
Appeal Decision

Site visit made on 27 September 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 28th October 2016

Appeal Ref: APP/J1915/W/16/3152399

17 High Road, Stapleford, Hertfordshire SG14 3NW

- 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 A.B. Knight (London) Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/2093/FUL, dated 16 October 2015, was refused by notice dated 17 December 2015.
 - The development proposed is the demolition of existing restaurant/hotel and the erection of 5 no. new detached residential dwellings, together with the formation of new vehicular accesses from High Road, associated off-street car parking, private garden amenity space, landscaping and other associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located in the Metropolitan Green Belt. Both the appellant and the Council indicate that the proposal would not be inappropriate development in the Green Belt as it would constitute limited infilling in a village. I concur with that position.
3. Amended plans have been submitted as part of the appeal documents. Three of these plans show amendments to the number of bedrooms in each proposed dwelling (drawing nos. 004A, 007A and 009A) in response to the third reason for refusal. Three revised versions of the proposed site plan have also been provided (drawing no. 002 with revisions B, D and E). These show amendments to the parking and turning areas in front of each property in response to the fourth reason for refusal and concerns expressed by the highway authority, as well as an 8 metre buffer at the rear to Stapleford Marsh Ditch in response to the Environment Agency. Supporting technical drawings have also been submitted showing proposed visibility splays for each dwelling. Given the limited nature of the amendments, it has not been necessary to re-consult with interested parties. For the avoidance of doubt, I have taken the amended plans into consideration as part of my decision.

Main Issues

4. The main issues are:
 - (a) The effect of the proposed development on the character and appearance of the surrounding area;
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- (b) Whether the proposed development provides an acceptable dwelling mix;
- (c) The effect of the proposed development on local community facilities and employment;
- (d) The effect of the proposed development on the safe and efficient operation of the highway network; and
- (e) The planning balance having regard to the undersupply of housing and the benefits of the proposal.

Reasons

Character and appearance

5. Stapleford is a small village on the A119 between the larger settlements of Watton-at-Stone and Hertford. The appeal site is located on the High Road and consists of a restaurant/hotel with outbuildings that is currently not in use. At my site visit, the main building was boarded up and the site frontage enclosed by tall security hoardings.
6. The existing restaurant/hotel building is an imposing structure on the High Road by virtue of its design and height and the spacing provided around the property. It evidently has some architectural and historic interest and makes a positive contribution to the street scene, although is not formally recognised as a heritage asset either designated or non-designated. Nos 1 to 15 High Road immediately to the north of the appeal site are uniform semi-detached properties, but have an attractive Arts and Crafts detailing such as tall chimneys. The remainder of the High Road is varied in architectural character and scale. Existing plot widths vary along the road, but gaps between buildings are reasonable.
7. The proposed development would be of a similar scale and footprint to existing buildings along the High Road and would follow the established building line. However, there would be little space between each detached building which would result in a cramped layout in the street scene. Furthermore, the generic architectural design of the proposed houses does not reflect the variety or detailing in architecture along the road and would result in a very ordinary and bland appearance. As a replacement for the existing restaurant/hotel building, the development would not emulate or improve on the current character and appearance of the area.
8. I recognise that the appeal site is currently in need of enhancement by virtue of its redundant use. I also appreciate that the Council did not identify the existing building to be of architectural and historic merit when dealing with the previous planning application (3/13/2186/OP). However, this does not negate the harm I have identified. I have also been made aware of a revised planning application that seeks to retain the existing building, but have not been provided with any details or whether a decision has been made. In any case, I have dealt with this appeal on its own merits.
9. Concluding on this main issue, the proposed development would significantly harm the character and appearance of the surrounding area. Therefore, it would not accord with Policy OSV2 of the East Herts Local Plan Second Review 2007 ('the Local Plan'), specifically Section (II)(h) and (j) which seeks housing

development in Stapleford that is sensitively designed and respects the character of the village without detracting from its appearance. It would also not accord with Policy ENV1 which, amongst other things, seeks development of a high standard of design and layout that is compatible with the surrounding area and complements the existing pattern of development. It would not meet the aims of the National Planning Policy Framework (NPPF) in terms of good quality design that responds to local character.

Housing mix

10. The Council indicates in the officer's report that in terms of local housing need, the highest demand within the district is for 2 and 3 bedroom units. This is based on the 2013 update of the Strategic Housing Market Assessment (SHMA), although I have not been provided with a copy. The appellant highlights a more recent SHMA from 2015 which identifies that four bedroom units are the second greatest in terms of need (22% of all new houses) behind the need for three bedroom units (46% of all houses).
11. Amended plans have been submitted by the appellant with the appeal showing the five dwellings with four bedrooms each rather than the original five each. The appellant highlights that this more closely aligns with local need. The Council has not commented on these amendments.
12. Even with the revised plans, the units would be larger than the greatest required need across the district which is for three bedroom units. While I accept the development is small-scale and only provides five units, providing a standard size unit across the whole development does not take account of the variations in local need. Thus, the development would not meet a local need and would therefore be contrary to Policy OSV2(II)(b) of the Local Plan.
13. In terms of affordable housing, a recent Court of Appeal decision¹ has reinstated government policy for small scale housing development, which stipulates that provision should not be sought for schemes of 10 units or less. Thus, while Policies OSV2(II)(c) and HSG3 seek affordable housing provision, the more up to date government policy on the matter indicates that it should not be sought. However, this does not negate the requirement to provide an acceptable housing mix in terms of unit sizes.
14. Concluding on this main issue, the proposed development would provide an inadequate housing mix. Therefore, it would not accord with Policy OSV2 which seeks housing development that meets a local need nor meet the aims of the NPPF which requires local authorities to deliver a wide choice of homes.

Local facilities and employment

15. Stapleford has few community facilities or employment sites, with only a primary school, church and village hall noticeable at my site visit. The village has an hourly bus service between Stevenage and Hertford on weekdays between the morning and early evening and a service every two hours between similar times on Saturdays. Journey times to Watton-at-Stone and Hertford are around 5 to 10 minutes.

¹ The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

16. Policies ST8 and EDE2 of the Local Plan require evidence that an existing business or employment site has been subject to efforts to market and retain the existing use on site in order to demonstrate that the use is no longer possible. There appears to be no guidance on the amount of evidence required or the length of time, although the policies refer to 'clear evidence' and 'explored fully'.
17. The previous planning application (3/13/2186/OP) was refused in May 2014 where one of the reasons for refusal related to a lack of evidence to show that the current use or a similar use was not possible. The appellant has provided evidence to show that the site was marketed for over a year following this refusal of planning permission with little interest in retaining the existing use or a similar commercial facility. Evidence has also been provided of the financial accounts of the last operator of the restaurant/hotel which indicate viability difficulties. Trading ceased in August 2015 before the site was sold to the appellant in September 2015. In the absence of any guidance from the Council, I consider that there is clear evidence of considerable efforts over an extended period of time to market and retain the existing use. The appellant has provided information on additional marketing that has occurred up to September 2016, with no further interest in continuing the existing use. I have taken this further information into account, but even without it, my findings would have been the same on the marketing and retention of the existing use based on the evidence originally submitted with the appeal.
18. The loss of the restaurant/hotel would be a significant reduction in community facilities and employment sites based on the limited range within the village. It is apparent from third party representations that the restaurant/hotel is valued locally and has been well-utilised over the years for various purposes. Third parties refer to efforts to designate the building as an Asset of Community Value, although I have no further evidence on how far these efforts have progressed. The number of employees around the time that the most recent business ceased operations was modest, but not insignificant given the village location where few work opportunities exist.
19. However, despite these factors, there have been difficulties in finding a new commercial use for the site and there have been viability problems. The existing restaurant/hotel use provided a fairly limited contribution to the day-to-day needs of the village compared to, for example, a shop or post office. Furthermore, the close proximity of Watton-at-Stone and Hertford with a range of community facilities and employment facilities, reasonably served by public transport, is an important consideration. All of the above helps to mitigate the significance of the loss.
20. Concluding on this main issue, the overall effect of the proposed development on local community facilities and employment would be acceptable. Therefore, it would accord with Policy STC8 of the Local Plan taking into account the likelihood of another like use being found, the viability of the existing use, the contribution it made to day-to-day needs and the proximity of facilities and employment in nearby settlements. It would also accord with Policy EDE2 in terms of the likelihood of retaining employment use on site. The NPPF promotes the retention of community facilities (paragraph 22), but also refers to the unnecessary loss of valued facilities particularly where this would reduce a community's ability to meet its day-to-day needs (paragraph 70). As it has been difficult to retain the existing restaurant/hotel facility and it provided a

limited contribution to day-to-day needs, I consider that the proposal is broadly in line with these parts of the NPPF.

Highway safety

21. The A119 High Road past the appeal site has a speed limit of 40mph and based on my site visit observations is a reasonably busy road between larger settlements. As such, it is important for vehicles to enter the road from the site in a forward gear to lessen the risk to highway safety. There are laybys beyond the site for off-road parking, but little on-road parking due to the nature of the road. The proposed development thus requires any parking to be provided within the site boundaries.
22. A series of additional plans have been submitted following the Council's decision that seek to address concerns with highway safety. They show that three off-road parking spaces can be provided per property, which includes a garage, with adequate space to turn around and enter the road in forward gear. The Highway Authority has confirmed that it is satisfied with the amended plans in terms of parking spaces and turning area and I consider the arrangements to be acceptable.
23. While not mentioned in the reason for refusal, the Highway Authority has also sought clarification on the visibility splays from the driveway of each proposed dwelling. The road past the site in either direction is generally straight, but visibility from the three existing site accesses is under the expected technical standard for a 40mph road, particularly for the two accesses on the north-western edge of the site serving garages and overspill parking. The additional plans and transport statement demonstrate that the proposed visibility splays for Plots 3, 4 and 5 are similar or better than the existing visibility splay at the main site entrance, while for Plots 1 and 2 on the north-western edge of the site the visibility to the north would be poorer than the main site entrance. However, the splays for Plots 1 and 2 would be better than existing visibility from the garage and overspill parking accesses which are in the same location, and I note the appellant's comments about residential use involving fewer traffic movements than a restaurant/hotel use. I also note that the Highway Authority is satisfied with the proposed visibility.
24. The Highway Authority has also raised concerns on the location of the southbound bus stop, affixed to a lamppost on the south-west corner of the appeal site which would be next to the driveway for the Plot 5 dwelling. The appellant is willing to comply with a condition seeking the relocation of the bus stop and lamppost to a more suitable and safe location.
25. Concluding on this main issue, the proposed development, based on the amended plans received with the appeal, would have an acceptable effect on the safe and efficient operation of the highway network. Therefore, it would accord with Policy TR7 of the Local Plan in terms of parking arrangements.

Planning balance

26. The appellant emphasises that the Council cannot demonstrate a five-year supply of deliverable housing sites, something the Council has not sought to dispute. Therefore, in line with Paragraph 49 of the NPPF, relevant policies for the supply of housing should not be considered up to date and the presumption in favour of sustainable development set out in Paragraph 14 applies.

Paragraph 14 states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as whole or specific policies in the NPPF indicate development should be restricted.

27. I consider that Policy OSV2 is a relevant policy for the supply of housing as it sets out criteria in Section (II) against which infill housing development will be judged. Criterion (b) under Section (II) refers to housing proposals meeting a local need, while criteria (h) and (j) seek to control the effect of such proposals on the character and appearance of the village. Therefore, in the context of this appeal, Policy OSV2 is not up to date. The amount of weight I can give this policy is reduced, but nevertheless it still carries some weight as it seeks to guide decisions on housing development in villages like Stapleford.
28. Conversely, I consider that Policy ENV1 is not a relevant policy for the supply of housing as it does not specifically seek to create or constrain housing delivery. This policy is also broadly consistent with the NPPF, so can be afforded considerable weight.
29. Addressing the adverse impacts of the proposed development first, there would be an inadequate mix of unit sizes to address local housing need, but the harm is limited given that Policy OSV2 is not up to date. The harm to the character and appearance of the surrounding area is significant given the loss of the existing building and the cramped and bland design of the proposed development. The harm is tempered to some extent by Policy OSV2 not being up to date, but the conflict with the development plan, particularly Policy ENV1, remains important. For this reason, significant weight can be afforded to the adverse impacts of the proposed development on the character and appearance of the surrounding area.
30. Turning to the benefits of the development, there is a considerable shortfall in housing provision within the District as indicated by the Council's Annual Monitoring Report of December 2015 which has been submitted as evidence by the appellant. The proposed delivery of five houses in a fairly accessible location would provide some benefit considering the shortfall. There would also be some benefit to the local economy through the development's construction and longer term contribution to the vitality of the local rural community. The reuse of previously developed land also has some environmental benefit. However, these benefits are modest compared to the significant harm to the character and appearance of the surrounding area.
31. Therefore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of development. In the circumstances, the presumption in favour of sustainable development does not apply and the proposal would not represent sustainable development.

Conclusion

32. The proposed development would have an acceptable effect on local community facilities and employment and highway safety, and would provide modest social, economic and environmental benefits. However, there would be significant harm to the character and appearance of the surrounding area as well as an inadequate housing mix, and thus the proposal would not represent

sustainable development. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR