



Appeal Decision

Site visit made on 1 June 2021

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/J1535/W/20/3255892

Former Haulage Yard, Sewardstone Road, Waltham Abbey E4 7RN

- 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 E W Davies Farms Ltd c/o Hugh Morgan against the decision of Epping Forest District Council.
 - The application Ref EPF/2828/19, dated 22 November 2019, was refused by notice dated 25 February 2020.
 - The development is outline application with all matters reserved except access for the demolition of the existing building excluding Sewardstone Hall and erection of up to 40 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission with all matters reserved other than access. Accordingly, I have assessed the appeal on this basis.
3. The planning application was refused for three reasons. However, through the submission of the appeal, an updated Preliminary Ecological Appraisal has been submitted which found that the baseline conditions had not changed significantly since previous appraisals on the site. Accordingly, subject to implementing the necessary recommendations of the report, the Council have confirmed that they no longer seek to pursue this reason for refusal. Based on the evidence before me, I have no reason to disagree with this approach.

Procedural Matters

4. Planning permission was refused due to the lack of a mechanism to secure necessary contributions relating to local secondary school provision in terms of places and transport facilities. Accordingly, a signed Unilateral Undertaking (UU) has been submitted with the appeal. The UU also includes provisions relating to affordable housing, public open space, Lee Valley Regional Park, and the Epping Forest Special Area of Conservation (SAC).
5. Based on the evidence before me, I am satisfied that the provisions within the UU would comply with the requirements of the Community Infrastructure Regulations 2010 (CIL Regulations) as well as the National Planning Policy Framework (the Framework). However, despite ample opportunity being provided to the appellant, I am not satisfied with the ownership information that accompanies the UU. Rather than providing proof of title, an Epitome of

Title has been provided which dates back to 2015. However, the names listed on the UU do not precisely tally with those on the Epitome of Title. The appellant has been afforded the opportunity to clarify this matter, however, the information that has been forthcoming remains limited and ambiguous. Accordingly, although I am generally satisfied with the content of the UU, due to the lack of clarity regarding ownership, I find that the document is not fit for purpose. As a consequence, the contents of the UU cannot be relied upon regarding the proposed mitigation. Therefore, the UU does not weigh in favour of the proposal and I have proceeded to assess the appeal on this basis.

Main Issues

6. The appeal site is located within the Green Belt, however, it is apparent that the parties are satisfied that subject to the reserved matters, the proposal would not represent inappropriate development. Based on the evidence before me, I have no reason to disagree with this conclusion, and I note that the Inspector arrived at the same viewpoint in a previous appeal on the site¹. Accordingly, the main issues are:
 - i) whether the proposal is in a suitable location having regard to its accessibility to services and facilities; and
 - ii) the effect of the proposal on the SAC.

Reasons

Location

7. As confirmed in the previous appeal decision, the site has limited day to day services. Bus routes do not provide regular services and the facilities at Island Centre Way are located approximately 1km away. I note the reference to the proximity of two public houses, a restaurant, hotel, petrol station, car garages, care home, garden nurseries, and a camp site, however, these are not services that would sustain day to day life.
8. The accompanying UU includes a £50,000 contribution that could be used to upgrade the public footpath towards the facilities at Island Centre Way. This could improve lighting that would make the journey safer and more convenient for future residents. Accordingly, notwithstanding my findings in relation to the UU, this contribution would weigh in favour of the proposal. I also note that the proposal would be likely to result in a reduction of car movements to and from the site. The UU would also seek to deliver improvements towards accessibility for schools, a matter that also has the potential to weigh in favour of the proposal if it was not for the shortcomings identified.
9. However, the previous conclusion on this matter was quite clear and straightforward, and the site was found to not be a suitable location for housing having regard to its accessibility to services and facilities. The location of the site has not changed, and the services and facilities close to the site have not materially improved. Accordingly, the development would ensure that future occupants would be highly reliant on the private car, a matter that would be demonstrably at odds with that promoted by the Framework. This continues to weigh substantially against the proposal.

¹ APP/J1535/W/19/3224279

10. Consequently, for the reasons identified above, I have no reason to deviate from the conclusion previously provided in relation to this main issue. I therefore conclude that the proposal would not be in a suitable location having regard to its accessibility to services and facilities. It would therefore fail to accord with Policies CP1, CP3, CP6 and CP9 of the Epping Forest District Local Plan Alterations (2006). Taken together, these seek amongst other things, sustainable development which is accessible by and promotes sustainable means of transport.

Epping Forest Special Area of Conservation

11. The appeal site is located in close proximity to the Epping Forest Special Area of Conservation (SAC). Accordingly, due to the location of the appeal site, the requirements of the Conservation of Habitats and Species Regulations 2017 apply (the Regulations). The Regulations require that I, as the competent authority, must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SAC.
12. The SAC comprises wood-pasture with habitats of high nature conservation value, including ancient semi-natural woodland, old grassland plains, wet and dry heathland and scattered wetland. The SAC supports invertebrates, amphibian interest, and breeding bird populations. Accordingly, it is an important resource that could be affected by recreational activity as well as air pollution. The proposal would increase the local population in the area, which would likely increase recreational use of the SAC and have a negative effect on air pollution. Consequently, taking a precautionary approach as required by the Regulations, and when combined with other development within the area, I am satisfied that the proposal would result in an increase in such recreational activity and air pollution which would lead to a likely significant adverse effect on the integrity of the SAC.
13. Due to this effect, the Regulations place a duty on competent authorities to make an appropriate assessment of the implications of the development proposed in view of the site's conservation objectives. In this respect, the UU would require the appellant to make financial contributions per dwelling to mitigate the impact of the development. This would be in accordance with the Council's Interim Approach to Managing Recreational Pressures on the SAC, as well as the Interim Air Pollution Mitigation Strategy.
14. Based on the evidence before me, I am satisfied that the provisions within the UU would provide for the delivery of suitable mitigation that would address the level of harm likely to be caused by the development. In this respect, the UU is entirely compliant with Regulation 122 of the CIL Regulations. I note the Council's concerns regarding the trigger date regarding the payment of the necessary contributions, however, I am satisfied that the trigger provided would secure timely payment. Accordingly, despite my reservations with the UU as identified above, if the appeal had proved successful then due to the provision of suitable mitigation, I conclude that the proposal would not result in a significant harmful effect on the integrity of the SAC.

Other Matters

15. Based on the evidence before me, the Council is unable to provide a five-year supply of deliverable housing sites. Accordingly, the presumption in favour of

sustainable development, as identified within Paragraph 11 of the Framework, is engaged. This means that where the policies which are most important for determining the proposal are out-of-date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the Framework taken as a whole.

16. Regarding benefits, the proposal would provide a modest but meaningful contribution to local housing supply, as well as generate economic benefits through the creation of construction jobs as well as ongoing increased expenditure into the local economy. Due to the scale of the proposal, modest weight is given to these matters. Environmentally, it is common ground that the proposal would result in a visual improvement to the character and appearance of the area. Based on the evidence before me, I have no reason to disagree with this conclusion and consequently, this matter also attracts some limited weight in favour of the proposal.
17. As identified above, the provision and contents of the UU would also weigh in favour of the proposal as well as going some way to reducing the harm caused by the location of the development. Specifically, the provision of affordable housing would have attracted substantial weight. Accordingly, had the UU been provided in a satisfactory form, I would have attributed significant weight to its content. However, due to the shortcomings identified above, the UU does not attract weight in favour of the proposal.
18. Despite the benefits identified above, I have already concluded that the location of the site would be in direct conflict with the development plan, a conclusion that is entirely consistent with the previously dismissed appeal on the site. This is a matter to which I attribute substantial weight, and in the absence of a satisfactory UU, I am satisfied that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, on the basis of the evidence before me, the proposal would not benefit from the presumption in favour of sustainable development as identified within the Framework.

Conclusion

19. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR