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## Appeal Decision

Hearing held on 1 December 2015

Site visit made on 1 December 2015

**by Claire Victory BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 April 2016**

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**Appeal Ref: APP/J1535/W/15/3134332**

**North Weald Golf Club, Rayley Lane, North Weald Bassett, Epping  
CM16 6AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by North Weald Grove Limited against the decision of Epping Forest District Council.
  - The application Ref EPF/0183/15, dated 27 January 2015, was refused by notice dated 15 April 2015.
  - The development proposed is the replacement of existing buildings with a three storey building to accommodate 20 no. apartments.
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### Decision

1. The appeal is allowed and planning permission is granted for the replacement of existing buildings with a three storey building to accommodate 20 no. apartments at North Weald Golf Club, Rayley Lane, North Weald Bassett, Epping CM16 6AR in accordance with the terms of the application, Ref EPF/0183/15, dated 27 January 2015, subject to the conditions in the attached schedule.

### Procedural Matters

2. The proposed development would have a lesser volume than the existing Golf Club building, taking into account a two storey extension permitted by the Council<sup>1</sup> that has been implemented. Consequently, it has been agreed by the main parties that the proposal would not be inappropriate development within the Green Belt. I see no reason to disagree.
3. Unilateral undertakings have been submitted by the appellant which I have taken into account and refer to in more detail later. Since the Hearing further information has been provided relating to accessibility to the site by bus. The main parties have been given an opportunity to comment and I deal with this below.

### Application for costs

4. At the Hearing an application for costs was made by North Weald Grove Limited against Epping Forest District Council. This application is the subject of a separate Decision.

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<sup>1</sup> Ref. EPF/2112/05

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## **Main Issue**

5. The main issue is whether the proposal would represent sustainable development, in the context of national and local planning policy.

## **Reasons**

6. The appeal site is located within the built up part of North Weald Golf Course. To the north of the appeal site is a building comprising a children's nursery, hairdressers and store serving the Golf Club, and a Five-a-side Football Clubhouse and pitches. North Weald Golf Course is bisected by the A414, and is bordered by Rayley Lane to the west. Beyond Rayley Lane is North Weald Airfield.
7. Policy CP6 of the Epping Forest Local Plan 1998 (LP) (with 2006 Alterations) aims to concentrate new development within urban areas and to counter trends towards more dispersed patterns of living, employment and travel, promoting mixed use and maximising spare capacity in terms of land, buildings and infrastructure. LP Policy CP3 requires that development can be accommodated within, and is accessible by the existing, committed or planned infrastructure capacity of the area, or that sufficient new infrastructure is provided by the new development/developer. It also requires consideration of sequential approaches to the location of development, and to achieve a more sustainable balance of local jobs and workers.
8. LP Policy CP1 sets out the broad objectives for sustainable development in the District. These include the need to secure the provision of different types and amounts of housing accommodation and facilities to meet the needs of the local population, to avoid further commuting, provide local jobs and reduce reliance on use of the private car. In so far as these policies seek to manage patterns of development and guide new housing to more sustainable locations they are relevant to the supply of housing.
9. A Strategic Housing Market Assessment (SHMA) was published in October 2015, covering the local authority areas of Epping Forest, East Hertfordshire, Harlow and Uttlesford. This provides a figure for the Objectively Assessment Housing Need for the District and for the rest of the SHMA area, but the Council has stated that further work is required to apportion need across the SHMA area, and thus the Council does not yet have an adopted housing requirement. Consequently it concedes that it is unable to demonstrate a five year supply of deliverable housing sites.
10. In accordance with paragraphs 49 and 14 of the Framework, relevant policies for the supply of housing referred to above should not be considered up to date. Furthermore permission should be granted unless any adverse impacts of significant and demonstrable harm would outweigh the benefits of the scheme, when assessed against the Framework as a whole.
11. Paragraph 7 of the Framework sets out the three dimensions to sustainable development by which proposals should be assessed. The social dimension requires planning to support strong, vibrant and healthy communities by providing a supply of housing to meet the needs of present and future generations, with a high quality built environment and accessible local services.
12. The Framework affirms the need to significantly boost the supply of land for housing. The 20 flats proposed would contribute meaningfully to that

objective. Shops and local services are available in nearby North Weald Bassett, including shops, post office, a pub and primary school, about 2km away. I shall give greater consideration to transport issues in due course but given their range and proximity they can be regarded as accessible local services. Consequently I consider that the social dimension of the scheme would be met.

13. With regard to the economic dimension, there would be a benefit arising in the short term from the construction of the development, and future occupiers would support the local economy in the longer term. As such the economic dimension would also be met.
14. Turning to the environmental strand, the Council has confirmed the site is previously developed land. Planning permission has been granted for a two storey extension to the existing clubhouse for bedroom accommodation for visitors and members of the golf club, and there is no dispute that the permission has been implemented. Compared with this fallback position there would be an 8% reduction in built form.
15. The appellant asserts that great importance should be attached to the increase in openness of the Green Belt compared with the permitted scheme if the appeal were allowed. There is no explicit provision within the Framework to attach great weight in these circumstances and the difference between the two scenarios is not that great. Nevertheless, openness is one of the essential characteristics of the Green Belt and I give some weight to the greater impact that the permitted scheme would have on openness if built.
16. The Council contends that due to the location of the site relative to shops and services and existing public transport networks, trips are likely to be predominantly car based, and thus the proposal would not meet the environmental role. Further to the above, the Council referred to LP Policies ST1 and ST2 in the Decision Notice. LP Policy ST1 states that new development will be located in places that encourage walking, cycling and the use of public transport. It further states that in rural areas, preference will be given to locations with access to regular public transport services and containing basic shops and other facilities. LP Policy ST2 requires that new development is designed to provide safe, pleasant, and convenient access for pedestrians and cyclists. There is no evidence that the proposal would fail in this respect.
17. Rayley Lane does not have dedicated footways but a footpath runs east - west across the golf course to Vicarage Lane, and a public bridleway, known as the Bassett Millennium Walk runs north - south across and through the golf course and links Vicarage Lane with the Stort Valley Way. Given the distance to the nearest shops and local services, walking would not be an option for some residents, particularly during inclement weather or during the hours of darkness. Part of the footpath is inaccessible for wheelchair users. Cycling would be an option for some along Rayley Lane, which is a relatively quiet road. I note there are no recorded serious accidents in the last five years for that part of Rayley Lane from which the site is accessed.
18. Turning to public transport, the No 19 bus service from Epping Forest to Harlow operated by Townlink commenced in June 2015. This stopped at Epping Station with connections to the underground, overground and mainline rail networks. I acknowledge that the operation of a bus service is not within the

control of the appellant, and could be withdrawn at any time. Indeed, after the Hearing, I was advised by the Parish Council that the No 19 service had ceased. Whilst bus services change from time to time and the cancellation of the license is apparently being contested there is no clear indication that a service on this route is likely to resume in the near future.

19. The appellant proposes to fund the repair and maintenance of the bus stop and shelter within the appeal site to support a short diversion of a bus service into the site and a financial contribution would be made for a Travel Plan for the development as an alternative. Paragraph 29 of the Framework recognises that sustainable transport solutions will vary from urban to rural locations. However, future occupiers would tend to rely on the private car. Some travel choices would exist but these would be quite limited. Even if the bus service into the site was provided in transport terms the site would not be particularly accessible.
20. The Council has confirmed that the North Weald Bassett Masterplanning Study (September 2014) has a vision for the redevelopment of the area that includes some additional development at nearby North Weald Airfield, and that there are likely to be additional public transport improvements associated with this. The Council has stated that little if any weight can be given to the Masterplanning Study at this time as it has not been adopted, however it would be reasonable to expect that any intensification of development at the airfield or residential development around the existing settlement may in the longer term support public transport services in the locality.
21. Notwithstanding this, due to its travel implications the proposal does not perform particularly well in environmental terms having regard to using natural resources prudently, minimising pollution and moving to a low carbon economy. There is no detailed objection on these grounds but the limited accessibility of the site on foot and potentially from public transport counts against the scheme. The measures put forward to improve opportunities for non-car modes are therefore important. Some benefit would arise from the development of a building with a smaller volume than that already permitted on the site, which would be on previously developed land. The development would be located within a cluster of buildings and there would be no harm to the character and appearance of the area. Nevertheless, the overall environmental dimension of sustainable development would not be fully achieved.
22. Drawing all the strands together, there would be social benefits in providing additional housing in a District with an acknowledged shortfall. There would also be some economic benefit in the short and long term from housing construction and in supporting services in the wider area. The overall environmental dimension of sustainable development would not be fully achieved. However, whilst access by non-car modes would be somewhat limited, this would not be untypical of a semi-rural location, and the Framework takes account of the different characteristics of different areas. The slight adverse transport impacts would not significantly and demonstrably outweigh the benefits identified. I therefore conclude that the proposal would constitute sustainable development having regard to the policies of the Framework taken as a whole.

23. Having regard to LP Policies CP1, CP3, CP6 and ST1 the proposal would conflict with the development plan. Nevertheless, these policies pre-date the Framework and its definition of sustainable development and they are out of date for the purposes of paragraph 49. As such the weight to be attributed to them is reduced. Whilst there is conflict with the development plan, other material considerations outweigh this as I have found the proposal would be sustainable development in accordance with the Framework.
24. In reaching my decision I have had regard to the Appeal Decision at Waltham Abbey<sup>2</sup> referred to by the Council. In that case the Inspector found the distance from shops and services and relative infrequency of public transport services available near the site would be likely to discourage sustainable patterns of development. Significant weight was attached to this matter.
25. However, accessibility was not the only matter in that appeal, as the Inspector found the proposal would constitute inappropriate development in the Green Belt, and that there would be harm to the character and appearance of the area. It was concluded that the various benefits did not constitute the very special circumstances necessary to justify the development. Furthermore, there appears to be different site circumstances here including the availability of well-used footpaths to access nearby services and the scope to improve public transport as well as the significantly fewer number of proposed units. Consequently the findings in that appeal are not decisive in this one.

### **Other Matters**

26. Three unilateral undertakings (UU) have been submitted by the appellant. UU1 provides for contributions towards additional primary school places and towards transport for secondary school pupils (the Education Contribution). UU2 has effectively been replaced by UU3 and therefore not necessary to make the development acceptable in planning terms.
27. In response to further information about the No 19 bus service the appellant submitted UU3, which in addition to the Education Contribution offers a one off payment towards the purchase of a bicycle for the occupier of each flat, and an annual payment to fund the repair and maintenance of the bus stop and shelter. The bus operator is not named to allow for flexibility. It also provides a default obligation towards the installation, operation, maintenance of electric charging points within the site and for encouragement of their use through a Travel Plan. This is to be triggered in the event that the bus service no longer visits the site.
28. The appellant's stance is that the provision of the bus service is not required in order for the development to be sustainable in the terms expressed in the Framework. However, this refers to maximising sustainable transport solutions and implies that future residents should be given the greatest possible choice although this should be realistic. In the light of this and as it was part of the overall balance of considerations, securing the transport contribution is necessary to make the scheme acceptable in planning terms. So having regard to the relevant tests the obligation is required under the terms of paragraph 5.1 of UU3.

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<sup>2</sup> APP/J1535/W/15/3033482

29. Fifteen of the 20 flats would have two or three bedrooms and able to accommodate a family, and thus future occupiers could generate a demand for education infrastructure. The primary school place contribution has been based on an agreed methodology used by the Council and Essex County Council<sup>3</sup> for calculating additional school places, and there is nothing to indicate that this contribution would result in the pooling of five or more contributions towards school places at the local school, St Andrew's Church of England Voluntary Aided Primary School, North Weald (or any successor).
30. However, secondary school transport has a much larger catchment and therefore likely to be funded by a larger number of developments. As there is no confirmation from Essex County Council to this effect I consider on the basis of the evidence before me, the secondary school transport obligation would not meet the test in Regulation 123(3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), and thus it cannot lawfully constitute a reason for granting planning permission.
31. I therefore consider that the obligations, with the exception of the secondary school transport obligation, would meet the tests in the Framework and the CIL Regulations and, as such, have been taken into account.

### **Conditions and Conclusion**

32. The development is acceptable subject to the imposition of certain conditions, framed with regard to advice in the Planning Practice Guidance (the Guidance), with some minor alterations for clarity and to reduce repetition. I have attached a condition limiting the life of the permission and have imposed a condition specifying the approved plans as this provides certainty.
33. Details of external materials, hard and soft landscape works and refuse storage are required to be submitted and implemented to safeguard the character and appearance of the area.
34. Details of foul and surface water provision and disposal and flood risk assessment, management and maintenance are required in the interests of public health and to minimise surface water run-off.
35. Car parking and bicycle storage is to be provided as shown on the approved plan prior to first occupation of the development in the interests of highway safety. Wheel washing or other cleaning facilities are required during the construction works for the same reason. In addition a Residential Travel Information Pack is required to be provided to each dwelling prior to first occupation to promote sustainable travel.
36. Due to the former use of the site as a farmyard and a nearby infilled pond there is potential for contamination to be present. Consequently conditions requiring investigation of any potential contamination and remediation where appropriate are necessary given the proposed residential use.
37. Finally I shall impose a condition requiring details of ecological mitigation measures, as recommended in paragraphs 7.2.2 and 7.3 of the Ecology Statement to be submitted to and approved in writing by the local planning authority. This is required to mitigate the impact of the development and to enhance biodiversity.

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<sup>3</sup> Essex County Council Developer's Guide to Infrastructure Contributions 2010 Edition

38. For the above reasons I conclude that the appeal should be allowed.

*Claire Victory*

INSPECTOR

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr David Brown	G L Hearn
Mr Christiaan Zwart	39 Essex Chambers
Mr Stuart Choak	Curtins Consulting
Mr Bradley Smith	Appellant, North Weald Golf Club

### **FOR THE COUNCIL:**

Mr James Rogers	Planning Officer, Epping Forest District Council
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### **INTERESTED PERSONS:**

Mrs Susan De Luca	Clerk, North Weald Bassett Parish Council
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## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Statement of Common Ground
- 2 Appellant's Opening Note
- 3 Information on bus service, submitted by North Weald Parish Council
- 4 South Northamptonshire Judgement [2013] EWHC 4377 (Admin), submitted by the Appellant
- 5 Appeal Decision APP/J1535/W/15/3033482, submitted by the Council
- 6 Critique of LP Policies ST1 and ST2, submitted by the Appellant
- 7 Committee Report – Threshers site, submitted by the Appellant
- 8 Education CIL Compliance Statement, submitted by the Appellant



### **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: FID-101, FID-100, FID-105, FID-110, FID-1005, FID-2100, FID-220, FID-2300, FID-2400, FID-3000, FID-3100, FID-3200, FID-4000.
- 3) The materials to be used for the external finishes of the development hereby permitted shall match those within the submitted application.
- 4) No development shall take place until details of foul and surface water disposal have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the agreed details.
- 5) No development shall take place until wheel washing or other cleaning facilities for vehicles leaving the site during construction works have been installed in accordance with details which shall be submitted to and agreed in writing by the local planning authority. The approved installed cleaning facilities shall be used to clean vehicles immediately before leaving the site.
- 6) No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the local planning authority. These works shall be carried out as approved. The hard landscaping works shall include proposed finished levels or contours, means of enclosure, car parking layout, other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscaping shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers/densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, shrub or plant or any replacement, it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another of the same species and size as that originally planted shall be planted at the same place.
- 7) The parking and bicycle storage area shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents and visitors vehicles and bicycles.
- 8) A flood risk assessment and management and maintenance plan shall be submitted to and approved by the local planning authority prior to the commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using WinDes or other similar best practice tools. The approved measures shall be carried out prior to the substantial completion of the development and shall be adequately maintained in accordance with the management and maintenance plan.

- 9) No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the local planning authority before commencement of the Phase 1 investigation. The completed report shall be submitted to and approved by the local planning authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess all potential risk to present and proposed humans, property including buildings, crops, livestock, pets, woodland and adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments, and service lines and pipes and the investigation must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11 or any subsequent version or additional regulatory guidance.
- 10) Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for investigation shall be submitted to and approved by the local planning authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the local planning authority prior to any redevelopment or remediation works being carried out. The report shall assess all potential risk to present and proposed humans, property including buildings, crops, livestock, pets, woodland and adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments, and service lines and pipes and the investigation must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11 or any subsequent version or additional regulatory guidance.
- 11) Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation scheme. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 12) Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with the necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for approval. The approved monitoring and maintenance programme shall be implemented.

- 13) In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the local planning authority. Following completion of the measures identified in the approved remediation scheme a verification report providing details of the data that will be collected in order to demonstrate that the works are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action must be prepared, which is subject to the approval of the local planning authority.
- 14) All construction and demolition works and ancillary operations, including vehicle movements on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 0730 and 1830 Monday to Friday and 0800 to 1300 on Saturday, and at no time during Sundays and Public/Bank Holidays.
- 15) Prior to the first occupation of the development the refuse storage facility shown on the approved plans shall be completed and shall thereafter be retained free of obstruction and used for the storage of refuse and recycling only and for no other purpose.
- 16) Prior to the first occupation of the proposed development, the developer shall be responsible for the provision and implementation, per dwelling, of a Residential Travel Information Pack for sustainable transport, that shall be submitted to and approved by Essex County Council.
- 17) Prior to the commencement of construction, the following should be submitted to and approved in writing by the local planning authority: details of timings of works to minimise the impact on commuting bats; details of an artificial lighting plan (if unavoidable) to be used during and post development to eliminate the potential impact on commuting bats; and details of bat boxes, bricks or tubes to be installed post construction; a methodology for checking for, and avoiding harm to hedgehogs; details of a hedgehog box to be installed post construction; and details of bird nesting boxes and their positions on the new building or nearby trees.