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## Appeal Decision

Hearing held on 24 September 2014

Site visits made on 23 and 24 September 2014

**by Chris Preston BA (Hons) BPI MRTPI**

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

**Decision date: 21 October 2014**

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**Appeal Ref: APP/C1570/A/13/2208075**

**Land rear of 14 Cambridge Road, Stansted, Essex CM24 8BZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Land Charter Stansted Limited; London and Stansted Furniture against the decision of Uttlesford District Council.
  - The application Ref UTT/13/1126/FUL, dated 30 April 2013, was refused by notice dated 29 August 2013.
  - The development proposed is: Mixed-use development comprising 14 no. residential dwellings; a ground floor retail unit with independent first floor office and a 2.5 storey commercial building including associated garages, car parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The Council's decision notice contained a single reason for refusal. The terminology within the reason is somewhat generic, referring to over-development of the site and the general character of the area. The wording refers specifically to the size of proposed gardens, compliance with Lifetime Homes standards, and the level of proposed car parking.
3. The Council's subsequent statement provided more detail with regard to the alleged harm. With regard to car parking provision, the Council do not allege that the proposal would be detrimental to matters of highway safety. Rather, they consider that it would lead to excessive levels of on-street parking, to the detriment of the character and appearance of the area.
4. With regard to garden sizes, the Council confirmed at the Hearing that their concerns relate to the living conditions of future occupants, in terms of the size of outdoor amenity space and the proximity of dwellings to neighbouring buildings.
5. Taking the above matters into account, the main issues are:
  - i) Whether the proposal would result in satisfactory living conditions for future occupants, with particular regard to the size of external garden areas and the proximity to adjacent buildings and uses;
  - ii) Whether the character and appearance of the area would be harmed as a result of on-street parking within the development; and

- iii) Whether the internal arrangement of the dwellings would facilitate use by, and meet the needs of, a full range of potential occupants;

## **Reasons**

### *Living Conditions*

6. The appeal site essentially sits on the cusp between areas of residential and commercial development. Rear gardens of dwellings at Clarence Road and Greenfields abut the site to the north and west and the commercial area of Cambridge Road lies immediately to the east. A used car sales garage (Geneva Motors, Concord Centre) and the Crafton Street public car park are immediately to the south. Permission has recently been granted by the Council for the erection of a new sales showroom and tyre and exhaust workshop at the Geneva Motors site<sup>1</sup>. The adjacent stretch of Cambridge Road is a busy commercial thoroughfare with a range of shops and services.
7. With regard to the size of proposed gardens the Council has referred to recommended standards within the Essex Design Guide (2005) (the EDG). At the Hearing, the Council confirmed that they have not formally adopted the EDG as a supplementary planning document. As such, the document has no formal planning status, related to the Development Plan for the area. The Council acknowledged this point and stated that they refer to it as a guide rather than a strict matter of policy.
8. In view of the above, there is no adopted local plan policy or supplementary planning document before me which seeks to impose minimum garden sizes for development within Uttlesford. Consequently, I have considered the proposal on its merits, taking account of the characteristics of the site and surrounding area.
9. The proposed dwellings would be orientated such that the rear gardens of those on the northern and western perimeter, plots R4 to R9, would border rear gardens of existing dwellings at Clarence Road and Greenfields. The distance between the proposed and existing dwellings would be sufficient to prevent any undue loss of privacy or overbearing impact and the layout would result in a contiguous area of green space created by the respective garden areas of each dwelling. Established planting within existing gardens would provide a pleasant outlook from the rear of the proposed dwellings on the northern and western side of the scheme.
10. The garden size of plots R4 and R5 would be substantially smaller than other plots around the northern and western edge of the site but would be of sufficient size to cater for normal amenities such as drying washing, children's play or simply quiet enjoyment of the space. When added to the pleasant outlook, the space available within those gardens would provide satisfactory living conditions for future occupants.
11. In general terms, the proposed garden sizes of plots adjoining commercial units are smaller than those adjoining residential uses; the exception being plots R4 and R5, referred to above. This would reflect the higher density of the proposed scheme in this part of the site, with two terraces at either side of the access road. The appellant has referred to an extract from the EDG (page 76) which acknowledges that insistence on a minimum garden size of 100m<sup>2</sup> may

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<sup>1</sup> Council application number UTT/13/1456/FUL

not be appropriate in higher density situations. I concur with the view that a balanced approach should be taken when considering sites within a comparatively urban situation, as is the case for the dwellings adjacent to Cambridge Road and its commercial environs.

12. To my mind, residents living within the heart of the town would have different expectations with regard to garden size than those in a more rural or suburban situation. This reflects the higher density of the prevailing pattern of development and the fact that facilities and amenities are in close proximity. However, notwithstanding the above, the living conditions of future occupants would not only be determined by the size of the proposed gardens but also by their relationship with surrounding uses. Plots R11 to R13 would have short rear gardens; at its shortest point, the garden of R11 would be less than 5 metres from the shared boundary with the Geneva Motors site and, at its longest, the garden of R13 would be 8 metres from this boundary.
13. As noted above, permission has recently been granted for the erection of a tyre and exhaust workshop within the Geneva Motors site. The owners of that business submitted a scaled plan in response to the appeal showing the proposed location of the workshop and its relationship with proposed houses in the appeal scheme. This plan was available to the Council and appellant prior to the Hearing and was discussed at the site visit. I have no reason to doubt the accuracy of the proposed drawing or the fact that the business intends to implement the permission. The workshop would be situated less than 1 metre from the rear garden boundary of plot R13 and would run roughly perpendicular to the rear of plots R11 to R13, directly to the south. The gable end would face onto the rear half of the garden at plot R14. The overall height of the structure would be approximately 12 metres.
14. Allied to the short length of the proposed gardens, the height and orientation of the workshop would result in significant overshadowing to the amenity space and create a poor outlook and significant sense of enclosure to the rear of those dwellings. The imposing north facing façade would have an overbearing impact when viewed from the rear of the dwellings and the associated gardens and the practical enjoyment of the amenity spaces would be limited further by the resultant overshadowing.
15. To a similar extent, the garden at plot R1 would be enclosed between the rear wall of the dwelling, the side wall of the proposed office building and the outbuildings to the rear of the Co-operative store. The south-facing wall of the store, which would form the northern boundary of the garden, would present a blank and an unattractive outlook, worsened by the unsightly collection of air conditioning units that would be clearly visible. The garden immediately to the rear of the house would also be overshadowed for large parts of the day due to the orientation of the dwelling. In combination, this would result in a confined and unattractive external space with restricted practical use, and an unsatisfactory outlook onto the unattractive commercial façade.
16. In view of the above, I consider that the living conditions for residents of plots R1 and R11-14 would be well below the level that could reasonably be expected, even accounting for the urbanised context of the site. The size and internal layout of the dwellings suggests that they are designed to cater for a range of potential occupants, including families, and the urban location of the

site does not provide justification for a layout that would provide an unsatisfactory residential environment.

17. Consequently, the proposal would fail to accord with the aims of policy GEN2 of the Uttlesford Local Plan (2005) which requires, amongst other things, that developments provide environments which meet the reasonable needs of potential users and that proposals should not have an adverse effect on reasonable occupation of a residential property as a result of overbearing impact or overshadowing. The proposal would also contravene one of the core principles of the Framework, set out at paragraph 17, that development should provide a good standard of amenity for all existing and future occupants of land and buildings.

*Car parking provision and its effect upon the character and appearance of the area*

18. The site is located in a mixed-use area with a combination of residential and commercial uses. Although the reason for refusal referred to over-development of the site, the Council's evidence did not refer to the scale or appearance of the dwellings themselves. I am satisfied that the proposed dwellings would reflect the prevailing pattern of development within the surrounding area, noting that the density would be lower where adjacent to existing residential properties and higher when adjacent to Cambridge Road. In terms of scale and appearance, this would represent a satisfactory solution.
19. The Uttlesford Local Parking Standards (2013) recommend that a minimum of three parking spaces are provided for dwellings with four bedrooms or more. The level of provision within this document is greater than that required by the Essex County Council Parking Standards (2009) (ECC Standards) which require 2 spaces per dwelling.
20. The Council's 'local standards' have not been formally prepared and adopted as supplementary planning guidance. In any event, the guidance seeks additional provision, beyond that required by the ECC Standards, on the basis of the rural nature of the district. Whilst the majority of the Council's area may be rural in nature, that is not the character of the appeal site. Each dwelling would be provided with at least two off-road parking spaces, with some of the larger houses having two spaces plus an additional garage. Given the location of the site, adjacent to shops and services and close to public transport links, I consider that this would be sufficient to meet the needs of prospective occupants.
21. However, the ECC Parking Standards also require consideration to be given to visitor parking, at a rate of 0.25 spaces per dwelling. No visitor provision is indicated on the proposed site plan and the layout is such that there are no readily obvious locations for casual parking; the need to maintain access to individual driveways and the turning facility limits the potential for on-street parking within the site. In addition, the appellant anticipates that the commercial aspects of the proposal would be sufficient to generate between 20-30 jobs.
22. No parking is allocated for the B1 unit and two spaces are shown to the rear of the shop/B1 unit at Cambridge Road. The ECC Standards recommend a level of provision of 1 space per 20m<sup>2</sup> for A1/A2 uses and 1 space per 30m<sup>2</sup> for B1 uses. The appellant acknowledges that the commercial element of the scheme would result in a shortfall of 15 spaces but notes that the ECC Standards allow

- for a lower level of provision in town centre locations with good access to alternative means of transport and existing parking facilities. Notwithstanding the acknowledged flexibility for such situations, the ECC Standards state that provision should be made in all cases for the parking and turning of service vehicles. That is not the case in the proposal before me.
23. At the time of my visits to the site, there was significant competition for the limited number of parking spaces at Cambridge Road, something confirmed by representations received from local residents. The proposal would include pedestrian access through to the public car park at Crafton Street. This would be available for prospective visitors and employees of the new businesses, subject to space being available. Although representations testify to a high level of patronage, no firm evidence has been presented to enable me reach a firm conclusion on whether space would be available to serve additional needs generated by the proposed development.
24. However, even if spaces were available within the car park, I consider it unlikely that all visitors to residential and commercial properties would find it convenient to park in that location. It is a pay and display car park and the potential alternative of free parking within the proposed site would no doubt be an attractive alternative. No mechanism to prevent such parking has been put forward with regard to the scheme. The commercial units would have no dedicated turning or delivery area and no space for short-term visitor parking. Similarly, visitors or deliveries to residential properties would have limited opportunity to park without blocking access to private driveways or the turning head within the cul-de-sac.
25. In effect, the proposed layout pays little regard to the needs of potential users beyond the occupants of the dwellings, or the likely attractiveness as a place to park, close to shops and services. In my view, this situation would encourage unregulated and indiscriminate parking within the development which, whilst not detrimental to highway safety, would add clutter to the streetscape and be detrimental to the residential character of the area and its visual appearance. In this respect, the proposal would be contrary to the aims of policy GEN8 of the Local Plan which states that development will not be permitted unless the number, design and layout of vehicle parking places proposed is appropriate for its location.

#### *Accessibility*

26. The requirement to meet Lifetime Homes standards is not an absolute requirement of policy GEN2 of the Local Plan. That policy requires development to provide an environment that meets the needs of all potential users. To help facilitate that aim, the Council has adopted the supplementary planning document *Accessible Homes and Playspace* (2005). This acknowledges that accessibility to residential development is covered by Part M of the Building Regulations but sets out the Council's intention to secure Lifetime Homes standard for all new residential development.
27. In this case, 11 of the 14 proposed dwellings would fully comply with the Lifetime Homes standard and one would be fully wheelchair compliant. Thus, the majority of the homes would be fully adaptable to meet the changing needs of future occupants. The remaining 3 dwellings would need to comply with Part M of the Building Regulations, thereby ensuring a nationally acceptable minimum standard of accessibility. From the Council's statement the three

dwellings would not meet full compliance largely due to the absence of downstairs WC's. In an urban situation, with many competing design objectives I find that the failure to meet full Lifetime Homes standard in this regard would not amount to sufficient grounds to withhold planning permission. Taken in the round, the proposal would be accessible to potential users, with a range of house types to meet the likely needs of the local population, not all of whom will have specific mobility needs. In this sense, I am satisfied that the proposal would meet the overarching requirements of policy GEN2 of the Local Plan.

#### *Other Matters*

28. The appeal proposal, and the proposal for the workshop at the Geneva Motors site, were considered and determined by the Council at the same committee meeting. When questioned at the Hearing it became apparent that the Council had not consulted the Environmental Health team with regard to the possible impact of noise from the workshop on the adjacent residential use in the appeal scheme. Mr Pressman, of Geneva Motors, raised concerns regarding potential complaints from future residents, relating to noise from the unit, including the use of air compressors. In the absence of a full noise assessment there is little technical evidence before me to generate an accurate impression of the likely impact in this respect.
29. The workshop would have a blank façade on its rear aspect and this would help to retain noise within the building. I am also mindful that the site is within a mixed use area, close to the town centre where general background noise levels may be higher than a purely residential area and where residents may expect a greater level of noise. These factors would help to mitigate any potential noise from the unit. Taking this into account, although I note the concerns regarding potential noise, this matter would not, on the evidence before me, form sufficient grounds to withhold permission.
30. The Council did not object to the principle of the redevelopment of the existing employment land, based upon the mix of uses put forward. The proposal includes employment uses and the Council was satisfied that the level of employment generation would be greater than that generated by the former industrial buildings which had been under-utilised for a number of years. Consequently, they were satisfied that the redevelopment of the employment site was acceptable in relation to policy E2 of the Local Plan. On the evidence before me, I agree with this assessment.
31. At the Hearing I was provided with a copy of the emerging Stansted Mountfitchet Policy 7 – Development Opportunity Site (DOS). This is an emerging policy that has yet to be tested at a Local Plan examination. It is not clear if there are any outstanding objections to the policy. Given these points, I can attach limited weight to it, taking account of the requirements of paragraph 216 of the Framework. In any event, the policy requires that any development should form part of a comprehensive development *or* not prevent the development of any other part of the site. The proposal would provide a link through to the Crafton Green car park and no evidence has been submitted to suggest that it would prevent other sections of the DOS from being developed. Consequently, whilst I note the desire of the Stansted Mountfitchet Economic Working Group to secure an alternative form of development across the DOS, I find nothing in local planning policy, either extant or emerging, that

- would preclude the principle of a mixed use development on the site in the absence of any wider redevelopment.
32. The nature of former uses, and associated traffic levels, fluctuated over the lifetime of the now demolished buildings. Evidence at the Hearing noted that levels were particularly high when used as an auction house but comparatively low in the period prior to demolition. Nonetheless, the established use had potential to generate substantial levels of traffic, over and above that generated by the proposed scheme, as evidenced by the appellant's transport assessment. Based upon this evidence, the Highway Authority did not object to the proposed development on grounds of highway safety and the Council were satisfied in this regard. Whilst I am mindful of local concerns regarding the access onto Cambridge Road, I accept the findings of the transport assessment and the Highway Authority and am satisfied that the impact of the proposal on matters of highway safety would be acceptable.
33. The Council submitted evidence to the effect that it could demonstrate a 6.2 year supply of deliverable housing land at the time of the Hearing<sup>2</sup>. This evidence included information relating to the Council's understanding of its objectively assessed housing needs and evidence of supply, including the number of dwellings with planning permission, with associated tables setting out details of those permissions.
34. At the Hearing, the appellant did not wish to produce specific evidence to challenge the Council's assumptions but noted the fact that the evidence has not been tested through a Local Plan examination. The Inspector appointed to examine the emerging plan set out his initial soundness concerns and questions to the Council in August 2014. Within his letter he noted that the projected supply of 3592 dwellings would represent a 'healthy position' against an anticipated need of 2870, taking account of a 5% buffer and existing shortfall of 118 dwellings. However, the Inspector commented that the supply is reliant on the majority of sites with planning permission coming forward within the 5 year period. The realism of the delivery rates is something that will need to be tested in detail at the upcoming examination. Furthermore, the means by which the Council has calculated its objectively assessed need are also likely to be questioned and examined in more detail. The outcome of that process is not something that I can pre-empt in relation to this Hearing.
35. Whilst accepting that the Council's position may be challenged at the Examination, on the face of the evidence before me, they have identified a sufficient supply of deliverable sites to meet the five-year need. No evidence is before me to challenge this position, or to suggest that particular sites are unlikely to be brought forward within the timescales suggested by the Council. Consequently, although the weight I can attach to the evidence before me must be tempered by the fact that the plan has yet to be examined, in the absence of any contrary evidence, I am satisfied that the Council has demonstrated a five-year supply of sites, as required by paragraph 47 of the Framework.
36. At the Hearing the appellant submitted a signed and executed Unilateral Undertaking which contained provisions for the appellant to make a financial

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<sup>2</sup> Documents submitted: Appendix 1 *Housing Supply at 31 March*; Appendix 2 – *Housing Supply Windfall Allowance (2014)*; Appendix 3 – *Objectively Assessed Housing Need, Technical Assessment (October 2013)*; and Appendix 4 – *Objectively Assessed Housing Need Update to Technical Assessment October 2013 (May 2014)*.

contribution towards education and childcare facilities. The absence of a legal obligation in this respect did not form part of the Council's stated reasons for refusal. Regardless of the above, given that I am dismissing the appeal for other reasons it is not necessary for me to reach a conclusion on the need, or otherwise, for the proposed contribution.

### **Planning Balance and Conclusion**

37. I conclude that the proposal would result in an unsatisfactory residential environment and poor living conditions for residents of units R1 and R11-14 due to the size and configuration of their gardens and the resultant proximity to adjacent commercial uses. The highway layout and lack of car parking provision would also represent a poorly planned environment in which parked cars would dominate, to the detriment of the character and appearance of the area.
38. Paragraph 49 of the Framework states that housing applications should be considered in the presumption of sustainable development. The definition of sustainable development at paragraph 7 of the Framework is based upon a three-stranded approach; economic, social and environmental. It may be that a scheme cannot contribute equally to all three elements and a rounded view has to be taken where the contribution may be only small or neutral for one of the roles.
39. There would be clear economic benefits to the proposal, resulting from the redevelopment of the site, the creation of employment opportunities and an increase in the local population to support shops and services. Given the scale of the proposal, I consider that this would be of moderate benefit to the local economy. The Council does not dispute that the site is situated within a sustainable location. It would regenerate a previously developed site and offer a choice of sustainable transport modes, thereby assisting in the move to a low carbon economy. In this sense, although there is little evidence of any significant environmental gain resulting from the proposal the nature and location of the site would minimise any harmful effects.
40. In social terms, for the reasons set out, the proposal would contribute to the local supply of housing but would fail to provide a high quality built environment and result in living conditions that would not be conducive to the well-being of prospective occupants. Good design and the provision of good living conditions for residents are core principles of the planning system, as identified at paragraph 17 of the Framework. In my view, the significant harm in these respects would outweigh the economic and environmental benefits of the proposal. In particular, the benefits put forward would not outweigh the need to provide a good standard of amenity for future residents, this being a fundamental aim of the planning system. As such, based upon a balance of the three elements, I am of the view that the proposal would not represent a sustainable form of development.
41. It therefore follows that the presumption in favour of sustainable development at paragraphs 14 and 49 of the Framework should not apply to the proposal. With regard to paragraph 14 the Council has adequately demonstrated that it has a five-year supply of deliverable sites and the policies referred to within the decision notice are up-to-date. However, in any event, I have identified significant harm in terms of the living conditions of future residents and to the character and appearance of the area. Given the fundamental nature of these



concerns, any benefits of granting planning permission would be significantly and demonstrably outweighed by the harm identified.

42. In view of the above, and taking all other matters into account, I conclude that the appeal should be dismissed.

*Chris Preston*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Philip Kratz BA (Hons) Solicitor LMRTPI	Birketts LLP
Mr Henry Rowe	London Stansted Furniture Ltd.
Mr Henrik Darlington	Land Charter

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Nigel Brown	Development Manager
Cllr Janice Loughlin	Member of Planning Committee
Cllr Keith Mackman	Member of Planning Committee

### **INTERESTED PERSONS:**

Ms Maureen Caton	Chair, Stansted and Mountfitchet Parish Council
Cllr Alan Dean	Local Councillor for Stansted
Mrs Catherine Dean	Local resident
Mr Raymond Woodcock	Local resident
Mr B Pressman	Geneva Motors
Mr and Mrs H Hagon	Local residents

### **List of Documents:**

- 1) Unilateral Undertaking, dated 24<sup>th</sup> September 2014.
- 2) Uttlesford District Council Local Plan Monitoring Report 2013
- 3) EX101, Examination of Uttlesford Local Plan – *Inspector’s initial soundness concerns and questions to District Council*
- 4) Extract from Stansted Mountfitchet Policy 7 – Development Opportunity Site.