
Appeal Decision

Site visit made on 11 July 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 28th July 2017

Appeal Ref: APP/N1920/W/17/3172565

Kendal Hall Farm, Watling Street, Radlett, Hertfordshire WD7 7LH

- 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 Ciaran Purcell against the decision of Hertsmere Borough Council.
 - The application Ref 15/0836/FUL, received by the Council on 15 May 2015, was refused by notice dated 23 September 2016.
 - The development proposed is demolition of equestrian building and part farm buildings and erection of 3 no detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of equestrian building and part farm buildings and erection of 3 no detached dwellings at Kendal Hall Farm, Watling Street, Radlett, Hertfordshire WD7 7LH in accordance with the terms of the application, Ref 15/0836/FUL, dated 15 May 2015, subject to the conditions set out in the Schedule attached to this decision.

Main Issue

2. The main issue is whether or not the proposed development should make provision for affordable housing.

Reasons

3. The proposal would conflict with Policy CS4 of the Council's Core Strategy¹ (CS) which requires that developments of 5 or more self-contained residential units or residential sites of more than 0.2 ha, should make provision for an element of affordable housing, in which a percentage target of 40% will be sought in this post code area. The proposal for three houses would be under the 5 unit limit but the site area is 3.2 ha.
4. For this scale of development the Council's Affordable Housing Supplementary Planning Document² (AHSPD) would require the affordable housing provision to be made in the form of a commuted payment to the Council. Based on the Council's independent assessment of the appellant's viability appraisal the contribution to affordable housing sought from this development is £505,000.
5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any

¹ Hertsmere Local Plan Development Plan Document Core Strategy – adopted January 2013.

² Hertsmere Local Plan Affordable Housing Supplementary Planning Document – November 2015

determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6. On 11 May 2016, between the dates of the application submission and Council decision, the Court of Appeal upheld³ the Secretary of State's appeal against an earlier judgement ordering that the Written Ministerial Statement of 28 November 2014 (WMS) be not treated as a material planning consideration.
7. The restored WMS sets out a series of measures intended to ease the burden on small-scale developers, which includes affordable housing contributions not being sought for schemes of 10 units or less and a maximum combined gross floor space of no more than 1,000m². This is reflected in paragraph 31 of the national Planning Practice Guidance (PPG) which sets out the criteria for when contributions for affordable housing and tariff style planning obligations should not be sought. The WMS and PPG would not require that an affordable housing contribution be sought for the three houses proposed and their combined floor space.
8. Whilst fully aware of the WMS the Council's case is that this would not justify a decision being made other than in accordance with the development plan. Submitted with the appeal is the Council's Technical Appendix in response to the WMS dated January 2017. I find no reason to disagree with its findings that there is an acute level of affordable housing need within this Borough, as further evidenced in the most recent Strategic Housing Market Assessment⁴ of January 2016 which the Council's decision refers to.
9. The contribution sought from this proposal would be of significant benefit where, due to factors such as the substantial amount of Green Belt that restricts large-scale residential land release and the reliance on the development of small sites for a high proportion of delivery, there are challenges in meeting affordable housing needs in Hertsmere.
10. However, I am not persuaded that the local circumstances in Hertsmere are particularly unique in respect of housing affordability compared to many other parts of Greater London and the surrounding home counties. As a statement of Government policy, the WMS and the relevant part of the PPG are a material consideration to which very considerable weight should be attached in this appeal. I attach greater weight to the more recent national policy which sets higher development thresholds for requiring affordable housing provision than those set by CS Policy CS4 and which in this case would support a proposal contrary to the requirements of the adopted development plan.
11. As the greater weight given to the WMS and PPG would support the proposed development not requiring provision of a commuted payment in support of affordable housing there is no need for me to consider further the viability arguments made by both parties over what the appropriate sum might be.

Other Matters

12. I have had regard to the concerns raised by the Parish Council over the adequacy of the amenity and parking space provided for the size of dwellings

³ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

⁴ South West Hertfordshire Strategic Housing Market Assessment – Final Report January 2016.

proposed. The Council has not refused the proposal on this basis and, in this case, I am not persuaded the development would be unacceptable for these reasons.

13. The question of legality of access to the site is outside the scope of this appeal decision.

Conditions

14. Consideration has been given to the conditions suggested by the Council. In addition to the standard time limit for commencement (1) it is necessary, in the interests of certainty, that a condition (2) specifies the plans to which the development shall accord. In the interests of character and appearance it is necessary that the external materials to be used are agreed with the Council before the development proceeds above ground level (3). A condition is necessary to secure adequate arrangements for surface water drainage (4).
15. In this particular case the amount of development proposed, compared to that replaced, would provide the exceptional circumstances necessary for a condition that preserves the openness of the Green Belt by removing permitted development rights for further extensions, free standing structures and enclosures (5). In the interests of protecting biodiversity a condition requires adherence with the ecological recommendations submitted (6). To protect the character of this area conditions are necessary requiring landscaping and external lighting to be agreed and implemented (7, 8).

Conclusion

16. The benefit of the contribution sought to the provision of affordable housing would in this case be outweighed by national policy and its underlying aim to support small-scale housing development. As a consequence, and subject to the conditions set out below, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
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Kendal Hall Farm, Watling Street, Radlett, Hertfordshire WD7 7LH

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Planning, Design and Access Statement, 1:2500 - Site Location Plan, plan nos. 322 12 D, 322 15A, 322 16A, 322 17A, 322 18, 322 20 and 322 21.
- 3) No development shall commence above damp proof course level until details of the materials to be used in the construction of the external surfaces of the extension 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.
- 4) No development shall take place before a scheme for the on-site storage and regulated discharge of surface water run-off has been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwellings, (including new free-standing structures and enclosures within the curtilage of the dwellings) hereby permitted, including any additions or alterations to the roofs, without the prior written approval of the Local Planning Authority.
- 6) The development hereby permitted shall be carried out in accordance with the recommendations made in section 5 of the submitted Bat Roost & Breeding Bird Survey by Environmental Business Solutions, unless otherwise agreed in writing by the Local Planning Authority.
- 7) Before first occupation of the dwellings hereby approved, the landscaping scheme, boundary treatments and hard surfacing shall be fully implemented in accordance with drawing number 322 21 of this permission. Any trees, shrubs or plants that die within a period of five years from the completion of the development, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.
- 8) Prior to the first occupation of the development hereby permitted, all external lighting including their location, design, height and the intensity of illumination shall be submitted to, approved in writing by the Local Planning Authority and implemented as approved on site.

---End of Conditions---