
Appeal Decision

Site visit made on 1 December 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 23rd January 2017

Appeal Ref: APP/X1925/W/16/3156040

Sunvale, Bedford Road, Holwell, Hertfordshire, SG5 3RX

- 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 Ms Lynda Musgrove against the decision of North Hertfordshire District Council.
 - The application Ref 15/03230/1, dated 23 December 2015, was refused by notice dated 11 March 2016.
 - The development proposed is the erection of one new detached dwelling, associated landscaping and vehicle parking following demolition of existing residential outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of one new detached dwelling, associated landscaping and vehicle parking following demolition of existing residential outbuildings at Sunvale, Bedford Road, Holwell, Hertfordshire, SG5 3RX in accordance with the terms of the application, Ref 15/03230/1, dated 23 December 2015, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P182-01-B; P182-02; P182-03; P182-04-E; P182-05-D; P182-06-A.
 - 3) No development shall take place above slab level until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Application for costs

2. An application for costs was made by Ms Lynda Musgrove against North Hertfordshire District Council. This application will be the subject of a separate Decision.

Main Issues

3. The Council acknowledges that it is currently unable to demonstrate a 5 year supply of housing land, as required by the National Planning Policy Framework (the Framework). In such circumstances, paragraph 49 of the Framework
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states that relevant policies for the supply of housing cannot be considered to be up-to-date.

4. The Council's first reason for refusal cites a conflict with Policy 6 of the North Hertfordshire District Local Plan No 2 with Alterations (1996). This sets out criteria that development proposals must meet in order to be permitted in the 'Rural Areas beyond the Green Belt', in which the appeal site is located. Insofar as this policy restricts the locations where new housing can be developed, it can be considered a policy for a supply of housing with regards to paragraph 49 of the Framework.
5. There is a dispute between the parties as to whether the proposal would comply with part iii of Policy 6. This part of the policy allows for the construction of single dwellings on a small plot located within the built core of a settlement. However, no definition of a "settlement" is provided in the policy text, and the dispute relates to whether the appeal site is located in a "settlement" for these purposes. I return to this matter below in my conclusion.
6. In cases where paragraph 49 of the Framework applies, paragraph 14 states (unless material considerations indicate otherwise) that 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 Framework taken as a whole. In that context, the main issues in considering this appeal are:
 - (a) The effect of the development on the character and appearance of the area;
 - (b) Whether future occupiers of the development would be unduly reliant on private transport; and
 - (c) Whether the proposed waste storage and collection arrangements would be appropriate.

Reasons

Character and appearance

7. The appeal site is to the rear of a short row of detached properties fronting onto Bedford Road, which mostly consist of bungalows. These properties are surrounded by open countryside and they are not within a built-up area. The appeal site is adjacent to the former Ramerick Nursery site that has recently been granted planning permission for a single dwelling (ref 13/01301/1).
8. The appeal site is currently occupied by a number of single storey outbuildings that collectively have a larger footprint than the proposed dwelling. The appellant states that the replacement of the existing buildings would enhance the appearance of the site, and I concur with this view. Whilst an enhancement could similarly be achieved by demolishing the outbuildings and using the land as garden space, there is no indication that this is a likely outcome. In addition, the site is largely screened from longer views by trees and boundary planting. In these circumstances, I do not consider that the proposal would be harmful to the intrinsic beauty of the countryside in this location.

9. The proposed dwelling would be 1.5 storeys in height, which would be taller than the existing outbuildings. However, as I noted on my site visit, a number of the existing properties fronting onto Bedford Road are also 1.5 storeys in height. The consented dwelling on the adjacent land would similarly be 1.5 storeys in height, and the appeal proposal would therefore not appear out of keeping in this regard.
10. For the above reasons, I conclude that the development would cause no significant harm to the character and appearance of the area. It would therefore be in accordance with Policy 57 of the North Hertfordshire District Local Plan No 2 with Alterations (1996). It would also accord with the Framework, which recognises the intrinsic character and beauty of the countryside.

Reliance on private transport

11. The nearest local shops and other facilities are in the centre of Henlow Camp, which is located approximately a mile away. In addition, a bus stop is located nearby on Bedford Road.
12. There is a continuous footpath on the opposite side of the road that connects the appeal site to the facilities in Henlow Camp. A walking/cycling distance of around a mile to these facilities is not unreasonable given the rural location. Whilst the footpath is located on the opposite side of a busy main road, there is good visibility in both directions. Accordingly, I am satisfied that there would not be a significant safety risk to future occupiers of the development in this regard. In addition, a number of bus services that run along Bedford Road stop at the nearby bus stop. These connect the site to nearby settlements, including Hitchin, where further services and employment opportunities are available. The appeal site therefore has relatively good access to public transport.
13. The Council has highlighted a number of appeal decisions that consider the accessibility of proposed housing sites in the Borough. The full details of those cases are not before me, and I further note that a number of these decisions were issued prior to the introduction of the Framework or relate to larger developments. I have, in any case, reached my own view on the appeal proposal on the basis of the evidence before me. Separately, I accept that the sustainability considerations that applied to the adjacent Ramerick Nursery site were not the same to the current appeal proposal.
14. For the above reasons, I conclude that future occupiers of the development would not be unduly reliant on private transport. The development would therefore accord with the Framework, which seeks to actively manage patterns of growth to make the fullest use of public transport, walking and cycling.

Waste arrangements

15. The development would include a bin storage area next to the proposed dwelling, and a bin collection area near to the road. The distance between these would be around 95m.
16. The distance between the proposed bin store and collection area would not comply with the Building Regulations. However, The Building Regulations do not form part of the planning regime in this respect, so are not relevant to the case. The Council also cite BSI 2005 BS 5906: Waste Management in Buildings

- Code of Practice. However, this document constitutes guidance only, and it provides a different standard to those set out in the current Building Regulations. Manual for Streets quotes both the Building Regulations and BSI 2005 BS 5906, but does not require that either standard is met in every case. Moreover, the Framework does not mention waste storage and collection arrangements.
17. Whilst the Council state that future occupiers of the dwelling would need to have their waste collected by a private contractor, it is unclear why this would be the case. The proposed waste storage and collection arrangements reflect the backland nature and layout of the site, and that of the adjacent site, and would not be unusual for a rural location. The Council do not identify any highway safety or amenity concerns that would arise from these arrangements, or any other planning harm. Accordingly, I do not consider that the location of the bin storage and collection areas would justify withholding permission in this case.
18. I conclude that the development would be served by appropriate waste storage and collection arrangements.

Other Matters

19. The distance between the proposed dwelling and the neighbouring properties would be considerable, and any views would be screened in part by existing boundary treatments. Accordingly, there would be no unacceptable overlooking of neighbouring properties.
20. Any damage to the boundary fence caused during the construction process, or by future occupants, would be a civil matter covered by other legislation.

Conditions

21. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for clarity and to ensure a satisfactory development. A condition requiring the submission and approval of external facing materials is also necessary in order to preserve the character and appearance of the area. However, it is not necessary that this condition be discharged before any development takes place, as initial demolition and preparatory works could be undertaken beforehand.
22. The Council suggested a further condition that would have removed a number of permitted development rights from the new property. However, there is no evidence before me that exceptional circumstances exist that would justify the removal of permitted development rights in this case. Accordingly, I do not consider that this condition is necessary in order to make the development acceptable in planning terms.
23. A neighbour has requested that a condition be attached that would require the removal of the existing conifer trees along the boundary, and their replacement with a 1.8 metre high close boarded fence. However, such a condition is not necessary to make the development acceptable in planning terms.

Conclusion

24. There is a dispute between the parties as to whether the appeal site is located within a "settlement" for the purposes of part iii of Policy 6 of the Council's Local Plan. In this regard, the policy allows for an exception where a single dwelling is proposed *"on a small plot located within the built core of the settlement which will not result in outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Rural Areas"*. However, even if I were to accept that the row of properties constituted a settlement, the proposal is clearly not within its 'built core', as it is in a backload location some distance from the road. The development is therefore contrary to Policy 6 of the North Hertfordshire District Local Plan No 2 with Alterations (1996). However, this conflict clearly carries less weight than it would if there were a five year supply of deliverable housing sites.
25. I have found that the development would not unacceptably harm the character and appearance of the area, and that future occupiers would not be unduly reliant on private transport. The proposed waste storage and collection arrangements would also be appropriate. There would therefore be no unacceptable environmental harm arising from the development.
26. The social effects of the development would include the provision of a new dwelling that would contribute to meeting the Borough's housing need. There would also be a modest economic benefit generated through employment and economic activity during the construction process.
27. Overall there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the development. It would therefore constitute sustainable development as set out in the Framework.
28. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR