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## Appeal Decision

Hearing held on 26 June 2014

Site visit made on 26 June 2014

**by Chris Preston BA (Hons) BPI MRTPI**

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

**Decision date: 26 September 2014**

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**Appeal Ref: APP/C1570/A/14/2217051**

**Jubilee Works, Stickling Green Road, Clavering, Essex CB11 4WA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission and also against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Weston Homes PLC against the decision of Uttlesford District Council.
  - The application Ref UTT/13/3357/DFO, dated 13 December 2013, sought approval of details pursuant to conditions No 1, 2A, 3, 4, 5, 6, 7, 9 and 14 of planning permission Ref UTT/2149/11/OP, granted on 29 November 2012.
  - The application in respect of details pursuant to condition 1 was refused by notice dated 12 March 2014.
  - The development proposed is: Erection of up to 24no dwellings and ancillary and associated development at the Jubilee Works site, Stickling Green Road, Clavering (Outline application).
  - The details for which approval is sought are: Condition 1 (details of layout, access, scale, landscaping and appearance – “the Reserved Matters”), and conditions 2A, 3, 4, 5, 6, 7, 8, 9 and 14.
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### Decision

1. The appeal is allowed and the details submitted pursuant to conditions Nos 1, 3, 4, 5, 6, 7, 8, 9 and 14 attached to planning permission Ref UTT/2149/11/OP granted on 29 November 2012 in accordance with the application dated 13 December 2013, are approved, subject to the conditions set out in the schedule at the end of this decision.

### Application for costs

2. At the Hearing an application for costs was made by Weston Homes PLC against Uttlesford District Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application, as submitted to the Council, sought approval for details pursuant to conditions 1 (the Reserved Matters), 2A, 3, 4, 5, 6, 7, 8, 9 and 14 of the outline planning permission UTT/2149/11/OP. The application form did not specify that details pursuant to condition 14 were being submitted but the covering letter that accompanied the submission, dated 14 December 2013, made it clear that the application included details relating to the affordable

housing scheme, as required by that condition. Although the application form specified that details of condition 2A were being submitted for approval, that condition simply sets the timeframe for the submission of details regarding the Reserved Matters. The terms of the condition do not require the submission of further details for approval.

4. The Council refused the application on 12 March 2014. The decision notice described the proposal as; *Details following outline application UTT/2149/11/OP for the erection of 23 No. dwellings, garaging and associated development with approval for access, appearance, landscaping, layout and scale at Jubilee Works, Stickling Green, Clavering, Saffron Walden, Essex CB11 4WA*. The description did not specify, by number, which condition(s) had been refused. The appeal was submitted on the understanding that the refusal related purely to the Reserved Matters application, submitted under the terms of condition 1, and that the Council had not made a determination in respect of conditions 3-9, and 14. This position was clarified in the Statement of Common Ground and by both parties at the Hearing.
5. Consequently, the appeal before me is against the decision of the Council to refuse a Reserved Matters application pursuant to condition 1 of outline application UTT/2149/11/OP for the erection of 23 No. dwellings, garaging and associated development with approval for access, appearance, landscaping, layout and scale; and against the refusal of the Council to give notice of its decision, within the prescribed period, in relation to the submissions relating to conditions 3-9, and 14.
6. The Statement of Common Ground, which was signed by both parties on 16 June 2014, notes that the details submitted in relation to conditions 3-9 are acceptable to the Council. In relation to condition 14, the Council are satisfied with the number, type and tenure of affordable housing, as set out within the Affordable Housing Scheme (AHS), version 2, dated 09 April 2014. The only matter of dispute between the main parties in relation to affordable housing is the siting of the proposed units. Following the close of the Hearing further clarification was sought from the main parties regarding the AHS, with specific regard to how the scheme complies with the terms of condition 14 and future enforceability. Written responses were received from both parties. The content of that correspondence is referred to within the main body of my decision.
7. Four 'Appeal Drawings' were submitted by the appellant following the Council's decision. Appeal Drawings 1-3 are appended to the Statement of Common Ground. These make no amendment to the scheme and are included for indicative purposes, showing sections through the site and a comparison between the proposed site layout and the indicative layout plan that was before the Inspector in the appeal relating to the outline planning application. Appeal Drawing 4 was submitted following discussions with the Essex Police Architectural Liaison Officer and includes details of lighting and boundary fencing across the scheme. No amendments were made to the layout or design of the housing. The Council raised no objections to the drawings being considered. Given the nature of the drawings submitted I am satisfied that no party would be prejudiced by my decision to take them into consideration in my determination of the appeal.

## **Main Issues**

8. In view of the above, the main issues are:
- a) The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the size and scale of the flats proposed at plots 12-16;
  - b) The effect of the siting of the affordable housing on social integration;
  - c) Whether the design and layout of the parking court to the rear of plots 12-16 is such that it would be likely to attract crime and/or anti-social behaviour; and
  - d) Whether it is necessary to provide a lift within the flats at plots 12-16.

## **Reasons**

### *Character and Appearance*

9. The appeal site is located at Stickling Green Road, at the north-eastern edge of the village of Clavering. The village has a dispersed pattern of settlement, with buildings stretching out along the roadside or clustered loosely around open green spaces. As a result, it retains a strong rural character, with a low density of development and close relationship between the built form and surrounding countryside.
10. Arable land abuts the site to the north and west and a further series of fields lie directly opposite, to the south of Stickling Green Road. However, the setting immediately to the east is dominated by Britanica Works, a complex of light industrial buildings. The industrial units that formerly occupied the appeal site have now been cleared. Consequently, the site is located on the cusp between open countryside and the urbanised form of Britanica Works. The footprint and scale the buildings within the industrial complex are substantial when compared to the prevailing pattern of development within the surrounding area.
11. The L-shaped block of flats at plots 12-16 would be situated in the north-east corner of the site, adjacent to Britanica Works. The representative sections submitted with the appeal show that the ridgeline of the flats would be higher than the adjacent unit at Britanica Works and the other houses proposed within the development. However, height differential between the block and the adjacent buildings would not be substantial. Furthermore, the flats would not be visually prominent when viewed from public vantage points along Stickling Green Road. Views of the block from the road would effectively be screened by Britanica Works and other dwellings within the scheme.
12. The scheme would be visible from the public footpath which crosses agricultural land to the north of the site – a viewpoint that I observed on an unaccompanied visit prior to the Hearing. However, from this distance and perspective the flats would be seen against the general backdrop of the housing scheme as a whole and the adjacent industrial buildings. The marginal height differential between the flats and adjacent buildings would not be prominent.
13. The L-shaped floor plan of the flats would break up the visual bulk and mass of the building and the resultant roof form would have two ridge-lines set

perpendicular to each other. This design would, to a large degree, give the appearance of a building with two distinct elements. Each wing of the building would not, of itself, be substantially greater in scale than other buildings within the site, particularly the terraced block at plots 8-11. Consequently, the scale and size of the proposed flats would not appear excessive or unduly dominant in a mixed development of the nature proposed.

14. I have taken account of the character of the surrounding area, and noted that the village contains relatively few residential properties that are above two-storeys in height. However, the principle of a scheme of the density proposed has been approved through the outline planning permission. Whilst the development would result in an intensification of the built form within the area I am satisfied that the scale and mix of housing proposed is appropriate to the context of the site. In particular I note that the layout towards the front of the site would have a comparatively low density, taking account of the presence of protected trees and the character of the surrounding area.
15. In view of the above, the scheme would not cause harm to the character and appearance of the area. In this respect, the proposal would conform to the requirements of saved policy GEN2 of the Uttlesford Local Plan (2005) (the Local Plan), and with the requirement for high quality design set out at paragraph 17 of the National Planning Policy Framework (the Framework).

#### *Social Integration*

16. The Council accept that a cluster of 9 affordable houses would be appropriate, as evidenced by the delegated officer report and the Statement of Common Ground. I have also been provided with a copy of the Uttlesford District Council Housing Strategy (2012-15) (the Housing Strategy). This sets a requirement for cluster sizes of no more than 10 units. Notwithstanding this point, in its appeal statement the Council suggests that the rear location, as a single group, would prevent a satisfactory level of social integration between residents of the affordable units and the market housing. At the Hearing representatives from the Council reiterated these points and stated their view that it would be preferable if the affordable units were 'pepper potted' throughout the development.
17. The suggestion that the affordable housing should be broken down into a cluster of less than 9 units and 'pepper potted' throughout the development is at odds with the requirements of the Housing Strategy and contrary to the agreed position within the Statement of Common Ground. The Housing Strategy recognises that each proposal will be considered on its merits but, in this case, no substantive evidence has been presented to demonstrate why a more stringent approach to cluster size would need to be taken in relation to the appeal proposal than on sites elsewhere in the District. Therefore, I am satisfied that a cluster of 9 affordable units is acceptable and that it would conform to the published requirements of the Council in the Housing Strategy.
18. The affordable units would be located on a short cul-de-sac in the rear corner of the site adjacent to the light industrial complex. Relative to the other dwellings within the site residents of the flats at plots 12-16 would be situated in a comparatively concealed location, at the head of the cul-de-sac. As a result, movements to and from those units would be generated, for the most part, by the occupants or other visitors. Other residents within the development would have no general need to pass by the affordable units.

19. However, the site is compact in size and the distance between the affordable units and other dwellings would be limited; plots 5 and 6 would be directly opposite the entrance to the cul-de-sac and the garage to plot 17 would be accessed from within it. Residents of the affordable units would also have to pass by the majority of housing when entering and leaving the site, allowing regular opportunity for interaction.
20. The proposed design and external materials of the affordable units would also be reflective of the character and scale of the development as a whole. Although the only flats within the development would be affordable units, I am satisfied that the tenure would not be easily distinguishable as a result of the external appearance. In particular, the fenestration and design detail to the front of plots 12, 13 and 15 would provide a visual impression of a large dwelling, with a ground floor entrance door and balanced rhythm to windows at first and second floor level. Consequently, with regard to comments raised by the Council at the Hearing, I am satisfied that the appearance of the affordable units would not give rise to a sense of segregation or lack of social inclusion with the market housing.
21. In view of the above, the proposal would provide an acceptable layout that would not preclude social integration between residents of the affordable units and market housing elements of the scheme. In this regard, the scheme would comply with the requirements of policy GEN2 of the Local Plan, the Housing Strategy, and paragraph 55 of the Framework which seeks to deliver inclusive and mixed communities.

#### *Parking Court*

22. Appeal Drawing 4 was submitted by the appellants following discussions with the Architectural Liaison Officer (the ALO) from Essex Police. This drawing does not amend the layout of the proposed development but indicates a scheme of boundary treatment surrounding the proposed parking court and the provision of a lighting column within it. On the basis of the details submitted, the ALO confirmed that the proposal did not cause any concerns relating to policing.
23. In addition to the lighting and boundary treatments put forward in Appeal Drawing 4, I note that the parking court would be overlooked from windows within the adjacent flats; that there would be a clearly defined entrance, which would differentiate public and semi-private space; and that the size of the car park would be small, enhancing the likelihood that residents will be familiar with those using the space for legitimate purposes and, thus, making any intruders more conspicuous. Furthermore, no statistics were put forward to suggest that there are existing problems relating to crime or anti-social behaviour within the area, or to suggest that such problems are likely to occur in future. Consequently, I am satisfied that the design and layout of the parking court is such that it would not be likely to attract crime or anti-social behaviour.
24. The Council have referred to the Uttlesford Local Residential Parking Standards (2013) (the Parking Standards), which state that parking courts are not generally considered appropriate for the rural nature of Uttlesford and 'on plot' parking should be the normal approach. Whereas the reason for refusal put forward by the Council refers to the potential of the car park to attract crime and disorder, the Parking Standards notes that they will generally be

considered inappropriate as a result of the rural character of the area. In other words, the reason given for refusing the reserved matters application does not correspond directly to the aims of the Parking Standards with regard to parking courts.

25. In any event, the Parking Standards do not seek to avoid parking courts altogether but states that they are not *generally* considered appropriate. In this case, the parking court would be small in size, located in a discreet part of the site and adjacent to the industrial complex at Britanica Works. Boundary fencing would also conceal views of the parking area from outside the site. Accordingly, in addition to my conclusions relating to crime and disorder, I am satisfied that the design of the parking court would not harm the wider character of the area. In both respects, the proposal would be in conformity with the requirements of policy GEN2 of the Local Plan and, with regard to crime and disorder, the proposal would comply with the aims of paragraph 58 of the Framework.

#### *Lift Provision*

26. The proposals include provision of two flats at second floor level, both single bedroom units. Policy GEN2, to which the reason for refusal refers, does not set an absolute policy requirement to provide lifts in all buildings above two storeys. However, the Accessible Homes and Play Space Supplementary Planning Document (2005) (the Accessible Homes SPD), states that lifts must be provided in all new developments of flats above 2 storeys. The Council's Housing Strategy (2012-2015), provides more recent guidance. This states that every scheme will be considered and assessed on its merits. The Housing Strategy reiterates the aim of providing lifts in blocks of over two storeys but notes that this is a requirement that should be discussed at the time of the application.
27. From the evidence submitted by the appellant it is clear that the Council have previously applied the requirements of the Accessible Homes SPD and the Housing Strategy in a flexible manner, depending on the circumstances of the proposal before them. Whilst noting this evidence, I am mindful that the examples provided of schemes where no lifts were requested have been selected to emphasise this point and I have no reason to doubt that the Council have secured lifts in other schemes elsewhere in the District, as stated at the Hearing. The Accessible Homes SPD and the Housing Strategy are relevant material considerations. However, in the absence of a Local Plan policy that requires lifts to be installed on all residential development of more than two storeys, the weight that should be afforded to supplementary guidance must be determined based on an assessment of the merits of the case; in line with the recommended approach within the Housing Strategy.
28. Although the appellant has not provided any financial information with regard to the cost of installing a lift, or the likely subsequent maintenance costs, letters have been forwarded from four Registered Providers. All four refer to the on-going maintenance costs and the fact that these costs would need to be added to the service charge for individual units. None of the providers considered that lifts should be installed.
29. Despite the absence of financial information to support the appellant's position I consider that the correspondence with Registered Providers is compelling, taking account of their direct experience in managing accommodation of the

type proposed. The development is small in scale and the cost of maintaining the lift would need to be borne by just four units. On the evidence before me it is likely that the installation of a lift would render the service charge unaffordable for the occupants of those units.

30. Furthermore, limited evidence is before me to indicate that the absence of a lift would result in the second floor units being inaccessible to a range of prospective occupants, or that there is a specific need for units within Clavering to meet the needs of those with limited mobility. A letter from the Council's Housing Enabling Officer, dated 20<sup>th</sup> December, is contained within appendix 4 of the Statement of Common Ground. Reference is made to the Housing Needs Survey for Clavering (2011). This suggests that there were a number of people over the age of 55 who wished to downsize to a smaller property. However, the letter acknowledged that the health needs of those people was unknown. Consequently, although reference was made at the Hearing to the needs of an ageing population, the information before me does not suggest that the accommodation, as proposed, would be unsuitable for those with a local need.
31. Policy GEN2 of the Local Plan states that development will not be permitted unless its design meets the specified criteria and has regard to adopted supplementary guidance. I have had regard to the Accessible Homes SPD and the Housing Strategy but, in the particular circumstances of the case, I am satisfied that the design of the proposed development is acceptable.

*Conditions 3 – 9 and 14*

32. As set out above, there is no dispute between the parties regarding the details submitted in respect of conditions 3 – 9 and 14. Nonetheless, as the appeal was submitted against non-determination of the submitted details, it remains necessary for me to consider the suitability of the proposed submissions. The details submitted have adequately demonstrated that the proposal would comply with the accessibility requirements of the 'Lifetime Homes' standard (condition 3), the Essex Design Guide (insofar as is required by condition 4) and the Parking Standards Design and Good Practice Guide (as required by condition 5). The proposals are also sufficient to demonstrate that measures will be put in place to protect existing trees and hedgerows (condition 6) and the proposed landscaping details (submitted with regard to conditions 7 and 8) are appropriate for the site and its context. The Code for Sustainable Homes Level 3 Pre-assessment is also sufficient to demonstrate that the proposal is designed to achieve a 'Code for Sustainable Homes' rating of Level 3, thereby complying with the requirements of the first part of condition 9.
33. Following correspondence with the main parties, I am also satisfied that the AHS meets the terms of condition 14. In particular, in terms of sub-section (i) of that condition, the AHS provides details of the numbers, type and tenure of the affordable housing units, which would make up 40% of the total number of dwellings on site. In terms of the location of the units, a plan is appended to the AHS but the associated text makes no specific reference to the plan as the definitive location of the affordable units. In order to provide clarity on this point I have attached a condition to this decision to specify which plots would compromise the affordable units, as suggested by the appellant.
34. The AHS also sets out that the affordable housing units shall be completed and ready for occupation prior to the occupation of 50% of the open market

dwellings, thus meeting the terms of sub-section (ii), and provides a mechanism to ensure the on-going management of the units, either through transfer of the land to an approved body (a registered provider) or through a binding agreement to complete the units prior to transfer. In effect, the transfer arrangements would be secured through a 'grampian' style arrangement with a prohibition on occupancy of any units until any transfer, or binding agreement, takes effect. I am satisfied that this arrangement is sufficient to discharge sub-section (iii). Measures contained within the AHS would also ensure the future affordability of the housing for subsequent occupiers and detailed occupancy criteria are set out, including nomination rights for the District Council (thereby complying with sub-sections iv and v). Following detailed responses from both parties, I am also satisfied that the provisions of the AHS would be enforceable in the event of any future breach.

#### *Other Matters*

35. The number of car parking spaces throughout the development would comply with adopted guidance contained within the Essex Design Guide (2005), the Essex County Council Parking Standards (2009) and the Uttlesford Local Residential Parking Standards (2013). Therefore, I am satisfied that the level of parking is sufficient to meet the needs of the development.
36. Conditions requiring further details in relation to surface water drainage were attached to the outline planning permission. Details pursuant to these conditions do not form part of the appeal before me. However, a surface water drainage scheme would need to be submitted to and approved in writing by the Local Planning Authority thereby providing a mechanism to ensure that the site is properly drained without detriment to any existing flooding problems off-site.
37. The proposed layout includes a road terminating at the boundary with agricultural land to the north. The suitability, or otherwise, of any future development to the north of the site is not a matter for me to determine. My decision is based entirely on the proposal before me which has been considered on its merits.

#### *Conditions*

38. Both parties are in agreement that a condition should be attached to the reserved matters approval to allow brick samples to be agreed prior to the commencement of work. The appellant intends to use the bricks specified within the Design and Access statement but notes that there are presently difficulties in the supply of bricks within the industry, a point accepted by the Council. In view of the submissions regarding the difficulty in sourcing bricks, I consider that such a condition is necessary to allow flexibility and to ensure that the external appearance of the scheme will be acceptable.
39. A condition to ensure that the development is carried out in accordance with the plans submitted with the application is also necessary for the avoidance of doubt and in the interests of proper planning, as agreed by the parties at the Hearing.



**Conclusion**

40. In view of my comments above, and taking all other matters into account, I conclude that the appeal should be allowed.

*Chris Preston*

INSPECTOR

Richborough Estates

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

### *Plans and Elevations*

WH153/13P: 05.01 (location plan); 10.01 rev B (proposed site plan); 10.02 rev A (proposed boundary treatment); 25.01 rev A (plots 1 & 3 floor plans and elevations); 25.02 rev A (plots 7 & 22 floor plans and elevations); 25.03 rev A (plots 4, 5 & 6 floor plans and elevations); 25.04 rev A (plots 8, 9, 10, & 11 floor plans and elevations); 25.05 rev B (plots 12-16 floor plans); 25.06 rev B (plots 12-16 elevations); 25.07 rev A (plots 17 & 21 (floor plans and elevations); 25.08 (plots 18 & 19 floor plans and elevations); 25.09 rev A (plot 20 floor plans and elevations); 25.10 rev A (plot 23 floor plans and elevations); 25.11 (plot 2 floor plans and elevations); 35.04 rev A (street scenes); 75.01 (garage plans); 15/102 (private drainage layout); 15/201 rev P1 (adoptable footway layout); and 15/202 rev P1 (adoptable footway setting out and levels);

### *Lifetime Homes Drawings*

WH153/13P: 55/101 (plots 1, 2, 3, 7, & 22); 55/102 (plots 4, 5, 6, & 23); 55/103 (plots 8, 9, 10, & 11); 55/105 (plot 13); 55/106 (plot 14); 55/107 (plot 15); 55/108 (plot 16); 55/109 (plots 17 & 21); 55/110 (plots 18 & 19); and 55/111 (plot 20).

### *Landscaping and Tree Protection*

Arbtech AIA 02 (arboricultural impact assessment); Arbtech TPP 02 (tree protection plan – construction); Arbtech TPP 02 (tree protection plan – demolition); and Allen Pyke 2466-PP-01 rev P2 (planting plan).

### *Site Security Measures*

Appeal Drawing 4 (secure by design provisions).

- 2) The development hereby permitted shall be constructed using the bricks specified in the Design and Access Statement (paragraph 2.2.8) or any similar red and yellow multi stock alternatives, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of any of the buildings hereby permitted.
- 3) The affordable housing referred to in the Affordable Housing Scheme (AHS) hereby approved shall be those units identified as plots 8-16 on drawing number WH153/13P/10.01 Rev B, and referred to on the plan attached as a schedule to the AHS.

**APPEARANCES**

**FOR THE APPELLANT:**

Mr Peter Luder BA(Hons) MUP MRTPI	Weston Homes PLC
Mr Adrian Trevelyn Thomas (of Counsel)	Cornerstone Chambers
Mr Andrew Martin MAUD DipTP FRICS FRTPI	Andrew Martin Planning

**FOR THE LOCAL PLANNING AUTHORITY:**

Mr Clive Theobald BA (Hons) PG Dip	Planning Officer, Uttlesford District Council
Ms Stephenie Baxter	Housing Enabling Officer, Uttlesford District Council

**INTERESTED PERSONS:**

Mrs Lisa Sivyer	Local resident
Mr Edward Oliver	Local resident and Clavering Parish Council
Ms Stephanie Gill	Local resident and Clavering Parish Council

**DOCUMENTS**

- 1 Attendance list
- 2 Full list of final drawings at the time of refusal, prepared 25 June 2014
- 3 List of neighbours notified of appeal
- 4 Council's written response to costs application