking all the above into account, I conclude that the proposal would harm the setting of the Grade II listed buildings of Crabb's Farmhouse and Crabb's Barn. Such harm would be less than substantial, and low on the spectrum of such harm.
17. While less than substantial, National Planning Policy Framework (the Framework) makes clear at paragraph 212 that great weight should be given to the conservation of heritage assets. Paragraph 215 of the Framework states that such harm should be weighed against the public benefits of the proposal. Policy LPP57 of the LP requires that development that affects designated heritage assets, such as listed buildings and including their settings, must meet the tests set out in national policy. Policy SP7 of the North Essex Authorities Shared Strategic Section 1 Plan (SSSP) and Policies LPP47 and LPP52 of the LP require development to meet high standards of urban and architectural design insofar as this relates to design and layout, protecting and enhancing the historic environment particularly in proximity to heritage assets and that the immediate settings of heritage assets should be preserved and enhanced.
18. I will return to the public benefits and compliance with policies within the LP in the balance section later in my decision.

Living conditions

19. The A12 is located a short distance to the south-east of the site and is raised, with the slip road from Kelvedon passing under the A12 to join it. Immediately to the north-west of the site is the railway line which is slightly lower than the site. Both generate significant levels of noise that may result in poor living conditions to occupiers of residential properties on site.
20. The appellant proposes to mitigate the noise using a screen between the site and railway, such as a bund or fence. Similarly, the commercial area proposed would screen houses to the rear from the noise from the A12 to some extent, provided that were constructed prior to occupation of the houses. These matters could be dealt with via appropriate conditions, including the provision of a noise attenuation scheme.

Ventilation/cooling

21. Even taking account of the above, there would remain some noise impacts on the closest houses to the railway that may lead to residents wishing to keep windows closed facing in that direction. That would necessitate a form of ventilation or cooling system within the houses, which may be mechanical. The appellant has suggested that, rather than a mechanical system, it could be via trickle vents. If mechanical, it would be likely to operate electrically, which would add to electrical demand and would be likely to lead to emissions from generation of that electricity.
22. In the absence of a detailed layout plan or house designs that would be provided at reserved matters stage, it is not possible to know how many or types of dwellings may be affected by noise at the perimeter of the development that would require ventilation or cooling. That may be affected by the internal layout and design of the dwellings. It would be possible to provide a condition requiring further information prior to construction and occupation. This would include details as to whether a non-mechanical form of ventilation or cooling could be provided and the emissions from electricity required for mechanical ventilation or cooling would be assessed at that stage. Taking account that it would only be rooms facing toward the railway that would be affected, any such emissions would be likely to be limited such that it would not result in a level of emissions sufficient to restrict permission on that basis.

Crabb's Farm/Barn

23. The barn at Crabb's Farm and land surrounding it has been used for parties and as a wedding venue. That use has recently ceased, and the property is on the market. Although I understand a noise survey was completed prior to its closure, there is limited information as to the likely effects of this use on occupiers of any residential development. I need to consider the appeal on the basis that the use may re-start in the future.
24. The use of the barn and land around could result in amplified music and other sound being generated. This could travel to the proposed development such that it would harm the living conditions of occupiers of the proposed dwellings, who may be considerably closer to the source of noise than existing residents, apart from those on Cranes Lane. I understand that complaints have been made to the Council's Environmental Health Team about the effect of noise on residents of houses in the vicinity in the past.

25. I understand that a condition attached to the planning permission that enabled the use of Crabb's Barn as a wedding venue sought to limit the effect of noise on occupiers of dwellings in the vicinity of the barn. This limits noise levels 1m from sensitive premises. It remains extant and, given the contents of the condition, would relate to the proposed dwellings. That condition remains enforceable and would ensure occupiers of the proposed dwellings should not be materially affected by noise from Crabb's Farm/Barn.
26. I have referred above to a condition on any consent relating to noise attenuation within the dwellings. Whilst that related to noise from the A12 and railway, it would be necessary for such a condition to also refer to noise from the uses at Crabb's Farm/Barn.

Living conditions conclusions

27. For these reasons and subject to appropriate conditions, I conclude that prospective occupiers would enjoy satisfactory living conditions with particular regard to noise. As a result, the development does not conflict with Policy SP7 of the SSSP and Policies LPP52 and LPP70 of the LP that seek a high standard of layout, design and accommodation, including resisting unacceptable impacts in relation to noise for all prospective occupiers.

The habitat sites

28. The Blackwater Estuary and Dengie SPAs and Ramsar sites, and Essex Estuaries SAC (the habitat sites) comprise wetlands and saltmarsh habitats whose qualifying features are summarised in the Appendix to this decision. Given the proximity of the site to the habitat sites, occupiers of the proposed residential development are likely to visit them for recreation purposes. Such visits are likely to cause disturbance to the qualifying features. In combination with other plans and projects, this would lead to likely significant effects on the integrity of the habitat sites.
29. In these circumstances, as competent authority I am required to carry out an appropriate assessment of the development to determine the extent of those effects, whether they could be avoided or whether mitigation measures could remove or reduce the effects.

Appropriate assessment

30. The appropriate assessment needs to consider the effect of the development on the integrity of the habitat sites and their qualifying features and species. A development of around 100 dwellings is likely to generate significant numbers of trips and visitors to the habitat sites. Particularly in combination with residents of other developments in the area those effects could be substantial.
31. The appellant proposes the provision of a circular walking route through the site and on local public footpaths of at least 2.7km in length. In addition, they would contribute financially to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) as set out in a Supplementary Planning Document. These would be secured through the completed legal agreement submitted under section 106 of the Act.
32. Following consultation with Natural England a number of matters were raised. I understand that the contributions set out within the legal agreement are in

accordance with the appropriate calculations. A number of dog excrement bins are anticipated to be provided in order to meet the needs and would be subject of agreement at a later stage in any event. The circular route will also be subject of agreement. Much of it is on existing public footpaths close to the site. Links through the development site would result in safety risks whilst the development is ongoing, such that the requirements of the legal agreement are appropriate relating to timescales for provision.

33. The RAMS sets out measures to mitigate any likely significant effects. These are in the form of payments to contribute to those mitigation measures and the provision of an alternative walking route through and nearby the site would secure alternative walking provision to avoid disturbance to the qualifying features of the habitat sites.

Habitat sites conclusion

34. Taking account of all the above, I conclude that the mitigation provided in the form of financial contributions and the proposed circular walking route to be secured through the planning obligation would overcome the likely significant effects of the development on the integrity of the habitat sites. The development complies with the requirements of the RAMS and the Conservation of Habitats and Species Regulations 2017. It would not conflict with Policies LPP63 and LPP64 of the LP that seek designated nature conservation sites to be protected from development likely to have an adverse effect on their integrity.

Other considerations

35. My attention has been drawn to Policy HO 1 of the Kelvedon Neighbourhood Plan (NP) that supports new residential development above Local Plan housing requirements where the provision of necessary infrastructure can be achieved in a timely and phased manner with no significant impacts upon the natural environment. I will return to this policy in my balance.

The extent of 5 year housing land supply

36. The Council are able to demonstrate a 5 year supply of deliverable housing sites. This has been calculated at between 5.09 and 5.31 years. Given that this range is small, I consider it unnecessary to determine the supply beyond that level. The Council are also able to demonstrate good performance in the Housing Delivery Test.
37. The calculation of housing land supply is against the figure of 716 dwellings per annum as set out in the LP. However, the Framework now sets a new standard methodology for assessing local housing need (the standard method). The need under that calculation would increase to 1,120 dwellings per annum. The Council will need to start to meet that requirement from February 2026.
38. The Framework sets out the government objective to significantly boost the supply of homes. The Written Ministerial Statement of 30 July 2024 titled Building the Homes we Need and accompanying statement to Parliament identified an acute housing crisis. They set out that it is necessary to oversupply permissions into the system in order to meet the government's target of building 1.5 million new homes by 2029.

39. However, this is set in the context of a plan making system, where sites should be chosen and allocated for development through that system. The Council set out that they intend to consult on a draft Local Plan prepared under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 by December 2025, with an aim to adopt the plan by the end of 2026. However, they indicate that sites would be identified at Regulation 18 stage and anticipate some sites would come forward with planning applications during the course of 2026 that would assist in meeting the requirements generated through the standard method. I note that the timetable to adoption of the Local Plan could change and the stage of preparation means little weight can be attached to it. Nevertheless, there is no reason to consider the timetable put forward is not reasonable or realistic at this stage.
40. For these reasons, whilst I accept that the development would contribute to boosting the supply of housing and assist in meeting government targets, the emerging Local Plan would be required to provide policies in order to meet those needs. Nevertheless, the provision of around 100 dwellings would contribute significantly toward boosting the supply of housing in this area.

Affordable housing

41. The planning obligation provides that 40% of the dwellings within the development will be provided as affordable dwellings. Of these, 70% would be for affordable housing for rent and 30% as shared ownership. This could provide a considerable contribution toward the supply of a range of housing to meet local needs and would meet the requirements of Policy LPP31 of the LP in relation to the provision of affordable housing within development.

Provision of Class E employment use

42. The proposal would include a number of small units totalling around 2,500sq.m floorspace. No end user has been identified for these units at this stage. Nevertheless, this would contribute to the need for employment floorspace within the district. It would provide employment opportunities that may reduce the need for residents to commute out of the district.
43. Whilst the final users of these units is unclear at this stage, this could be a modest benefit of the proposed development in providing employment floorspace.

Support for services and facilities

44. Residents of the proposed development would use local services and facilities, including the shop due to be provided on the neighbouring development. During construction there would also be support to local services and facilities. This would result in additional spend within the community and increase the viability of those local services and facilities.
45. For these reasons, the support of the development toward the viability and vitality of services and facilities could provide a modest benefit.

Open space

46. Open space is required to be provided by Policies LPP50 and LPP63 of the LP and this is secured by the planning obligation. However, the indicative layout plans show more open space to be provided than is required. Given any decision would

specify the number of dwellings, including restricted by condition, this is unlikely to change in the final scheme.

47. As a result, there could be a modest contribution toward the provision of open space beyond that required by policy arising from this development.

Other matters

48. In addition to the above, the planning obligation requires financial contributions toward healthcare, outdoor sport, allotments, education, libraries and Travel Plan monitoring fees. These would meet the requirements of Policy SP6 of the SSSP and Policies LPP50 and LPP78 of the LP for developers to facilitate the delivery of a wide range of social infrastructure to provide for healthy, active and inclusive communities, including through financial contributions.
49. I conclude that these requirements are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
50. In addition, the planning obligation requires monitoring fees be paid in relation to the provisions of the obligation. These fairly and reasonably relate in scale and kind to the development.
51. The planning obligation sets out requirements in relation to private roads and private drives in order to enable access to the dwellings for refuse collection. I note that there is a suggested condition relating to access by refuse vehicles. In accordance with the Framework, planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. As this would be addressed by the condition, I have not taken this obligation into account in coming to my decision.

Balance

52. I have concluded that, subject to conditions, the development would not conflict with Policy SP7 of the SSSP and Policies LPP52 and LPP70 of the LP in relation to providing adequate living conditions to occupiers of the proposed dwellings. Taking account of mitigation provided through the planning obligation, the development complies with Policies LPP63 and LPP64 of the LP in relation to the effects on habitats sites. For the reasons given above, the requirements and contributions set out within the planning obligation would comply with Policy SP6 of the SSSP, Policies LPP31, LPP50, LPP63 and LPP78 of the LP and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). These obligations, combined with appropriate conditions, would ensure that necessary infrastructure could be achieved in a timely and phased manner in accordance with Policy HO 1 of the NP.
53. The development would be outside the defined development boundary of Kelvedon such that it would conflict with Policy LPP1 of the LP. However, that conflict only relates to being outside a defined development boundary and the site is otherwise well connected to services and facilities such that the conflict with this policy is limited.
54. Paragraph 215 of the Framework states that less than substantial harm to heritage assets, such as Crabb's Farmhouse and Barn, should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum

viable use. The public benefits in this case comprise the contribution of the site to housing land supply, including affordable housing, provision of units for Class E employment use, support for services and facilities in the locality and provision of open space as set out in other considerations. I conclude that the public benefits I have identified do not outweigh the less than substantial harm to the setting of Crabb's Farmhouse and Crabb's Barn. As a result, I conclude that the development would conflict with the policies of the Framework in relation to conserving and enhancing the historic environment, along with Policy SP7 of the SSSP and Policies LPP47, LPP52 and LPP57 of the LP. I attribute considerable importance and weight to the harm to the heritage assets and, on that basis, the conflict with the policies is considerable, but does not relate to an effect on the natural environment referred to in Policy HO1 of the NP.

55. I have found no significant impacts upon the natural environment and necessary infrastructure could be achieved in a timely and phased manner. The provision of around 100 dwellings would contribute significantly toward boosting the supply of housing in this area. As a result, the support of Policy HO 1 of the Kelvedon Neighbourhood Plan (NP) toward new residential development above Local Plan housing requirements must carry great weight.
56. Taking all of the above into account, on balance I consider the support derived from Policy HO 1 of the NP outweighs the conflict with Policy SP7 of the SSSP and Policies LPP1, LPP47, LPP52 and LPP57 of the LP. As a result, the proposal complies with the development plan as a whole.

Conditions

57. In addition to conditions providing timescales for the submission of reserved matters and commencement of the development that should be imposed to address legislative requirements, in the interests of the character and appearance of the site and the locality, a condition shall be imposed in relation to reserved matters of layout, appearance, landscaping and scale (conditions 1-3). I shall impose a condition specifying the location plan as this provides certainty (4). A condition is necessary to provide a maximum size of the development for clarity and to reflect the description of development (5).
58. The employment floorspace would assist in protecting residential occupiers of the proposed houses to the rear from noise from the A12. As a result, a condition is necessary to secure construction of that employment floorspace prior to occupation of those houses (6). A condition is necessary to secure a sound attenuation scheme to protect the living conditions of occupiers of the residential development in relation to noise associated with the A12, railway and the neighbouring wedding venue at Crane's Barn. That condition would also ensure any measures to secure sound attenuation would not result in overheating in order to provide satisfactory living conditions for future occupiers of the houses (7).
59. A condition is necessary to secure a full topographical survey along with levels of floor levels of buildings, garden levels, levels at site boundaries and landscaped surfaces in order to ensure satisfactory living conditions for future occupiers of the dwellings and protection of the setting of heritage assets (8). Conditions are necessary to specify information relating to landscaping, layout and appearance and that landscaping is protected for 5 years after completion in order to ensure the character and appearance of the development is satisfactory (9-11). A

condition is necessary for details to be agreed prior to development commencing, and be carried out in accordance with the approved details, in relation to archaeology in order to protect any archaeology and heritage assets within the site (12).

60. A condition is necessary for a site waste management plan to be agreed prior to development commencing to encourage resource efficiency in accordance with Policy LPP72 of the LP (13). Conditions are necessary in relation to foul water and surface water drainage, including maintenance of surface water drainage systems, in order to ensure foul water is adequately dealt with and to reduce the impact of the development on flooding and manage run-off flow rates (14-16). A condition is necessary to provide, prior to development commencing, a construction method statement to ensure the development works take place without undue disturbance to neighbouring occupiers and to maintain highway safety (17). Conditions relating to Construction Environment Management Plan (CEMP), lighting design and Landscape and Ecological Management Plan are necessary, including agreement prior to development commencing or installation, in order to protect biodiversity, ecology and the character and appearance of the area (18-20).
61. A condition is necessary to confirm the access arrangements to the site as two alternative arrangements have been provided according to whether the A12 Chelmsford to A120 Widening Scheme would have been constructed, under construction or construction is anticipated to commence at the time the access to this proposed development is constructed. The scheme to be implemented must be agreed with the Council, who should be aware of progress of the widening scheme, prior to commencement of the development. This is necessary to ensure a safe and suitable access (21).
62. Conditions relating to the maximum height of residential buildings and approval prior to commencement of development of samples of materials are required to protect the character and appearance of the area, setting of heritage assets and the living conditions of occupiers of the dwellings (22-23). A condition relating to contamination is necessary in order to protect the living conditions of occupiers of the dwellings (24). A condition requiring roads within the site to be able to accommodate a refuse vehicle of up to 26 tonnes is necessary to ensure waste can be collected and protect living conditions of future occupiers (25).
63. A condition is necessary to ensure development would meet the needs for housing as set out in the Braintree Strategic Housing Market Assessment (26). A condition requiring at least 10% of new market housing to meet the optional building regulations Category M4(2) or M4(3)(2)(a)/(b) is necessary to provide accessible and adaptable dwellings to meet the needs of future residents (27).
64. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity. I have not included a condition relating to a Construction Traffic Management Plan as I have included its provisions within the Construction Management Plan.
65. The appellant has suggested a condition that would require a minimum of two pedestrian/cycleway links and a feeder road be constructed to the north-eastern site boundary. This is intended to link the access through this site to the development approved under reference 17/00679/OUT on the neighbouring site, that would include up to 300 dwellings, a health centre, a local retail area, a care

home and an early years and child care facility for which reserved matters have not yet, I understand, been approved. I accept, for the reasons they have given relating to providing an integrated and comprehensive planning of the new neighbourhood comprising both sites, that such a condition would be highly desirable and may benefit occupiers of both developments in terms of providing access to services and facilities. Nevertheless, it does not appear to be reflected in conditions relating to the planning permission on the neighbouring site. As a result, it could result in the transport links having to be provided to the boundary but not actually link into that neighbouring site. I note reference to a ransom strip between the sites, although it is unclear whether that could be overcome and, in any event, does not affect my conclusion. On that basis, such a condition would not be necessary or enforceable such that it would not meet the tests of conditions set out within the Framework.

Conclusion

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

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Emma Dring, Barrister instructed by Melville Dunbar Associates

Paul Munson MRTPI Planning Consultant

Melville Dunbar Melville Dunbar Associates

Amy Weston Heritage Consultant, Smith Jenkins

Jennifer Cooke IHBC Heritage Consultant, Smith Jenkins

Martin Court MCIOB MIOA Acoustic Consultant, Sharps Redmore

Harry Bennett MRTPI Lichfields

FOR THE LOCAL PLANNING AUTHORITY:

Jack Barber, Barrister instructed by Braintree District Council

Mathew Wilde MRTPI Principal Planner

Laura Johnson Senior Built Heritage Consultant, Essex County Council

Kathryn Carpenter DipEP Senior Planner, Planning Policy

Pamela Sharp MCIEH Environmental Health

Joanna Lilliot Holmes and Hills Solicitors

DOCUMENTS SUBMITTED AT THE HEARING:

- Document 1: Appellants' submission on proposed Condition 31 titled The Planning Case
- Document 2: Delegated Report into application 22/03344/FUL relating to holiday cabins at Crabb's Barn

Schedule of Conditions

- 1) Details of the layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing no. 1534 – LOC titled Location Plan.
- 5) For the avoidance of doubt, the development hereby permitted shall not exceed 105 dwellings, and 2,600sq.m of employment use (Use Class E).
- 6) The employment floorspace hereby approved shall be constructed prior to occupation of any dwelling closer to the road than the open space secured by the section 106 legal agreement drawing 1534-P020 on the southern edge of the site (adjoining London Road).
- 7) A sound attenuation scheme designed to protect residential living conditions in those dwellings likely to be affected by external noise from the adjacent railway line and A12 (including A12 widening scheme) and wedding venue shall be submitted to and approved by the local planning authority prior to commencement of any residential development. The scheme shall include both external works including bunding and/or a permanent acoustic structure and planting, and details of building design and acoustic performance which shall not exceed the guideline values in BS8233:2014 Table 4 and WHO LAmax level:
 - Resting -Living room 35 dB LAeq,16hour (daytime)
 - Dining - Dining room/area 40 dB LAeq,16hour (daytime)
 - Sleeping/Daytime Resting - Bedroom 35 dB LAeq,16hour
 - Sleeping/Nighttime Bedroom 30 dB LAeq,8hour Typical nighttime LAmax level shall not exceed 45dB(A)

External areas shall be designed and located to ensure that amenity areas are protected on all boundaries as to not exceed 50 dBLAeq,16hr. If a threshold level

relaxation to 55 dBLAeq,16hr is required for external areas full justification should be provided.

Information shall also be provided regarding ventilation and cooling to prevent overheating. It shall be demonstrated that the above sound and relevant overheating criteria are met prior to occupation of affected residential properties. The approved measures shall be completed prior to the occupation of any affected residential dwellings and retained permanently thereafter.

- 8) Concurrent with the submission of reserved matters for layout and/or landscaping under Condition 1 of this decision the following information shall be submitted to and approved in writing by the Local Planning Authority:
- A full topographical site survey showing existing levels including:
 - the datum used to calibrate the site levels;
 - levels along all site boundaries;
 - levels across the site at regular intervals; and
 - levels of adjoining buildings and their gardens.
 - Full details of the proposed finished floor levels of all buildings, proposed garden levels, proposed levels along all site boundaries, and proposed levels for all hard and soft landscaped surfaces.
- The development shall be carried out in accordance with the approved details.
- 9) The landscaping details submitted as part of the reserved matters application shall include indications of all existing trees and hedgerows on the land, identify those to be retained or translocated, and shall set out measures for their protection throughout the course of development.
- 10) All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in accordance with an implementation programme to be agreed in writing with the local planning authority. Any trees or plants which within a period of 5 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.
- 11) The reserved matters applications for layout and appearance shall include the location and design of walls, fences and means of enclosure, the location of refuse facilities, the location and design of lighting and the appearance and location of electric vehicle charging points. These details shall be implemented/installed in accordance with the approved plans.
- 12) A. No development or preliminary groundworks of any kind shall take place until a programme of archaeological and geoarchaeological investigation has been secured in accordance with a written scheme of investigation which has been submitted by the applicant, and approved in writing by, the local planning authority.
- B. No development or preliminary groundworks of any kind shall take place until the completion of the programme of archaeological evaluation identified in the WSI defined in Part 1 and confirmed by the Local Authority archaeological advisors.
- C. A mitigation strategy detailing the excavation / preservation strategy shall be submitted to the local planning authority following the completion of the archaeological evaluation.

D. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been approved in writing by the local planning authority.

E. The applicant will submit an approved archaeological report or (if appropriate) a Post Excavation Assessment report and an Updated Project Design. This shall be done within 6 months of the date of completion of the archaeological fieldwork unless otherwise agreed in advance in writing by the Local Planning Authority. This will result in the completion of post excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 13) A site waste management plan shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. It should:
- present a site wide approach to address the key issues associated with sustainable management of waste, throughout the stages of site clearance, design, construction and operation;
 - establish strategic forecasts in relation to expected waste arisings for construction;
 - include waste reduction/recycling/diversion targets, and monitor against these;
 - advise on how materials are to be managed efficiently and disposed of legally during the construction phase of development, including their segregation and the identification of available capacity across an appropriate study area.
- The development shall be completed in accordance with the site waste management plan.
- 14) No above ground development shall commence within any phase of the development until a scheme for on-site foul water drainage works for the relevant phase has been submitted to and approved in writing by the local planning authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase shall be implemented in accordance with the approved scheme.
- 15) No works except demolition shall take place until 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, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
- 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 The CIRIA SuDS Manual C753;
 - Limiting discharge rates to 3.3l/s l/s for all storm events up to and including the 1 in 100 year rate plus 45% allowance for climate change (see advisory note below). All relevant permissions to discharge from the site into any outfall should be demonstrated;
 - 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 45% climate change event;
 - Demonstrate that features are able to accommodate a 1 in 10 year storm event within 24 hours of a 1 in 30 year event plus climate change;

- Final modelling and calculations for all areas of the drainage system.
- 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;
- Detailed engineering drawings of each component of the drainage scheme;
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to any occupation.

- 16) Prior to occupation 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, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.
- 17) No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for the following:
- hours of site clearance, demolition and construction work including the starting of machinery and delivery of materials;
 - 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;
 - the erection and maintenance of security hoarding;
 - vehicle/wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - measures to minimise the risk of off-site flooding during construction; and
 - contact details and complaints procedures.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 18) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, submitted in accordance with the details contained in the Preliminary Ecological Assessment (ACJ Ecology Ltd, February 2023), The CEMP (Biodiversity) shall include the following:
- Risk assessment of potentially damaging construction activities;
 - Identification of “biodiversity protection zones”;
 - 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);
 - The location and timing of sensitive works to avoid harm to biodiversity features;
 - The times during construction when specialist ecologists need to be present on site to oversee works;
 - Responsible persons and lines of communication;

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

- 19) A lighting design scheme shall be submitted to and approved in writing by the local planning authority prior to installation. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

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.

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

- Description and evaluation of features to be managed;
- Ecological trends and constraints on site that might influence management.
- Aims and objectives of management;
- Appropriate management options for achieving aims and objectives.
- Prescriptions for management actions;
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); and
- Details of the body or organisation responsible for implementation of the plan.
- 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 plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also 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 and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

- 21) Prior to commencement of the development the vehicular access A or B set out below shall be submitted to and approved in writing by the local planning authority:

A. In the event the A12 Chelmsford to A120 Widening Scheme has commenced between junctions 22 and 24 of the current A12, the vehicular, cycle and pedestrian access arrangements as shown on planning application drawing number 48360/PP/003 Rev. D produced by Richard Jackson Engineering Consultants.

B. In the event the A12 Chelmsford to A120 Widening Scheme has not commenced between junctions 22 and 24 of the current A12 the vehicular, cycle and pedestrian access arrangements as shown on planning application

drawing number 48360/P/001 Rev. C produced by Richard Jackson Engineering Consultants.

The development shall not be occupied until those works are complete.

- 22) No development shall exceed a ridge height of 9m from existing ground levels.
- 23) No above ground development shall commence until samples of the materials to be used on the external finishes of the residential dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details and permanently retained as such.
- 24) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and the following must be completed before any further development takes place:
 - a) An investigation and risk assessment must be undertaken and submitted to and approved in writing by the Local Planning Authority; and
 - b) Where remediation is necessary, a remediation scheme must be prepared and submitted to and approved in writing by the Local Planning Authority; and
 - c) Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted to and approved in writing by the Local Planning Authority.
- 25) Any new road which is required to carry a refuse vehicle shall be constructed to take a load of 26 tonnes.
- 26) The Market Housing set out within the Reserved Matters Application(s) shall comply with the housing mix set out within the Braintree Strategic Housing Market Assessment (SHMA) 2015 or successor document.
- 27) Concurrent with the submission of each reserved matters for the residential dwellings, an overall minimum of 10% of new market housing must meet Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible Dwellings of Building Regulations 2015, or as superseded. The following information shall be submitted to the local planning authority:
 - i. A Confirmation Report from an Approved Inspector or Local Authority Building Control Service that the drawings for the 10% market houses meet Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible Dwellings of Building Regulations 2015, or as superseded. The 10% market houses shall only be built in accordance with the approved details and shall be constructed in accordance with Building Regulations Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible Dwellings of Building Regulations 2015, or as superseded.
 - ii. Prior to their occupation, written confirmation from an Approved Inspector or local authority building control service shall be submitted to and approved in writing with the local planning authority to certify that the Category M4(2) or Category M4(3)(2)(a)/(b) – Wheelchair Accessible Dwellings have been built to the agreed standard.

Appendix

Qualifying features of Blackwater Estuary and Dengie SPAs and Ramsar sites, and Essex Estuaries SAC

Habitat site	Qualifying features
Blackwater Estuary SPA and Ramsar Site	Dark-bellied brent goose Common pochard Hen harrier Ringed plover Grey plover Dunlin Black-tailed godwit Little tern Waterbird assemblage
Blackwater Estuary Ramsar Site	Wetland of international importance comprising saltmarsh habitats Invertebrate fauna, including the endangered: A water beetle <i>Paracymus aeneus</i> Damselfly (<i>Lestes dryas</i>) Flies (<i>Aedes flavescens</i> , <i>Erioptera bivittate</i> , <i>Hybomitra expollicata</i>) Spiders (<i>Heliophanus auratus</i> , <i>Trichopterno cito</i>) Saltmarsh plant communities covering the range of variation in Britain Waterfowl including grey plover, dunlin, black-tailed godwit, common shelduck, European golden plover, common redshank
Dengie SPA	Dark bellied brent goose Grey plover Hen harrier Knot Waterbird assemblage
Dengie Ramsar site	Wetland of international importance comprising saltmarsh habitats Rare plant and animal species including: Sea Kale Sea Barley Golden Samphire Lax Flowered Sea Lavender Glassworts Small Cord-grass Shrubby Sea-Blite Eelgrasses Invertebrate fauna, including: Weevil Horsefly Jumping Spider Waterfowl including common redshank
Essex Estuaries SAC	Sandbanks slightly covered by sea water all the time and subtidal sandbanks

	Estuaries Mudflats and sandflats not covered by seawater at low tide; intertidal mudflats and sandflats Salicornia, glasswort and other annuals colonizing mud and sand Spartina swards and cord-grass swards Atlantic salt meadows Mediterranean and thermos-Atlantic halophilous scrubs
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