



Appeal Decision

Inquiry held on 5-7 November 2013

Site visits made on 4th and 7th November

by P E Dobsen MA (Oxon) DipTP FRGS

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

Decision date: 7 January 2014

Appeal Ref: APP/C1570/A/13/2201844

Land at Bentfield Green, Stansted Mountfitchet, Essex

- 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 Taylor Wimpey UK Ltd. against the decision of Uttlesford District Council.
 - The application (Ref: UTT/13/1203/OP), dated 7 May 2013, was refused by notice dated 10 July 2013.
 - The development proposed is "Erection of up to 140 dwellings, primary school, allotments, public open space, sports pavilion and associated parking, village green provision, landscaping, and associated infrastructure and access".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Inquiry took place over 3 days, the second of which was largely taken up by 3rd party appearances, in particular that of a joint Rule 6 party, the Save Stansted group with the Stansted Mountfitchet Parish Council, who are objecting to the proposed development. On the 3rd day, I made an accompanied visit of the site and its surroundings with members of this group, together with representatives of the main parties. I had previously made an unaccompanied visit.
3. Also on the 3rd day, the appellants tabled 2 planning obligations - one an agreement with Essex County Council, the other a unilateral undertaking - and requested additional time to complete their formal signing. This was duly done soon after the Inquiry close [Docs 5 and 6].

Background – preamble to definition of main issues

4. The application was refused by the Council for the following 2 reasons: "*(1) the proposed development by reason of its size and scale... and the locality would have an unacceptable impact upon the countryside and the character and appearance of the adjacent Conservation Area due to the introduction of noise and additional traffic, contrary to policies S1, S7 and ENV1 of the Uttlesford Local Plan (adopted 2005) and the NPPF¹; (2) the proposed development would result in the loss of productive agricultural land, contrary to policy ENV5 (of the Local Plan)*".

¹ The National Planning Policy Framework, published March 2012

5. The appeal site is an area of arable farmland located on the northern western edge of the large village of Stansted Mountfitchet (henceforth referred to as Stansted). Comprising land in agricultural grades 2 and 3a, it is classified as best and most versatile (BMV) land². Before the Inquiry, the Council indicated that it did not intend fully to defend the second reason for refusal, owing to the general and widespread existence of other BMV land in Uttlesford district, some of it of better overall quality than the appeal site. However, the prospective loss of this BMV land remains in principle of concern to the Council, as well as to the Rule 6 party and to some other objectors. I return to this matter towards the end of this decision.
6. The planning application is in outline with all matters reserved except for the means of access. It includes an illustrative master plan, which shows the proposed housing and school site located on the eastern two-thirds of the site, in effect the easternmost of the two large fields which comprise it. The western third would be used as playing fields and, in its southern part, as an extension to the existing (westerly) portion of the historic village green at Bentfield Green.
7. The main parties submitted a statement of common ground (SCG 1) in advance of the Inquiry, and there is also a SCG 2 between the appellants and Essex County Council as the local highways authority (which has no objections in principle to the development).
8. The Council accepted in SCG 1, prepared some weeks before the Inquiry, that it could not demonstrate a 5 year housing land supply (HLS). The HLS then stood at some 3.6 to 3.7 years. During the Inquiry, and owing to additional planning permissions³ for housing granted in the interim, the agreed⁴ HLS stood at 4.6 years, representing a district wide shortfall of 246 dwellings [Doc 7]. Thus, at the time of the Inquiry the Council still could not demonstrate a 5 year supply of deliverable housing land, although the land supply was on an upward trajectory and it was quite close to doing so.
9. Prior to the current application and appeal, there has been one other significant event in the site's planning history. In May 2009 an appeal (ref: APP/C1570/A/08/2089684) was dismissed concerning a proposal for "the change of use of a part of the site from agriculture to playing fields and the erection of changing facilities, toilets and a club house". The relevance and implications of this decision were much debated at the Inquiry, because the Council and local residents see the current proposals, which are on a much larger scale, as far more damaging to the countryside, and to the setting and character of the Bentfield Green Conservation Area (CA), which lies adjacent to the south of the central and western parts of the appeal site.

Planning policies

10. *The development plan and the emerging local plan:* The NPPF reiterates the longstanding principle that, as a matter of law, applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

² BMV is referred to in para. 112 of the NPPF

³ Including one at Walpole Farm, nearby to the east of the appeal site

⁴ i.e. agreed by the main parties

11. The development plan comprises the Uttlesford Local Plan (ULP) saved policies 2005. The ULP made provision for housing up to 2011, and defined individual settlement boundaries. Stansted is one of the larger settlements in Uttlesford, with many facilities and services, as well as good accessibility and public transport connections, and is therefore in broad terms a sustainable location for additional housing. SCG 1 lists of all its policies which are agreed to be relevant to this appeal, some of which are cited in the reasons for refusal (see above). However, the parties differ in their attribution of weight to these ULP policies.
12. The emerging Uttlesford local development framework, which will eventually supersede the ULP, remains at an early stage, with its deposit version not expected to be published until some time in 2014, and adoption not likely until 2015. Thus in accordance with para. 216 of the NPPF it is agreed to merit little weight; in fact it was barely mentioned at the Inquiry.
13. *National planning policies*: The NPPF contains several policies which are material considerations in the appeal. I note in particular the following: the presumption in favour of sustainable development (esp. paras. 11-14); the core planning principles (para. 17); section 6, "delivering a wide choice of high quality homes"; and section 7, "requiring good design".
14. The advice in NPPF para. 49 is of particular relevance. This states that "*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*".
15. In this context, I note also the statement in NPPF para. 14 that the presumption in favour of sustainable development means that (2nd bullet point) "*where the development plan is absent, silent or relevant policies are out of date (permission for sustainable development should be granted) unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*".
16. I have largely based the following statement of the main issues in the appeal upon these NPPF policies.

Main Issues

17. With the foregoing matters in mind, and in the light of the relevant ULP and NPPF policies, I consider that there are 3 main issues in the appeal. These are:
 - i) the effect of the proposed development on the countryside on the northern edge of Stansted;
 - ii) its effect on the setting and character of the Bentfield Green CA;
 - iii) whether any demonstrably harmful impacts under the previous two headings are outweighed by: a) the Council's lack of a 5 year housing land supply; b) the benefits of the appeal scheme; and/or c) the NPPF's presumption in favour of sustainable development.
18. The Rule 6 and other 3rd parties consider that there are other main issues, in particular the impact of the proposed development on local highways capacity and road safety (including its effect on the character of 2 protected lanes⁵ in Stansted); and its impact on local social infrastructure, notably local schools

⁵ Pennington Lane and Lime Kiln Lane

and health services. However, owing to the lack of objections on these matters by the Council, the County Council, and other statutory consultees and infrastructure providers, I do not regard them as main or determining issues.

Reasons

19. *The site and its surroundings:* The site and its surroundings are fully described in the application design and access statement, in other application documents (listed in SCG 1), and in most of the proofs of evidence. I see no need to rehearse this material in detail.
20. In brief summary, the irregularly-shaped green field site comprises two large parcels of BMV farmland, used for growing arable crops, and totalling about 15 ha. in area. It is generally fairly flat, but with minor undulations, and although predominantly open is bordered to the north and west by belts of young trees and shrubbery, with occasional mature boundary trees elsewhere. Its detailed topography, trees and other vegetation, and a description and analysis of significant views of it from near and far are in Mr. Self's landscape evidence for the appellants.
21. Open farmland continues beyond, extending over the attractive countryside to the north. The appeal site's southern and eastern boundaries, marked in places by hedges and individual trees, follow Pennington Lane (a "protected lane") in the east and Bentfield Bower⁶ in the west, and the rear gardens of an irregular line of older houses in the northern part of Bentfield Green.
22. *The proposed development:* In brief summary, the development would comprise up to 140, 2 and 2.5 storey dwellings, with access off a series of residential estate roads, generally concentrated in the central and eastern parts of the site, and set slightly apart from the existing fringe of built development by landscaped green spaces. The lower (2 storey) dwellings would tend to be located around the edges of the developed area. 40% of the dwellings would be affordable, as provided through the mechanism of a planning obligation, with the remainder for sale as general market housing.
23. There would be 2 vehicular access points off Pennington Lane. The western part of the site - the smaller of the two existing field parcels - would be kept largely free of built development, but would include a further area of village green abutting the existing (westerly) green, outdoor sports pitches, a sports pavilion, trees and landscaping.
24. The development would contain a site for a new primary school in its northern part⁷, but would have no commercial or mixed-use buildings. It would contain internal access roads, provision for parking and garaging, drainage and utilities infrastructure, space for allotments in the south central part of the site, and various landscaped areas.
25. Further details are in the design and access statement. I turn next to my conclusions on the main issues.
26. *i) Effect of the proposed development on the countryside on the northern edge of Stansted:* Under the saved ULP policies, the countryside outside defined settlement boundaries is generally protected from development. The

⁶ This leads towards the small settlement of Manuden

⁷ This provision remains under discussion with the County Council as local education authority

aforementioned provisions of the NPPF - in particular, its para. 49 - might potentially undermine or override that protection where there is no demonstrable 5 year housing land supply. But the NPPF also states as a core principle (para. 17) that planning should recognise the intrinsic character and beauty of the countryside, and (para. 109) that the planning system should protect and enhance valued landscapes. Therefore, and given also that the Council now has something close to a 5 year HLS (see also below), I do not find the ULP countryside policies significantly at variance with those of the NPPF, taken as a whole.

27. I am in no doubt that the appeal site, a substantial land parcel which lies on Stansted's northern edge, is used productively for arable farming and which is not in any way degraded or damaged despite its urban fringe location, is a valued landscape in the sense that it is much appreciated and its existence enjoyed⁸ by many local people. But it is not designated in any plan for its landscape character or quality. In that sense, it is a part of what might be called the ordinary countryside, which is not subject to any special planning policy protection.
28. However, by virtue of its location and its relationship with the settlement I think that the site is rather more than this. To my mind and eye it is an attractive part of the countryside which has long provided a fitting backdrop to the northern edge of Stansted. It affords pleasant views from that edge. Thus, unlike in many broadly comparable urban fringe locations, there is a visually pleasing and satisfying transition from built development to open fields; this occurs almost all the way along the site's southern boundary, both where it abuts the Bentfield Green CA and elsewhere, as along Pennington Lane.
29. And this does not go unrecognised by the appeal proposal, particularly in its avoidance of built development on the western land parcel, part of which was the subject of the 2009 appeal proposals. That area would change its character from that of a large open field to a combination of village green and playing fields. The proposals would also provide something of a sinuous landscaped buffer between the new dwellings and the northernmost houses in Stansted, which would be taken up by landscaped spaces and planting, and by the proposed allotments.
30. Nevertheless, despite these mitigating aspects of the scheme design, its medium suburban density, and the limited height of the proposed houses (no higher than many others in north Stansted), I agree with the Council and many local residents that the scheme would harm the character of the countryside north of Bentfield Green. That would be contrary to ULP countryside policies, and it weighs in the planning balance against the grant of outline permission.
31. *ii) Effect of the proposed development on the setting and character of the Bentfield Green Conservation Area:* Bentfield Green forms the heart of the somewhat curvilinear Bentfield Green CA, which is one of 3 CAs in Stansted. A former agricultural hamlet, it is now abutted by modern estate development to the south, leading towards the centre of Stansted about 1 km. distant, and by the appeal site to the north.

⁸ It does not, however, contain any public rights of way

32. It contains 2 separate village greens and a small pond which, as is plain from many 3rd party representations, are much valued by Stansted residents and others. It has a number of listed and other old buildings, some reflecting its agricultural origins but overall of varied ages, architectural traditions and external materials. Judging from my own site visits as well as from the statements of local people, this combination of features is not replicated elsewhere in Stansted, but is testimony to the local distinctiveness of Bentfield Green.
33. Understandably described by some residents as “the jewel in Stansted’s crown” Bentfield Green also seems to me to enjoy the tranquil character and atmosphere of a historic village location set on the edge of quiet countryside, connected to but also set apart from the rest of modern Stansted, and generally blessed with very little visiting or through traffic⁹.
34. Like the Inspector in the 2009 appeal, I regard these attributes of local distinctiveness and tranquillity - both somewhat intangible but nevertheless perceptibly real and much appreciated by the local community - as making a significant contribution to the character of the CA. In the terms of the NPPF, they are factors which help to describe and define it as a designated heritage asset.
35. But would they be harmed by the proposed development, and to what extent? The appellants say they would not, or only to a negligible degree. It is broadly agreed that the CA’s appearance - as distinct from its character - whether that of its individual buildings, building groups or of its green spaces, would be little affected by the development. However, for the reasons given above I think that its setting on the edge of the countryside would be harmed.
36. Moreover, I agree with the Council and local objectors that the additional traffic arising from the proposed development - details of which, plus an assessment of its impacts are set out in Mr. Hughes’s evidence - would tend to undermine the tranquillity of the CA, which I have previously identified as one of its defining attributes.
37. The appellants dismiss this traffic impact as minimal, and barely noticeable; however, I am not persuaded by that view, which seems to me overly sanguine. Instead, I think it would become very noticeable - and not just in the peak traffic times - as the development were completed and occupied, and would begin to erode the peace and quiet which are such valued characteristics of this calm enclave on the edge of Stansted.
38. In this context, I would add that from my site visits Bentfield Green does not in any way resemble a gated community, a privileged enclave for the relatively affluent shut off from, or “turning its back upon” the rest of Stansted; instead, it is a quiet, historic, outlying part of a lively large village, but one whose character is fragile and vulnerable, and which could easily but insidiously be changed for the worse if hemmed in by a large new suburban housing area, as is now proposed.
39. I therefore find that the proposed development would harm both the setting and character of Bentfield Green CA. This would be contrary to both ULP and

⁹ Such as at the times of my own site visits. Actual traffic counts, flows and volumes are helpfully set out, in particular, in Mr. Marshall’s evidence

- NPPF policies. That too counts significantly in the planning balance against the appeal scheme.
40. *iii) Whether any harmful impacts are outweighed by considerations of housing land supply, the general benefits of the appeal scheme, and/or by the NPPF's presumption in favour of sustainable development.* As noted above, at the time of this Inquiry the Council was not able to demonstrate a 5 year housing land supply (agreed to include the 5% buffer referred to in para. 47 of the NPPF). It was, however, able to demonstrate that it has a fairly good record in meeting its housing requirements, and has granted several planning permissions for substantial housing developments which collectively show an encouraging rising trajectory. As a result, there is now agreed¹⁰ to be a 4.6 years supply. There is no dispute in this appeal about the derivation of that figure, and no need here to explain precisely how it has been calculated.
41. The absence of a 5 year supply invokes the provisions of the NPPF's paras.14 and 49, as previously cited. That is why my definition of issues includes a consideration of the "adverse impacts" of the proposed development, discussed above. But I would first note a seemingly obvious point: 4.6 years supply is not, arithmetically, very far short of 5 years supply. It equates to 246 dwellings, and there can be no dispute that the appeal scheme for 140 dwellings would go far towards making up this shortfall.
42. That said, 4.6 years supply is clearly better in planning terms than, say, 2 or 3 or even 4 years supply. I give that some weight in my overall balancing of the pros and cons of the proposed development. If there were only, say, a demonstrable 3.6 years HLS (as was the case when SCG 1 was first drafted), that would weight the balance in favour of development rather more than does the current 4.6 years HLS. In short, while a 4.6 years HLS demonstrates a housing shortfall, it is not to my mind a very serious shortfall, much less a critical one. On its own, therefore, and given the planning objections to the appeal scheme, it does not mandate a grant of planning permission.
43. What about the scheme's other undisputed merits? The proposed development offers, or appears to offer, several general benefits. These are common to many housing schemes of comparable size and scale, wherever they are located. First and foremost, there is the provision of up to 140 dwellings, 56 of which (40%) would be affordable, in accordance with the Council's housing policies. Their deliverability by the scheme is not seriously questioned by any party, so that provision clearly counts in its favour.
44. A new site for a primary school would serve not only the scheme residents, but also (I have assumed, from the evidence on education provision) other families in Stansted and possibly the wider area. The County Council supports it, although seeming to keep open other options for meeting local education needs [Doc 8].
45. The proposed playing fields and village green, while ostensibly of benefit to Stansted as a whole, are also in a somewhat equivocal position; the Rule 6 party and other local residents, both at the Inquiry and in written representations, query the need for these items, or think it would be better met elsewhere. These matters have long been the subject of local debate, and I am not able to reach any clear conclusions on them; however, I am inclined

¹⁰ i.e. by the main parties

- to consider the proposed development at face value, and the playing fields and extended village green as being of potential benefit to Stansted as a whole, assuming the details of its implementation could be resolved.
46. As for the employment and demand for goods and services which the scheme would generate, plus other benefits to the local economy, I have assumed that such benefits would be drawn from any housing development of equivalent size, wherever it might be located, and I give them little weight.
47. I turn next to the NPPF's presumption in favour of sustainable development. The NPPF notes this as having 3 dimensions - economic, social and environmental. It says that these should not be taken in isolation, but are mutually dependent. Thus, (NPPF para. 8) the "gains" from them should be sought jointly and simultaneously.
48. In applying this principle to the appeal, and at the risk of over-simplification it seems to me that the provision of a substantial new housing development, particularly where there is an acknowledged shortfall, is almost by definition economically and socially beneficial, but only if it is sustainably designed in all respects, and in the right place. In this case, there are no serious criticisms of the scheme design as shown in the illustrative master plan.
49. However, as I have explained above the development would not be in the right place, owing to its harmful impacts on the countryside and on the Bentfield Green CA. In addition, and to return to a point mentioned near the beginning of this decision, it would entail the loss of a significant area (almost 15 ha.) of BMV (although I accept that in a district such as Uttlesford where some greenfield housing development is needed, that loss might be very difficult to avoid.)
50. Nevertheless, I conclude that the appeal proposal would not meet the environmental dimension of sustainable development. It follows that the general presumption in favour of sustainable development does not apply to it.
51. *Other matters:* At the Inquiry it was put to me by several objectors that the weight of local opposition to the scheme is an important consideration which in itself should lead to the dismissal of the appeal.
52. Thus it was pointed out that extensive consultations with the local community in Stansted had prompted nearly universal objections, numbering several hundred individual letters, emails etc; second, that this opposition could not be dismissed as mere "NIMBY¹¹-ISM" because, recognising general housing needs, local residents and the Parish Council had generally supported other large housing schemes around Stansted that were perceived to be less harmful than the appeal scheme; and third, that, if it was to have any meaning, the spirit and purpose of localism, which was supported and indeed promoted by Government legislation, depends upon the near-unanimous views of local residents being given significant weight in planning decisions.
53. To some extent, I share this cogently expressed view. Whatever its potential benefits, and they are by no means lacking, this is clearly a deeply unpopular proposal. There is no doubt about the strength of local feeling against it, and also that comparable opposition has not been deployed against other substantial housing developments recently proposed in and around Stansted. I

¹¹ NIMBY – Not In My Back Yard

agree too with the proposition that the views of the local community must be taken into account. Where I disagree is that those views by themselves should determine the outcome of the appeal; instead, as explained above, I have based my decision on its planning merits.

54. Other housing sites and schemes around Stansted were referred to. The appellants noted that these, including land at Walpole Farm (comprising sloping farmland nearby to the north east of the appeal site), only very recently approved by the Council, demonstrated the pressing need to build housing on some greenfield land around the village, which lacks significant brownfield alternatives. For their part, the Council and objectors said that such schemes had in part been allowed because they were preferable to any development on the appeal site.
55. But it is not for me to compare the merits of the appeal site/scheme with any other housing site, whether completed, approved, or merely proposed. That is a matter for the Council's SHLAA¹², the emerging local development framework and in due course for its public examination.
56. Various other matters, including references to physical and social infrastructure constraints, were raised at the Inquiry and in written representations. But since they are peripheral to the main issues, I do not address or comment further upon them. There are none which alter or outweigh my conclusions as set out above.
57. For those reasons, I dismiss the appeal.

Paul Dobsen

INSPECTOR

¹² Which, incidentally, does not identify the appeal site as a favoured housing site

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr. Josef Cannon	barrister
He called:	
Mr. P. Hughes MRTPI	PHD chartered town planners

FOR THE APPELLANT:

Mr. James Pereira	barrister
He called:	
Mr. N. Marshall BSc	i-Transport LLP
CMILT MCIHT	
Mr. C. Self MA DipLA	CSa Environmental Planning
CMLI	
Mr. J. Clemons BA MA	CgMs Ltd.
MSc	
Mr. A. Blackwell MRTPI	Bidwells

INTERESTED PERSONS: (all objecting to proposed scheme)

Mr. S. Thompson	Local resident and member of the Save Stansted Village group
He called:	
Mr. A. Storah MRTPI	Walden Town Planning
Mr. J. Hogg	Local resident
Mr. G. Sell	Chairman, Stansted Mountfichet Parish Council
Ms. A. Mansfield	Chair of Governors, Bentfield Primary School
Mr. R. Woodcock	Local resident
Mr. K. Gerard	Local resident

District Councillors (*and local residents):

Ms. J. Loughlin*
Mr. K. Mackman
Mr. A. Dean*
Mr. J. Rich*

DOCUMENTS (tabled at the Inquiry)

- 1 Lists of persons present at the Inquiry
- 2 Council's letter of notification of the Inquiry
- 3 Written responses to Doc 2
- 4 2 Statements of Common Ground
- 5 S106 planning agreement between the appellants and Essex County Council
- 6 S106 unilateral undertaking put in by the appellants
- 7 Email from Sarah Nicholas (LPA) dated 4/11/13 re housing land supply (4.6 years)
- 8 Essex County Council Education Position Statement dated 16/10/13, tabled by the appellants
- 9 Letter dated 19/5/10 from Stansted Mountfitchet Parish Council re local need for football pitches and allotments, tabled by the appellants

PLANS

- A The application plans (listed with other application documents in Doc 4)

PHOTOGRAPHS

- 1 Various photographs of the site, its surroundings and Stansted are in the application documents and individual witness proofs of evidence

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