

**The Town and Country Planning (Section 62A
Applications) (Hearings) Rules 2013**

ISSUES REPORT

Application Reference No: s62A/2022/0014

Applicant: Kier Ventures Ltd

Description of proposal: Outline application for the erection of up to 170 dwellings with access from Thaxted Road with all other matters reserved

Site address: Land west of Thaxted Road, Saffron Walden

Report prepared by: Jo Dowling

Hearing to be held on: 28 April 2023

Introduction/background

The site

The application site is approximately 7.8 hectares. It comprises three distinct fields which are currently in arable production located to the south west of Thaxted Road on the edge of Saffron Walden. The fields are bounded by mature vegetation in the form of hedgerows interspersed with some medium sized trees. Levels drop across the site from west to east.

To the north of the site is an area of public open space with housing, a community skate park and the Lord Butler Leisure Centre. To the west lies further housing and a primary school. Opposite the site to the east is a new development which consist of a retail park along with a new housing development.

The site is located outside of the settlement boundary of Saffron Walden. As a consequence, for planning purposes the site is defined as being in the countryside. The site is located within Flood Zone 1. The site does not fall within or is adjacent to a conservation area. To the south west of the site is a grade II listed building known as 'The Granary'. The site and the surrounding areas does not have a landscape designation nor is it within the Green Belt.

Planning policy

The statutory development plan for the site is the Uttlesford Local Plan (2005) (the Local Plan). In addition, the Saffron Walden Neighbourhood Plan (2022) (the Neighbourhood Plan) was formally made by Uttlesford District Council (UDC) on 11 October 2022. National policy and guidance are contained within the National Planning Policy Framework (the Framework) and associated national Planning Practice Guidance (the PPG).

The proposal

Outline planning permission is being sought for the erection of up to 170 dwellings with access from Thaxted Road. All other matters are reserved.

Procedural matters

The application was made under section (s) 62A of the Town and Country Planning Act 1990, which allows for applications to be made directly to the Planning Inspectorate where a Council has been designated by the Secretary of State.

As the proposal is a major application the decision was taken that it would be appropriate to hold a Hearing. This is to be held on Friday 28 April 2023 and will be conducted in accordance with the Town and Country Planning (s62A Applications) (Hearings) Rules 2013.

Please note that due to the Council Chamber being unavailable the Hearing will be held at Saffron Quakers Hall, Friends Meeting House, High Street, Saffron Walden CB10 1AA.

An application for a screening opinion for the above proposal under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 was submitted to UDC and separately to the Planning Inspectorate. It was found that the proposal would not give rise to significant adverse effects and an Environmental Impact Assessment was therefore not required.

The application was made on the 25 November 2022 and validated on 7 December 2022. Notifications were then made on 8 December 2022 and allowed for initial responses by 17 January 2023. Responses were received from:

- Affinity Water;
- Cadent Gas;
- Environment Agency;
- Essex County Council (ECC) Contributions;
- ECC Highways;
- ECC Historic Buildings and Conservation;
- ECC Historic Environment;
- ECC Minerals and Waste;

- ECC Place Services Ecology;
- ECC SUDS;
- Essex Police – Designing Out Crime;
- Health and Safety Executive;
- Historic England;
- MAG Highways;
- MAG Safeguarding;
- NATS;
- National Highways;
- Natural England;
- Saffron Walden Town Council;
- UDC Environmental Health;
- UDC Housing Strategy and Development Officer;
- UDC Urban Design Officer; and
- UK Power Networks.

In addition, a number of interested parties and local residents have also submitted responses.

The Applicant submitted further information in February 2023 in response to comments received following the initial consultation. This included further information regarding highways and flooding. All relevant parties were given the opportunity for further comment by 22 March 2023.

UDC has submitted a comprehensive Officer's report. This was considered by the relevant council committee and the minutes of that meeting held on 11 January 2023 advise that following discussions Members wished the following concerns to be brought to the attention of the Planning Inspectorate:

- density concerns in respect of a gateway site;
- lack of infrastructure relating to health and education;
- location of affordable housing – being clustered, not compliant with the neighbourhood plan;
- technical issues – Sustainable Urban Drainage system (SUDs) and biodiversity concerns;
- public open spaces – quantum and quality issues to be linked to the neighbourhood plan;
- active travel concerns – lack of linkages;
- single access point;
- significant adverse landscape impact and Air Quality Management Area on Thaxted Road;
- size of housing not meeting local housing needs;
- lack of public transport; and
- the permeability of the site.

The initial responses, the further comments and UDC's Officer's Report and committee recommendation have informed the following main issues.

Main issues

The following are the main issues to be considered in respect of the application:

- the principle of the development; and
- the effect of the proposed development on highway safety.

Principle of development

All parties agree that the application site falls outside of the settlement boundary for the town of Saffron Walden. Policy S7 of the Local Plan advocates that in the countryside planning permission will only be given for development that needs to take place there or is appropriate to a rural area and that there will be strict control on new building.

However, the Council acknowledge that the Local Plan is not up to date and significantly pre-dates the Framework. In addition, the Council accept that it cannot currently demonstrate a five-year housing land supply. As a result, the Council accept that paragraph 11 of the Framework which advocates the granting of planning permission subject to a number of caveats would be engaged.

Paragraph 11 of the Framework indicates that planning permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

Footnote 7 of the Framework defines areas or assets of particular importance as habitat sites (and those sites listed in paragraph 181) and/ or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

The Council agrees that the application site is not located within any of the areas listed in footnote 7.

Paragraph 11(ii) requires the decision maker to grant permission unless there would be adverse impacts and these impacts would 'significantly and demonstrably' outweigh the benefits that the application would deliver.

The Council accepts that the 170 units that the scheme could deliver would make a valuable contribution to the district's housing supply. However, due to

changing the nature of the site from open arable fields to a significant amount of built form the Council considers that the proposal would inevitably cause some level of harm upon the character and openness of this part of the countryside.

The Applicant has provided a Landscape and Visual Appraisal (LVA) which concluded that the receiving landscape, given its proximity to existing built form, is one that could accommodate change. Furthermore, the proposed retention of existing woodlands and trees would mitigate the appearance of the scheme. The Applicant therefore considers that the proposal would not result in an unacceptable level of harm to landscape character or visual resources.

Although all matters, except access, are reserved the Council considers that the indicative plans demonstrate that the proposal could be accommodated within the local landscape with minimal adverse impact on the wider landscape character and visual resources. Furthermore, within the site the Council indicated that the proposal could create a high-quality scheme that relates well to the adjacent settlement and which would not harm Saffron Walden's character.

The proposal would result in the loss of Grade 2 land which is considered good quality agricultural land. Policy ENV5 of the Local Plan seeks to protect agricultural land and advises that development of best and most versatile (BMV) agricultural land will only be permitted where opportunities have been assessed for accommodating development on previously developed sites or within existing development limits. The Council accepts that policy ENV5 is only partly consistent with the Framework but highlight the significant weight given by the Framework to the protection of BMV land. However, even though the proposal would result in the permanent loss of agricultural land the Council acknowledges that the benefits arising from the proposal which would include the delivery of both market and affordable housing could be substantial.

Having regard to the details set out in the submitted LVA, proximity of the site to nearby services and the lack of five-year housing land supply, the Council concluded the proposal would likely be acceptable in principle.

Saffron Walden Town Council (SWTC) agree that the Council cannot demonstrate a five-year housing land supply. However, it considers that the tilted balance should only be applied to the 78 units that would redress this shortfall and that the additional 92 units would need to comply with the relevant Local Plan and Neighbourhood Plan policies. Furthermore, it advocates that the proposal would result in the loss of land contrary to policies ENV3 and S1 of the Local Plan and the guidance contained within the Framework and that the proposal would be detrimental to the existing green mile and skate park.

A number of local residents and interested parties have questioned the need for the additional housing given the amount of new housing built in and around the

town in the recent past, raised concerns about the loss of agricultural land and the impact on the character and appearance of the open countryside.

Highway Safety

Vehicular access to the site would be provided by a give way controlled priority junction off the B184 (Thaxted Road) which would be located opposite the Kilns and approximately 60 metres (centre to centre) south east of the recently constructed traffic signals junction serving the development to the east of Thaxted Road.

All parties agree that the proposal would result in the increase in traffic movements within the local road network. The Applicant submitted a Transport Assessment (TA). ECC Highways, as the relevant Highways Authority, initially objected to the proposed layout. The Applicant engaged with ECC Highways and as a result submitted amended plans and an addendum to the TA in an attempt to address their concerns. ECC Highways have subsequently advised that subject to a number of contributions and conditions they consider that the proposal from a highways and transportation perspective would be acceptable.

The Council Officers advised that they were unable to make detailed comments on the highway's aspect of the proposed development as this was a matter for ECC Highways as the relevant Highways Authority.

Whilst Members of the Planning Committee indicated that they had concerns on the effect of the proposed development on highway safety, detail as to what these specific concerns were have not been provided.

SWTC advised that as the proposal would result in an increase in traffic the Neighbourhood Plan would require the provision of sustainable transport measures and that those proposed would be inadequate. Furthermore, due to the physical constraints of the local road network it considers that, even were funding to be secured, it would not be possible to deliver the cycle schemes necessary to mitigate the effect of the proposed development.

A number of local residents have raised concerns regarding traffic generation, current road capacity and consider the proposed Southern Link Road would be impractical and as a result would not mitigate the impact of the proposed development.

Other issues

SWTC advised that part of the application site was required to deliver community facilities in relation to a consent to develop a neighbouring site (LPA ref: UTT/13/3467/OP).

SWTC consider that the public open space would be poor and limited and as it would not be provided in a single well-placed location would not comply with policy SW17 of the Neighbourhood Plan and GEN6 of the Local Plan.

Furthermore, it objects to the creation of a footpath across the green mile as it would result in the subdivision of the land and a reduction in amenity space. Concerns regarding loss of open space were also raised by a number of interested parties and local residents.

SWTC advised that affordable housing and housing mix would need to comply with policies SW1 and SW2 of the Neighbourhood Plan and as such should be considered as part of the current application rather than at reserved matters stage.

A number of interested parties and local residents raised concerns in relation to the proposed development placing additional pressure on local services which they consider are already oversubscribed.

In addition, the following issues were also highlighted by interested parties and local residents:

- presence of wildlife including bats, reptiles and birds;
- existing and potential flooding issues;
- potential for this development to encourage further housing development in the area;
- access issues via an existing area of residential parking;
- concerns regarding noise and disturbance from construction activity;
- potential for light pollution;
- the site is not included as a development site in the draft Local Plan;
- brownfield sites should be prioritised over building in open countryside;
- loss of views and outlook;
- concern regarding the ability of the sewage treatment works to cope with the additional development;
- whether the development was needed given changes to the housing market;
- lack of sports facilities;
- there is five years worth of housing land supply;
- the Air Quality Assessment submitted by the applicant is flawed;
- the amended road layout would prevent future expansion of the skate park; and
- the site is not a sustainable location.

Conditions

The Council and some consultees have suggested, on a without prejudice basis, a number of conditions if the application is to be permitted. These are set out in the draft Schedule of Conditions provided with this report and will be discussed at the Hearing. Their inclusion here, and any discussion on their merits, does not indicate that a decision has been made on the application, but only that the conditions suggested are to be assessed as to whether they meet the test for

conditions as set out in the Framework¹ namely that they would be necessary, relevant, enforceable, precise and reasonable.

All suggested conditions by UDC and statutory consultees have been included for completeness, apart from where it would result in duplication or raise issues with consistency. Inclusion of a condition does not necessarily indicate that it should be retained if the application were to be approved, either as worded or as amended. The schedule is for discussion at the Hearing.

Planning obligation

A draft heads of terms for a planning obligation (the s106) have been submitted. It would secure:

On-site provision

- on-site affordable housing (40%);
- on-site public open space including ongoing maintenance;
- travel plan;
- provision of a green orbital route through the site; and
- car club.

Off-site provision

- provision of public open space;
- education (early years and primary);
- off-site highways works, including the provision of a shared footway and cycleway improvements on the B184 Thaxted Road; and
- new bus stops on the B184 Thaxted Road, to include passenger facilities, step-free access, seating and real-time passenger information.

In addition, SWTC has set out a number of requests for items to be included within the s106 in a 'wishlist', which can be discussed at the Hearing.

As with conditions, set out above is the draft Heads of Terms as set out by the Applicant, but this is done on a without prejudice basis and does not indicate either way whether they should be retained or re-worded. The draft s106 will be discussed at the Hearing. For a s106 to be a material consideration in the determination of an application the s106 would need to be completed, engrossed and sent to the Planning Inspectorate prior to the issuing of any decision. The timeframe for the submission of this document will be discussed at the Hearing.

Jo Dowling

INSPECTOR

¹ Paragraph 56