



Appeal Decision

Hearing held on 27 October 2015

Site visit made on 26 October 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 20 November 2015

Appeal Ref: APP/C1570/W/15/3006105 Land West of Hall Road, Elsenham, Essex

- 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 conditions of a planning permission.
 - The appeal is made by Bovis Homes Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/14/0721/DFO, dated 20 May 2014, sought approval of details pursuant to Condition Nos 1 and 2 of a planning permission Ref UTT/13/0177/OP, granted on 19 December 2013.
 - The application was refused by notice dated 15 January 2015.
 - The development proposed is the erection of up to 130 dwellings with associated open space, play areas, land for educational use and other ancillary works.
 - The details for which approval is sought are: layout, scale, landscaping and appearance.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An extant outline planning permission¹ establishes the principal of the proposed development along with details of access. For ease of reference I refer to that permission as 'the planning permission' henceforth. At the hearing the appellant confirmed that the only details that the appeal application sought approval of are those controlled by Condition Nos 1 and 2 of the planning permission for all of the matters reserved by these Conditions, namely layout, scale, landscaping and appearance. Accordingly, I have determined the appeal on that basis.
3. At the hearing the Council confirmed that the reference to 'Local Parking Standards Supplementary Guidance Document (2014)' in its fifth refusal reason is an error and that the correct reference is the Uttlesford Local Residential Parking Standards 2013.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and surrounding area;
 - Whether or not acceptable living conditions would be provided for residents of the proposed development;

¹ Ref: UTT/13/0177/OP

- The effect of the proposed development on flood risk and the effect that the proposed flood protection measures would have on the provision of affordable housing;
- Whether or not the appeal scheme would provide appropriate parking and cycle storage for the proposed homes; and
- Whether or not the proposed development would provide an acceptable balance of dwelling types for both market and affordable housing.

Reasons

5. The appellant's evidence, both in terms of its written submissions and what was said at the hearing, places emphasis on the 'details' that were submitted with the application for the planning permission. It also makes reference to a drawing, reference number 16821/1000, which shows a residential layout for the site and includes a schedule of unit types. Although the appellant acknowledges that this drawing was not submitted as part of the application for the planning permission, it seems likely that it at least helped inform the preparation of some of the material that was submitted as part of that process.
6. Nonetheless, that proposal was for outline planning permission with all matters reserved except for access. While any additional material submitted in support of the planning application may have offered a guide as to how the site could be developed, all details of layout, scale, landscaping and appearance were reserved for future consideration and no conditions were imposed that set parameters for the development. Consequently, notwithstanding the appellant's submissions, I give only limited weight to the details of layout, scale, landscaping and appearance that were prepared and/or before the Council at the outline stage.

Character and Appearance

7. The site has planning permission for substantial development. Given its scale and location on the southern fringes of the village, the approved development would have a significant influence on the character and appearance of the site itself and the surrounding area. The question, therefore, is not whether it should be developed for residential use, but rather the detail of how this should be achieved.
8. The appeal site is a sensitive edge of village location and in my view the indicative layout that accompanied the planning permission application broadly offered an appropriate response to this by providing a transition from the built form of the existing village to the open countryside. Notable examples of this include the central green corridor from the main access leading to the footbridge over Stansted Brook to the south of the site, as well as the areas of open space that would line the southern boundary and the buildings closest to the countryside being orientated to front onto this open space.
9. While the appeal scheme includes some of these elements, overall it is significantly weaker. For instance, the green corridor is less strong in terms of its width and, more significantly, the proposed development at Plots 62 and 47 would interrupt the visual and physical link between the site/village and the countryside to the south. The construction at these two Plots, as well as that proposed between/including Blocks K and M, Units 29-36 and 14-21 respectively, would also introduce a substantial amount of development adjacent to the southern site boundary that would result in an awkward, abrupt transition from the built form of the settlement to that of the open countryside beyond. Consequently, the proposed scheme would have a harmful effect on the character and appearance of both the site and the wider area.

10. The appellant's evidence contends that the proposed layout would improve the setting of a group trees that are protected by a Tree Preservation Order located along much of the southern site boundary. Greater space would be provided around this group of trees in terms of some aspects of the appeal layout relative to the indicative scheme at the outline stage. However, due to the reasons outlined above regarding the siting of the development close to this boundary, in other significant regards there would be substantially less space, thereby undermining the contribution that these trees make to the local landscape.
11. In terms of its effect on character and appearance, the Council has also raised concerns regarding other aspects of the proposed development such as density. I acknowledge that some parts of the scheme are denser than others. However, this is not untypical of a village such as Elsenham. Subject to the careful selection and control of facing materials, I consider that the built form of the majority of the site could be reasonably integrated with the host settlement. The proposed layout would also result in groups of cars parked together. However, subject to appropriate hard and soft landscaping, these would not be so large or so frequent that they would have a significantly negative effect in terms of character and appearance.
12. The evidence also refers to the appropriateness of two and half storey buildings relative to two storey buildings. Although none are now proposed, I see no reason, as a matter of principle, why two and half storey buildings would necessarily be out of character with site or area. I also note the evidence regarding the retention of trees and the effect that incorporating the Life Time Homes standard has had on unit size, density and layout, however, these matters do not alter the harm I have identified as outlined above.
13. For these reasons, therefore, the proposed details would have a harmful effect on the character and appearance of the site and surrounding area. Consequently, in that regard, the development would conflict with Policy S7 (The Countryside) of Uttlesford Local Plan 2005 (the Local Plan) and with the National Planning Policy Framework (the Framework). While the Framework does not seek to protect the countryside for its own sake, Policy S7 does encompass the intrinsic character and beauty of the countryside and to that extent it is consistent with the Framework. That aspect of Policy S7, therefore, carries full weight.

Living Condition

14. The Council has identified several detailed aspects of the proposed layout that it considers raise concerns regarding whether the development would provide acceptable living conditions for future residents. These are principally concerned with separation distances between the proposed dwellings and nearby proposed development, outlook from properties that would be adjacent to the school site and the size/quality of private garden/amenity space. I acknowledge that not all of the dwellings would accord in this regard with all of the planning guidance used by the Council.
15. Nonetheless, notwithstanding the site's topography, I consider that given the orientation of the development concerned the significant majority of the scheme would be acceptable in this regard, albeit that there would be some significant exceptions. I have come to this view bearing in mind that the Essex Design Guide 2005 (the EDG) appears to provide guidance rather than a set of absolute rules. I also note, as confirmed by the Council at the hearing, that it has not formally adopted the EDG as planning policy.

16. I am concerned, however, regarding the amount and quality of communal private amenity space proposed for the eight flats at Block K, Units 84-91, and the amount of outlook that would be afforded from the ground floor north facing rooms of this building. In addition to its rather limited area, the awkward, narrow and sinuous configuration of this amenity space - combined with its proximity to the host building and associated parking area - would render it of very little value to occupants of these flats and also undermine the privacy of ground floor residents, while also constraining outlook.
17. For these reasons, notwithstanding the public open space that would be available elsewhere in the development, residents of this block of flats would not be provided with acceptable living conditions. Consequently, in that respect, the proposed details do not accord with Policy GEN2 (Design) of the Local Plan.

Flood Risk

18. The Framework indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. A Flood Risk Assessment (FRA) has been prepared for the proposed development. Mitigation of identified flood risk is proposed such that surface water flows from the developed site would be limited to no greater than those of the undeveloped site. The proposals, including the FRA, have been considered by the Environment Agency and the County Council's Flood and Water Management service. While both parties raise reservations/concerns, so far I can see, neither indicate that these cannot be reasonably overcome and at the hearing the Council was unable to direct me to anything in the evidence to indicate that any flood mitigation or drainage issues cannot be resolved.
19. I am mindful that the appeal application only seeks approval of details under Conditions 1 and 2 of the planning permission and that drainage and flood mitigation are controlled under the terms of another condition of that permission. On this basis I am not persuaded that the proposed details would either give rise to flood risk or drainage issues that cannot be reasonably mitigated or that those details, such as the layout, would unacceptably constrain potential mitigation options. Consequently, the proposed details would not have a detrimental effect in terms of flood risk such that there is no conflict with Policy GEN3 (Flood Protection) of the Local Plan.
20. The Council is also concerned that the proposed provision of an underground water storage tank associated with potential flood mitigation would require maintenance and that as this would be within an area to be managed by the affordable housing provider it would place an unacceptable burden on that provider. At the hearing the appellant clarified that any such 'burden' would be spread across the entire development via a management charge. In any event, as flood mitigation/drainage details are controlled under the provisions of another condition of the planning permission, the appeal proposals would not have a direct detrimental effect on the provision of affordable housing in terms of any potential burden associated with such mitigation. Consequently, in this regard, there would be no conflict with Local Plan Policy GEN3.

Parking

21. At the hearing the Council confirmed that proposed amount of parking accords with its adopted guidance and policy such that its concerns in this regard relate only to the practicality of the proposed parking spaces and areas. For instance, where there are garages set behind double length drives, occupiers may be discouraged from using all of their private parking space in favour of parking on the street or in

- the visitor spaces due to convenience. Other concerns are raised, such as the configuration of parking areas and their location/distance away from the intended users' homes. At the hearing I also heard that the village currently experiences on-street parking associated with Stansted Airport, which can be problematic.
22. Pressure for on-street parking can create highway safety issues and be a cause of tension between residents and all users of the highway. Parking laid out in a line, whereby one or more cars must pull-off a private drive in order to allow another vehicle in or out, can be a disincentive to use these facilities to their full capacity. However, I am not persuaded that in this case any such disincentive would be so great that it would lead to a significant amount of off-street parking for significant periods of time. Moreover, there is no clear evidence that any associated pressure for street parking would result in any significant impact in terms of highway safety, residents' living conditions or the area's character and appearance.
 23. While I note that the parking area associated with the proposed block of flats, Units 14-21, is located on the opposite side of the street, it would be clustered with the flats around the head of the cul-de-sac in fairly close proximity. In my view this arrangement would be reasonably convenient such that residents would normally make use of the designated private parking in favour of on-street parking. The same is true of the other proposed flats and their parking areas.
 24. I recognise that some of the dwellings would be located some distance away from the designated visitor parking spaces. While this is likely to lead to some on-street parking I am not persuaded by the evidence that this would be to a substantial degree or that it would lead to any significant harm.
 25. I also consider that the proposed layout would make reasonable provision for cycle storage in terms of its size and location. Further details could be controlled by way of planning condition in the event that consent were to be granted for the appeal scheme.
 26. Overall, therefore, I am content that the appeal scheme would provide appropriate parking and cycle storage for the proposed dwellings in accordance with Policy GEN8 (Vehicle Parking Standards) of the Local Plan and with the Uttlesford Local Residential Parking Standards 2013 and the Essex Parking Standards 2009.

Housing Mix

27. Of the whole development some 38.5% of the dwellings would be four or five bedroom units, with the rest having either one, two or three bedrooms. In overall terms I consider the mix to be reasonably balanced. Nonetheless, a consistent aspect of the Council's planning policy and supporting housing evidence refers to the need for two and three bedroom homes.
28. Part of the supporting text to Local Plan Policies 9 (Affordable Housing) and 10 (Housing Mix) states that development of the scale proposed *must include an element of small 2 and 3 bed homes, which must represent a significant proportion of the total, for those households who are able to meet their needs in the market and would like to live in a new home.* In this case over 49% of the total scheme would be *2 and 3 bed homes.* This falls to a little over 37% as a portion of the market housing, or in the terms of the Local Plan housing *for those households who are able to meet their needs in the market.* The Local Plan does not quantify what a *significant proportion* means. However, taking its normal meaning I consider that the amount proposed would meet this test.
29. Regarding affordable housing the Council's principal concerns relate to the reasonably high proportion of flats proposed, particularly bearing in mind that they

may be occupied by families. To support its case the Council points the contents of its Housing Strategy 2012-15 (the Housing Strategy), which states among other things that a requirement for all development involving affordable housing will be that the mix is predominantly two and three bedroom houses with 5% one and two bedroom elderly bungalows. This document expressly refers to 'houses' and in this regard it does not refer to flats, whereas the supporting text to Local Plan Policy H9 (Affordable Housing) uses the more generic term 'homes'.

30. I note that the Housing Strategy was prepared along side the emerging Local Plan and that it has been adopted by the Council. However, it does not form part of the development plan and it is not clear to what extent it has been the subject of consultation or scrutiny. Consequently, I give it only limited weight. There is also very limited evidence concerning why the Council considers flats to be less preferable than houses as a matter of principle.
31. While I have identified unacceptable aspects of the appeal scheme, as set out in the foregoing sub-sections, I have found nothing in the wider evidence that gives me good reason to conclude that flats at the site would be unacceptable in principle. While, I also note that there would be a higher proportion of affordable housing in some parts of the site, in my view this is not disproportionate such that it would be reasonably well integrated within the site and the wider community. The Council also normally seeks to limit clusters of affordable units to no more than ten, yet in this case there would be a group of 12 units. However, the legal agreement made under section 106 of the Town and Country Planning Act 1990 associated with the planning permission makes provision for such a group of 12 units.
32. For these reasons, therefore, based on the evidence before me the proposed scheme would provide a reasonable balance and mix of dwellings, including in terms of both affordable and market housing, in accordance with the Policies H9 and H10 of the Local Plan.

Other Matters

33. The main parties disagree over whether there is a Framework compliant supply of housing land in the area, however, there is fairly little evidence before me to support either parties' position on this matter beyond three appeal decisions that were cited during the hearing. One of these appeal decisions concludes that the Council cannot demonstrate a Framework compliant supply of housing land², whereas the other two conclude that it can³. Having read all three decisions, while I do not have all of the information that those Inspectors would have had, I favour the two decisions that conclude that there is a five year supply of housing and do so primarily on the basis that these were made more recently and consequently are likely to have been made on the basis of more up-to-date information.
34. Nonetheless, the Council confirmed at the hearing that its five year housing land supply calculations are based on the assumption that the appeal site will deliver 130 homes over the five year period. Consequently, even though I consider that the Council can demonstrate a Framework compliant supply of housing land, as the appeal proposals clearly form an important component of that supply, the delivery of those homes weighs in favour of the appeal proposals. Nonetheless, as I have no good reason to believe that the housing at the appeal site would not be delivered over the five year period in the event that the appeal were to be

² Appeal Ref: APP/C1570/A/14/2223280 allowed 15 May 2015

³ Appeal Ref: APP/C1570/A/14/2221494 dismissed 2 June 2015 & APP/C1570/A/14/2222958 dismissed 1 June 2015

dismissed and given the harm and policy conflict identified, that weight is limited relative to the matters that weigh against the appeal proposals as outlined above.

35. There is a listed building, the Old Vicarage, located immediately between the site and Hall Road to the east. The site also extends to Hall Road to the south and north of this property such that it wraps around the grounds of this listed building. At the hearing the Council advised that when assessing the planning permission application and the appeal proposals, it took the view that the setting of this heritage asset is limited to the garden/grounds of the Old Vicarage due to the enclosing effect of boundary treatment and mature planting. On that basis, the appeal development would stand close to but beyond the listed building's setting, such that its setting would be unaffected. From the information before me and having visited the area I have found no reason to disagree.
36. In response to the appeal notification, NHS England commented that due to the amount of dwellings proposed it would now seek a section 106 contribution to mitigate the impact on healthcare provision within the Elsenham area. Bearing in mind that the development already has planning permission and that there is no information regarding the potential pooling of such contributions or to indicate how any such payment would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms, I can give very little weight to this request.
37. In coming to my decision I have also taken into consideration all of the representations made in respect to the appeal proposal, including the helpful contributions made at the hearing by Mr Johnson on behalf of the Parish Council and Dr Mott, a local resident. In view of the matters set out above however, they have not led me to any different overall conclusion.

Conclusion

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

G D Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

John Dale	Bovis Homes
David Ivell	Bovis Homes
John Longhorn	Bovis Homes

FOR THE LOCAL PLANNING AUTHORITY:

Alison Hutchinson	Hutchinsons
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INTERESTED PERSONS:

Dr Graham Mott	Local Resident
Peter Johnson	Parish Councillor

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Signed Statement of Common Ground
- 2 Revised landscaping scheme and associated written statement submitted by the appellant
- 3 Copy of the section 106 agreement dated 19 December 2013 in respect to planning permission reference Ref UTT/13/0177/OP

Richborough Estates