



Appeal Decision

Hearing Held on 11 October 2022

Site visit made on 11 October 2022

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 21 November 2022

Appeal Ref: APP/C1570/W/22/3300023

The Rise, Brick End, Broxted CM9 2BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Amanda and Daren Bye against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0247/OP, dated 13 January 2021, was refused by notice dated 17 December 2021.
 - The development proposed is an outline proposal with all matters reserved except access, layout and scale, for demolition of 2 existing buildings and erection of 3 new buildings together with the creation of a craft hub and re-formation of existing parking areas and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for an outline proposal with all matters reserved except access, layout and scale, for demolition of 2 existing buildings and erection of 3 new buildings together with the creation of a craft hub and re-formation of existing parking areas and landscaping at The Rise, Brick End, Broxted CM9 2BJ in accordance with the terms of the application, Ref UTT/21/0247/OP, dated 13 January, and the plans submitted with it, subject to the conditions set out in Schedule 1 of this decision.

Main Issues

2. The main issues in this appeal are:
 - The effects of the proposal on the character of this countryside location
 - Whether the proposal would give rise to unacceptable highway conditions due to the capacity of the surrounding roads
 - The effects of the proposal on the character and appearance of the Protected Lane
 - The effects on biodiversity.

Reasons

The effects of the proposal on the character of this countryside location

3. The appeal site is a roughly rectangular area of land which is set within the countryside. It sits between Brick End and Pledgdon Green and currently accommodates industrial buildings of blockwork and corrugated sheeting construction as well as storage containers, open areas of storage and car parking. Parts of the site are open and have previously been used for vehicle storage, not associated with the present business; these areas have been subjected to movement of the topsoil to form bunds at the site's edges, which accommodate plants. A Certificate of Lawful use has previously been granted for part of the site's use as general industrial purposes. The site is bounded on 2 sides by the adjacent lane and on the other 2 sides by open land, including parts of a large neighbouring garden and farmland.
4. Policy S7 of the Uttlesford Local Plan 2005 (LP) states that the countryside will be protected for its own sake. The Council recognises that this approach is not wholly consistent with the National Planning Policy Framework, which takes a positive approach, rather than a protective one, to appropriate development in rural areas. The Council has indicated that only moderate weight can be given to this policy. The Framework also indicates that 'valued landscapes' should be protected commensurate with their statutory designation or value identified in a development plan. The site is not within any designated valued landscape, although it is within the Countryside Protection Zone (CPZ) as set out in Policy S8 of the LP and covers a large area surrounding Stansted Airport. The Policy seeks to prevent development which promotes the coalescence of the airport and other development and which adversely affects the open character of the CPZ.
5. The existing site is well screened from the surrounding area by an established bund and landscaping/trees, some of which sit outside the site. It currently accommodates buildings which appear run-down and not sympathetically designed within this setting. Other features on the site include parking areas and storage containers and open storage of a large variety of items. From within the site and from any limited view from outside it, it appears as an eyesore and has a detrimental effect on the surrounding area, within this limited extent.
6. The proposed layout would provide development in a courtyard design which would present a more coherent structure to the site than the existing rather haphazard layout. Whilst I acknowledge that the appearance of the proposal is a matter which is not before me, I consider that the details within the appeal scheme would allow for a much improved form of development than currently exists. Therefore, as far as the details within this Outline proposal allow for, I consider that the proposal would represent an improvement to the existing appearance of the site. The proposal allows for a well designed scheme which would have a positive effect on its appearance and little effect on the surroundings due to the screened and contained nature of the site. Taking account of the limited weight that can be given to Policy S7 and the compliance with Policy S8, I find that the proposal would have an acceptable effect on the character of this countryside location.

Highways

7. The site is accessed by a narrow country lane which has a few informal areas where vehicles can pass each other, when travelling from the south. The lane currently carries low vehicle numbers and it is estimated that the proposal

would give rise to 65-67 vehicle movements during the morning peak and afternoon peak. It is also suggested by the Council that a small number of HGVs would deliver to/collect from the site. As part of the proposal, the appellant has proposed to formalise and augment the passing places on the lane. These have been identified and designed with the agreement of the County Council as Highways Authority. The proposal indicates that 5 passing spaces would be provided to a suitable width and length that would allow vehicles to pass each other safely.

8. The appellants have indicated that signage can be provided within the site which specifies that vehicles leaving the site should do so in a southerly direction; thus allowing for use of the passing bays if necessary and avoiding the more restrictive lane to the north. In addition, the appellant proposes a travel plan which would encourage car sharing and the use of a mini-bus to/from the Airport with its train and bus station.
9. The County Council has confirmed within an agreed Statement of Common Ground (SoCG), that, subject to suitable conditions and the completion of a Traffic Routing Agreement, the improvements to the lane would allow for the safe and free flow of vehicles and other users along this section. The proposed alterations to the site's access would not only provide an improved appearance but a better and safer access/egress to the site. The past and existing lawful use of the site has the potential to generate a number of vehicle movements to and from the site and the improvements to the safety, represented by the formalised passing places would allow its safe use with the additional vehicles generated by the proposed development.

Protected Lane

10. Policy ENV9 of the LP states that development which is likely to harm, amongst other things, Protected Lanes will not be permitted unless the need for the development outweighs their historic significance. The Council regard Protected Lanes as non-designated heritage assets. The significance of Protected Lanes is described in the *Uttlesford Protected Lanes Assessment* prepared by Essex County Council. It identifies a wide set of matters which add to significance and involves the historic fabric, archaeological potential, ecological value and their role as a cherished landmark and landscape.
11. The proposed works include formalising existing areas where the verge has been driven over to facilitate vehicles passing each other. The appearance of these areas at present is untidy and not positive. The relatively minor works would provide a surface of the same nature as the existing lane, over a limited area; no kerbs are proposed. I consider that these would represent an improvement to the existing areas referred to and would cause no harm. Therefore, I see no conflict with policy ENV9.

Biodiversity

12. Although not a matter raised by the Council, a number of local residents have set out their concerns relating to the effects of the proposal on local wildlife and this was discussed at the Hearing.
13. I have taken careful account of the content of the objections, including those of a resident who is a Chartered Ecologist. The appellants submitted a Preliminary Ecological Appraisal and an Ecological Impact Assessment with the

proposal and these were used in the Council's assessment of the proposal. As part of that assessment a Statutory Consultee is the County Council who (as Essex County Council Place Services) undertook their own assessment of the proposal. Place Services state in their formal response that the information submitted provides Uttlesford Council with certainty that the likely impacts on protected and Priority species and habitats, with appropriate mitigation, can be made acceptable. They indicate that they support the proposed biodiversity enhancements which would result in net gains for biodiversity, as set out in paragraph 174 of the latest version of the NPPF. I give considerable weight to the consultation response of Essex County Council Place Services, as a statutory consultee in this case.

14. Whilst I have taken account of the objections and representations submitted in relation to this matter, I attach more weight to the response of Place Services in their position as a statutory consultee providing expert advice on biodiversity matters. In my judgement, that view is not outweighed by the objections which have been submitted. Therefore, I find no conflict with Policy GEN7 of the LP, subject to the imposition of suitable conditions.

Conditions

15. I have had regard to the advice in the Planning Practice Guidance (PPG) in relation to the use of conditions in planning permissions. The Council and the appellant have set out a schedule of conditions in the agreed Statement of Common Ground. These have been largely agreed and I have used this as the basis for my considerations. Some of the proposed conditions require some alterations in order to make them clear and consistent with the PPG.
16. Standard conditions are necessary to require the submission and approval of reserved matters and the timing of the commencement of the development. A construction method statement is necessary so that there is no undue disruption during the construction phase of the development. So that the proposal has an acceptable impact in relation to traffic, conditions which require the passing bays, the access, the provision of parking areas within the site and the approval of a Travel Plan are necessary. In relation to signage within the site to direct drivers to turn right rather than left and the provision of a Traffic Route Management Plan, the Council expressed doubts over the enforceability of such a condition, despite it appearing as a recommended condition in the original officer's report. I note that a similar traffic routing measure is proposed within the Construction Method Statement condition, without any objection from the Council. In my view, this is an acceptable measure to include and the presence of signs and the commitment to such measures would be easily monitored by the Council.
17. So that the cycle parking is provided in a timely manner, I shall include a condition which requires its provision. Conditions requiring approval and provision of suitable drainage measures within the site, so that flooding outside the site is prevented and such measures are suitably maintained are necessary and reasonable. Conditions requiring measures for the enhancement of the site in relation to biodiversity are necessary. Conditions to control lighting within the site so that neither wildlife nor aviation safety are compromised are also necessary and reasonable. It is also necessary that an assessment should be made of any potential to affect aviation safety in relation to sunlight reflection and glare.

18. I have not included the suggested condition relating to landscaping and external materials for the buildings, as these would be assessed during the submission of reserved matters in this case. I have also modified some of the suggested conditions which refer to payment of money as these would not comply with the PPG.

Conclusions

19. For the reasons set out above, the appeal is allowed.

T Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

R Ground KC
A Gunne-Jones
M Trentham
J Bass
D Bye

FOR THE LOCAL PLANNING AUTHORITY:

F Nwanze

INTERESTED PERSONS:

Z Rutterford
S Cousins
E Hill
L Bailey
M Goff
K Rixson
W O'Connor
A Malins
S Kelly
M White
A Cousins
N Bailey
R Bhogal
M Allworthy

SCHEDULE 1, Conditions (18 in number)

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) vehicle routing to and from the site
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) wheel and underbody of vehicle washing facilities
 - vi) before and after surveys of the condition of the highway in the vicinity of the site to identify any defects resulting from the construction works and to make good to the satisfaction of the local planning authority.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) Prior to implementation, the developer shall provide a scheme of passing places as shown in principle in submitted drawings IT2082/TA/003/A, IT2082/SK/010, IT2082/SK011, IT2082/SK/012. All necessary works including any relocation or provision of signage, utilities, drainage, associated resurfacing or works to the existing carriageway to facilitate widening to be carried out to the written satisfaction of the Council.
- 6) Prior to occupation of the development, the access, turning and vehicle parking provision as shown in principle on submitted drawings IT2082/TA/002 and swept paths shall be provided, including a clear to ground visibility splays with dimensions of 2.4 metres by 31 metres to the north and 2.4m by 45m to the east directions, as measured from and along the nearside edge of the carriageway. The turning, parking and access with associated vehicular visibility splays shall always be retained free of any obstruction thereafter.
- 7) Prior to first occupation of the development, signing shall be provided within the site to direct all traffic to the east. All businesses within the site shall be required to sign a Traffic Routeing Management Agreement to ensure HGVs use the agreed routing to the east and south as shown on drawing number IT2082/TA/004 and that deliveries are provided with this information.

- 8) Prior to first occupation of the development, the cycle parking facilities as shown in principle on the submitted plans shall be provided. Such facilities shall be secure and covered and always retained.
- 9) Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall include the offer and provision of a sustainable transport link for employees to Stansted Airport bus and coach station, the plan shall be actively implemented for a minimum period of 5 years.
- 10) No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.
- 11) No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The development should be undertaken in accordance with the approved details. The scheme should include but not be limited to:
 - Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
 - Rainwater harvesting should be utilised wherever possible in line with the preliminary design.
 - Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
 - Final modelling and calculations for all areas of the drainage system.
 - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
 - Detailed engineering drawings of each component of the drainage scheme.
 - A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
 - A written report summarising the final strategy and highlighting any minor changes to the approved strategy. The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.
- 12) Prior to first occupation of the development, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance

- activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority. The agreed details shall be adhered to for the life of the development.
- 13) The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan for the surface water drainage system. These must be available for inspection upon a request by the Local Planning Authority.
 - 14) Prior to commencement of the development, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity and Enhancement Strategy shall include the following: a) purpose and conservation objectives for the proposed enhancement measures, b) detailed designs to achieve stated objectives, c) locations of proposed enhancement measures by appropriate maps and plans, d) persons responsible for implementing the enhancement measures, e) details of initial aftercare and long-term maintenance. The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.
 - 15) Prior to the commencement of development all biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Ecological Impact Assessment (Brindle and Green, November 2020). This should include the appointment of an appropriately competent person to implement the Reasonable Avoidance Measures recommended for amphibians and mammals and to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
 - 16) Prior to commencement of the development a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, Isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. No other external lighting be installed without prior consent from the local planning authority.
 - 17) No development to take place until a detailed lighting scheme (with specifications) is submitted to and approved in writing by the Local Planning Authority in consultation with the aerodrome safeguarding authority for Stansted Airport. The development shall be undertaken in accordance with the approved details and thereafter retained in that form
 - 18) No development shall take place until an aviation perspective 'Glint and Glare' assessment is provided to the local planning authority in consultation with the aerodrome safeguarding authority for Stansted

Airport. The assessment will need to demonstrate that there will be no ocular hazard to pilots using Stansted Airport.