



Statement of Reasons & Decision Notice

Site visit made on 8 October 2024

by Mr W Johnson BA(Hons) Dip TP Dip UDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Application Ref: s62A/2024/0049

Land South of Bedwell Road, Elsenham

- The application was made under Section 62A of the Town and Country Planning Act 1990 (TCPA) by Rochester Properties Limited, John F C Sergeant and Joan F M Anderson.
- The site is located within the local planning authority area of Uttlesford District Council.
- The application was dated 20 June 2024, with a valid date of 1 July 2024.
- Consultation closed on 6 August 2024.
- Outline Planning Permission reference UTT/20/2908/OP (the outline permission) for the up to 50 market and affordable dwellings, public open space and associated highways and drainage infrastructure – all matters reserved except access was granted 15 June 2023 on appeal¹.
- The development for which approval of the reserved matters is sought is described as: *'Approval of matters reserved (layout, scale, landscaping and appearance) pursuant to Appeal Decision APP/C1570/W/22/3311069 (up to 50 market and affordable dwellings, public open space and associated highways and drainage infrastructure – all matters reserved except access) – The development was not EIA development. No development has started'*.

Statement of Reasons

Summary of Decision

1. Planning Permission (Reserved Matters) is **Granted**, subject to conditions.

Procedural Matters and background

2. The application was submitted under s62A of the *Town and Country Planning Act 1990*, as amended (TCPA). This allows for applications to be made directly to the Secretary of State (SoS), where a local authority has been designated. Uttlesford District Council (UDC) have been designated for major applications since February 2022. The SoS has appointed a person under section 76D of the TCPA to determine the application instead of the SoS.
3. Following the closure of the representation period, Article 22 of *The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013* requires the SoS (or appointed person) to consider the application either by hearing or on the basis of representations in writing.
4. Taking into account Section 319A of the TCPA and the *Procedural guidance for Section 62A Authorities in Special Measures*² published by the SoS (including Paragraph 5.1.1), as the appointed person, I considered that the issues raised in this case should be dealt with by means of the Written Representations

¹ APP/C1570/W/22/3311069

² [Procedural guidance for Section 62A Authorities in Special Measures - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/procedural-guidance-for-section-62a-authorities-in-special-measures.pdf)

procedure, where an unaccompanied site visit was carried out on 8 October 2024. The inspection included viewing the site from the surrounding area.

5. Approval is sought for Reserved Matters of Appearance, Landscaping, Layout and Scale. What constitute reserved matters is defined within The Town and Country Planning (Development Management Procedure) (England) Order 2015. I have used this as a basis for considering the submitted details.
6. The definitions are³:

'appearance' means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

'landscaping', in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features

'layout' means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development

'scale' except in the term 'identified scale', means the height, width and length of each building proposed within the development in relation to its surroundings

Planning Policy and Guidance

7. The adopted development plan for this part of the Uttlesford District is the Uttlesford District Local Plan (adopted 2005) (LP).
8. The National Planning Policy Framework (the Framework) is an important material consideration. It was last updated in December 2023.
9. Of particular note is Chapter 12, Achieving well-designed and beautiful places and Paragraph 131 which states: 'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

³ Source: <https://www.legislation.gov.uk/uksi/2015/595/article/2>

10. In late July 2024, the SoS began a consultation on the Framework. The parties have been able to provide comments on this matter. Nonetheless, caselaw is clear in that decisions should be made on the basis of policy adopted at the time of decision-making. Although, emerging policy, such as this can be material considerations. I have dealt with the application on this basis.

Main Issues

11. The main issues are whether the submission in relation to the reserved matters of appearance, landscaping, layout and scale, pursuant to the outline planning permission, should be approved or not.

Statutory Parties or Interested Persons

12. A number of representations have been made by local residents and public body consultees. Full details of the comments can be found on the application website at:

<https://www.gov.uk/guidance/section-62a-planning-application-s62a20240049-land-south-of-bedwell-road-elsenham#type-of-application>

13. All written representations have been considered before making the decision here.

Reasons

14. The Applicant seeks the approval of reserved matters for 50 dwellings where the proposed development would include a mix of linked apartments, terraced, semi-detached and detached houses comprising 1, 2, 3 and 4-bedroom properties. Within this provision would be 40% affordable housing with 30% as shared ownership and 70% rented, which have all been designed to meet National Design Space Standards⁴. The shared ownership element comprises 2no. two-bedroom houses and 4no. two-bedroom apartments. Whilst the rented element comprises 3no. one-bedroom apartments and 11no. two-bedroom apartments.
15. During the course of the application a number of concerns have been raised, particularly surrounding the 3-storey apartment block and concerns surrounding highways. Although, the initial comments made by the Essex County Council Highways and Transportation (ECCHT) were addressed by the applicant, during the course of the assessment. This resulted in a revised set of comments being issued from ECCHT dated 5 September 2024, confirming that the impact of the proposal is acceptable subject to conditions. The location of the affordable housing has also been referenced by various parties including the Council. However, I shall cover this aspect in greater detail later in my decision.
16. The inclusion of a 3-storey apartment block was accepted as being somewhat of a necessity to provide the necessary mitigation against noise from the M11 motorway. The Inspector in reaching his decision on the outline permission noted as much, particularly in light of the physical circumstances of the site, its relationship to the M11 and its elevation. I also accept that the location of the apartment block is in a similar location to that shown on the indicative plan on the outline permission. Whilst design itself was not a consideration in its own

⁴ Technical housing standards – nationally described space standard, 2015

right on the outline permission, it was in regard to the noise environment. Additionally, the principle of such development was considered against other options, such as fencing or bunding, but the barrier block approach was favoured. Consequently, the inclusion of the apartment block in this application is in the spirit of the outline permission.

17. In any event, whilst providing an effective solution with regard to noise mitigation, I do not find that the location, scale or design of the apartment block would be visually harmful or incongruous, primarily due to its location to the rear of the site when viewed from Bedwell Road and its footprint, which breaks up the elevations and results in the articulation of its roof. I accept that the inclusion of the apartment block has been heavily influenced by the presence of the M11, but the proposed houses provide a suitable buffer between the apartment block and the existing housing in the locality to ensure that its visual impact would be tempered where the scheme would be more visible. In the case of the northern section of the apartment block, existing mature trees would provide sufficient screening to reduce its visual impact.
18. Comments have been received from the Council's Urban Design Officer (UDO) regarding concerns surrounding an unsafe and uninviting approach to the western entrances of the apartment block, particularly after dark that would limit its use. In this respect I note that the Crime Prevention Tactical Adviser raises no objections. I accept that natural surveillance may be limited at ground floor on this elevation, but even with the focus of habitable rooms being located on the opposite façade, there are still a large number of windows at first and second floor that would overlook this area. Additionally, it is highly likely that some form of security lighting would be installed in any event.
19. I have also noted the concerns from the UDO surrounding the suggested materials and the landscaping. In terms of materials, these are shown on drawing BEE-MPB-002 Materials and Boundary Treatment. It is clear looking at the drawing, that the material palette would be typical to that found in many residential developments. The varied and mixed building types and subtle changes to external surfaces and roof coverings, would help to prevent any visual monotony within the development.
20. Whilst the UDO identifies an opportunity to propose more naturalistic play features and play-on-the-way elements along footpaths and trim trails, expanding the landscape strategy beyond the development boundary and integrating the woodland within the development, I have not been provided with any mechanism to secure any such approach. In any event, I consider that the landscape proposals, which include both hard and soft landscaping, supports the scheme, is attractive and creates a number of open spaces with different characters throughout the site that would be inviting and useable.
21. The landscaping comprises extensive soft landscaping, which along with existing hedges and trees along the site boundaries and the woodland to the north and west of the site would ensure an attractive verdant development. Whilst there is nothing formal as proposed by the UDO, I have no doubt that future occupants and visitors alike would be attracted to the adjacent woodland, albeit on a more informal basis. Whilst the applicant has suggested this aspect of the scheme as well as the proposed materials could be further controlled by condition, I am not persuaded that such an approach would be necessary to make the proposed development acceptable in this instance.

22. For these reasons, I conclude that the scheme would represent a high-quality development in respect of its Appearance, Landscaping, Layout and Scale in accordance with LP Policy GEN2, which, amongst other aims, seek good design. The proposed development would also comply with the aspirations for high quality design in the Framework.

Other Matters

23. Concerns have been raised by various parties surrounding the type and mix of affordable housing within the development. In this regard I note that the provision of affordable units within the site is controlled by the s.106 legal agreement dated 30 March 2023 (the s.106), which accompanied the outline permission. The scheme generally complies with the covenants contained within the s.106 at Schedule 2, Part 2 for Affordable Housing.
24. Nonetheless, there would appear to be some dispute surrounding Paragraph 5 of Part 2 in the s.106, surrounding type and mix of affordable units and to a lack of agreement as required prior to the submission of this Reserved Matters application. Despite this unfortunate position between the parties and recognising comments received from the UDO and the Housing Strategy, Enabling & Development Officer, this does not form a reason for refusing the details submitted in this case. In any case, under the terms of the s.106, the Owners covenant with the Council requires that "no development shall take place unless and until such written agreement has been acknowledged in writing by the Council".
25. The applicant has submitted details as requested on the outline permission in respect of conditions 3 and 4, for details showing all dwellings with dual aspect and a scheme detailing sound insulation measures, respectively. These were imposed on the outline permission in the interests of the living conditions of future occupiers having regard to noise and disturbance.
26. The details provided including the Acoustic Report by WSP dated June 2024 seek to demonstrate that the living conditions of future occupiers would be acceptable with regard to noise, as well as other factors, such as ventilation. I note reference to noise levels below the recommended levels being achieved, with the exception of 3no. garden spaces, where the noise levels would be up to 56dB, which is above the 55dB limit. However, the noise model level is overpredicting by 2dB, which would bring these instances within range.
27. Environmental Protection (EP) have been consulted on this application, which resulted in further questions. In response, the applicant submitted an additional Technical Note⁵, which provided the necessary information and clarification required by EP to satisfy their concerns. Consequently, I conclude that the proposed development would result in acceptable living conditions for future residents. Therefore, the scheme accords with the amenity aims of LP Policies GEN2, GEN4, ENV10 and the requirements of conditions 3 and 4 of the outline permission have been satisfied.
28. I have had regard to the number of objections received from local residents and others, including both Elsenham Parish Council and Ugley Parish Council as part of this application, many of which I have considered in the above reasoning. A wide range of concerns has been expressed including, but not

⁵ Technical Note prepared by WSP, dated 12th November, project: UK0033240.2467

limited to the following: highway and pedestrian safety; living conditions of existing residents and a lack of shops and services in the locality, amongst other things. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead to justification, either individually and/or cumulatively, for the refusal of permission in this instance.

Planning Balance

29. The proposed development would provide 50 dwellings, including affordable homes. It would also provide biodiversity enhancements on a currently unmanaged site and economic benefits in the form of jobs during the construction phase. In respect of LP Policy S7, the principle of development has already been established through the approval of the outline application and the proposed development as set out under this application would introduce much needed housing to the Council's supply of homes. Whilst there would still be conflict with LP Policy S7, which seeks to protect the countryside for its own sake, it is limited and overall the proposed development accords with the adopted development plan when considered as a whole, including compliance with LP policies GEN1, GEN2 and H9.
30. The Senior Built Heritage Consultant has confirmed that due to intervening woodland and built form including the M11 motorway, they do not consider the proposed development site to form part of the setting of any listed buildings or other heritage assets. In the absence of substantive evidence to the contrary, I agree with this observation.

Conditions

31. The main parties have not provided any suggested conditions. In addition to the time limit and plans/documents condition and upon reviewing the responses received from consultees, I will attach conditions as suggested by Highways and Transportation, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance, as they are all reasonable and necessary to ensure highway safety. To avoid unnecessary duplication, I have not included conditions that are covered on the outline permission. Furthermore, there is no requirement to provide a specific materials condition as the details are already listed within the approved plans.
32. Article 24 (1) (a) of *The Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013* (SI 2013 No. 2140) sets out that where planning permission is granted subject to conditions, (as is the case here) the notice must state clearly and precisely the full reasons for each condition imposed. This has been provided here under each condition imposed within the decision notice section of this document.

Conclusion

33. There is no overall conflict with the adopted development plan when considered as a whole, and there are no material considerations that indicate a decision otherwise than in accordance with it. Furthermore, the proposal would align with national policies set out in the Framework. The proposal would clearly result in wider benefits including the creation of market and affordable housing, biodiversity gains and notable economic benefits during the construction phase.

These benefits attract very significant weight in favour of the proposed development.

34. For these above reasons, I conclude that planning permission should be granted subject to conditions; the reasons for which are clearly and precisely set out under each condition imposed in the decision notice.

W Johnson

INSPECTOR (Appointed person under S76D TCPA)

Decision Notice

Reference: s62A/2024/0049

Planning permission is **Granted** for the approval of reserved matters for (layout, scale, landscaping and appearance) pursuant to Appeal Decision APP/C1570/W/22/3311069 (up to 50 market and affordable dwellings, public open space and associated highways and drainage infrastructure – all matters reserved except access) at Land South of Bedwell Road, Elsenham, dated 20 June 2024, with a valid date of 1 July 2024, subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the approved plans as set out in the Schedule, entitled 'Bedwell Road (RMA)' dated 20 June 2024.
REASON: For certainty and to ensure that the development is carried out in accordance with the approved plans and details.
3. Prior to any development above slab level, the Developer shall submit to the Local Planning Authority for approval, in consultation with the highway authority, details of the car parking provision for each residential dwelling. This shall be in accordance with the Essex Parking Standards and designed in such way that it prevents indiscriminate parking and any obstruction in the visibility splays. Once approved, the development shall not be occupied until such time as the approved parking spaces are provided in the agreed form. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.
REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided.
4. Prior to any development above slab level, the Developer shall submit to the Local Planning Authority for approval, in consultation with the highway authority, details of a 20mph zone scheme. This shall include physical features in accordance with Traffic Signs Regulations and General Directions 2016 Part 4 The schedule 10 General Directions.
REASON: To ensure the reduction of adverse impact of motor vehicles on built up areas in the interest of highway safety.
5. Prior to first use and occupation of the development, vehicular turning facilities at the locations indicated on drawing no BEE-PL-001 (titled Planning Layout (08)) shall be constructed to Essex Design Guide standards (size 3),

surfaced and maintained free from obstruction within the site at all times for that sole purpose.

REASON: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety.

6. Prior to first use and occupation of the development, all private drives shall be constructed at a minimum width of 4.5m.

REASON: To ensure that vehicles can manoeuvre safely on the main road while entering and existing the private drives in the interest of highway safety.

7. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

*****End of Conditions*****

Informatives:

- i. In determining this application, the Planning Inspectorate, on behalf of the Secretary of State, has worked with the applicant in a positive and proactive manner. In doing so, no substantial problems arose which required the Planning Inspectorate, on behalf of the Secretary of State, to work with the applicant to seek any solutions.*
- ii. The decision of the appointed person (acting on behalf of the Secretary of State) on an application under section 62A of the Town and Country Planning Act 1990 ('the Act') is final. An application to the High Court under s288(1) of the Town and Country Planning Act 1990 is the only way in which the decision made on an application under Section 62A can be challenged. An application must be made promptly within 6 weeks of the date of the decision.*
- iii. These notes are provided for guidance only. A person who thinks they may have grounds for challenging this decision is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655) or follow this link: <https://www.gov.uk/courts-tribunals/planning-court> .*
- iv. The Applicant should note that this decision only applies to the Reserved Matters which have been approved. Responsibility for ensuring compliance with this Decision Notice rests with Uttlesford District Council, any applications related to the compliance with the conditions must be submitted to the Council. Any other conditions and/or consents or permissions which may be required under planning, building control, or other legislation, will still need the relevant and appropriate approvals.*

*****End of Informatives*****