



Appeal Decision

Site visit made on 22 November 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 9th January 2018

Appeal Ref: APP/J1915/W/17/3181236

Land at Winters Lane, Winters Lane, Walkern SG2 7NZ.

- 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 Cadena Land Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/17/1225/FUL, dated 24 May 2017, was refused by notice dated 20 July 2017.
 - The development proposed is erection of 4 No. 4 bed dwellings comprising 2 detached and 2 semi-detached together with garaging, curtilage parking, communal bin store and landscaping plus the provision of 2 vehicular passing places along Winters Lane.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4 No. 4 bed dwellings comprising 2 detached and 2 semi-detached together with garaging, curtilage parking, communal bin store and landscaping plus the provision of 2 vehicular passing places along Winters Lane at Land at Winters Lane, Winters Lane, Walkern SG2 7NZ in accordance with the terms of the application, Ref 3/17/1225/FUL, dated 24 May 2017, subject to the schedule of 13 conditions provided at the end of this decision.

Application for costs

2. An application for costs was made by Cadena Land Limited against East Hertfordshire District Council. This application is the subject of a separate decision.

Procedural Matters

3. The description of development on the application form and the decision notice refers to parking places on Winters Lane, while the description of development on the appeal form and plan 1080-066D refer to passing places. I have used the description of development on the appeal form as it more accurately represents the proposed development.
4. The Council referred to planting plans OS 1249-16.3A D (dated 19 May 2017) and OS 1249-16.3A E (dated 22 May 2017) in their decision notice. Both predate the application's submission to the Council. I have referred to OS 1249-16.3A E only as this plan is dated after OS 1249-16.3A D. OS 1249-16.3A E makes a minor amendment to the proposed hedge adjacent to the frontage of the site with Winters Lane.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, including the Walkern Conservation Area and the setting of the grade II listed building at the White Lion public house.

Reasons

Character and appearance

6. Walkern is a largely linear village running on a roughly north-south alignment with a series of narrow lanes branching east and west off the High Street. Much of the village lies within the Walkern Conservation Area. The River Beane is situated east of the High Street. The land falls from the High Street down towards the river and rises again beyond the river. There is predominantly 20th century development to the rear of the historic core of High Street properties to both the east and west, though there is a greater level of development to the western side. To the east, the streets of residential development are shorter, with a number of fields separating the houses from the river. Beyond the village on all sides, the land largely consists of farmland crossed by trees and hedgerows. Views back into Walkern from Bassus Green Road are of a well-treed village set in countryside.
7. On the corner of the High Street and the northern side of Winters Lane, the grade II listed White Lion public house dates from the 16th century, with later alterations. Much of its importance appears to stem from its quality of external and internal architectural detail and the extent to which that detail has survived, though altered. To the rear of the public house, there is a fenced beer garden and a further rectangle of land which separates the beer garden from the appeal site, which was formerly within the same ownership as the public house. There are trees and vegetation within the rectangle of land and a row of conifers which form a hedge to the appeal site. Only glimpses of the open countryside beyond the village are visible from the rear of the public house due to the presence of vegetation on the rectangle of land and the appeal site. When standing in Winters Lane next to the public house, views down the narrow lane are limited to the vegetation on the appeal site's frontage.
8. Winters Lane runs eastwards from the High Street and crosses the River Beane before meeting Bockings and Bassus Green Road. A number of single-storey detached red and brown brick houses are situated on the lane's southern side up to the junction with Totts Lane. Views of the appeal site from the lane are limited by mature vegetation and gates along the site's frontage.
9. The appeal site consists of 2 fields adjoining Winters Lane's northern side. Apart from the vegetated site frontage, the westernmost field is surrounded on 3 sides by coniferous hedging. This field has been used for the storage of building materials for a number of years¹ and contains a caravan, a number of timber sheds, the remains of a brick structure, heaps of wooden pallets, hardcore, and soil. The easternmost field is more open to the surrounding fields with lower, more limited hedging and fencing between it and the fields to the north and east, and a single outbuilding. It has a low timber fence separating a paddock from the gated access.

¹ 3/86/1219/EU Certificate of Lawful Development for Existing Use of the land for the open storage of building materials.

10. The proposed development comprises 2 detached and 2 semi-detached houses which would be located on the appeal site's western field. The houses would be accessed from a single vehicular access point off Winters Lane. Each house would have a detached double garage, and further parking spaces. The eastern field would provide landscaped open space. Passing places on Winters Lane would also be provided as part of the proposed development, with one located in front of the proposed houses and one situated on the frontage of the eastern field.
11. The significance of the Walkern Conservation Area is strongly informed by its pattern of development along and behind the High Street, with narrow lanes running from the High Street with areas of open space in between High Street properties and immediately behind them. The appeal site has previously been the subject of a number of planning applications and subsequent appeals. Both the 2009 and 2013 appeals² considered the character and appearance of the area and concluded that the site was a key contributor to the Conservation Area's open rural nature at the village's northern end. Since these appeals, the Council has adopted the Walkern Conservation Area Character Appraisal in December 2016, which includes a Character Appraisal Map (Map 2). Map 2 denotes a number of important open spaces to be protected. The appeal site does not fall within this group of open spaces, though the eastern field is marked as being an area of archaeological significance. Furthermore, the appeal site is not identified as being part of any important views to be protected or to contain any trees or hedgerows which contribute positively to the Conservation Area.
12. The proposed houses would be intermittently visible within the surrounding area. At close range, they would be visible from Winters Lane and the public footpath adjacent to the appeal site's eastern boundary. They would also be visible to some extent from the White Lion public house and its beer garden, and across the open land towards Church End and from the west beyond the river. While the appeal site forms part of the larger open space to the rear of the High Street, Winters Lane, the river, and Church End, intervisibility between the appeal site and surrounding land is limited by the presence of trees and other vegetation on the appeal site's boundaries. This forms a generally effective screen from the majority of public viewpoints and reduces the appeal site's openness in relation to the surrounding area. Moreover, with a detailed programme of replacement native planting and active management of proposed soft landscaping, the proposed development could provide vegetation more in keeping with its wider context than the existing coniferous hedging. This would, in my view, respect the character of the wider area and would not cause harm to the setting of the listed White Lion public house.
13. In addition to the views of the appeal site being limited by vegetation, the site remains in established use for the storage of building materials. The glimpsed views of the site from the west on Bassus Green Road are presently of a caravan and timber sheds, which are in poor condition, and heaps of pallets. Though the previous appeals make no reference to the tall hedging currently surrounding the westernmost portion of the appeal site, both make reference to the presence of building materials. As noted by the Inspector who dealt with

² APP/J1915/A/09/2105972, decision issued 25 November 2009, and APP/J1915/A/13/2194736, decision issued 19 September 2013.

the 2013 appeal on the site, I have no reason to suppose that the site does not still have a lawful use for storage of building materials.

14. Given the current use and degraded condition of the land, I consider that residential development of the appeal site would not be more negative in its effect on the character and appearance of the area than the existing use and would not cause harm. In my view, the proposed houses would represent a neutral development which would leave the character and appearance unharmed, that is to say, preserved.
15. The Council has referred to the size, bulk and massing of the proposed houses and their garages as having a potentially significant and urbanising impact upon the site. While I recognise that the introduction of the proposed houses would represent a change in the level of development on the site, they would be set back from the lane behind the landscaping and vehicular access and would have well-proportioned rear gardens. Their alignment would be in keeping with the alignments of older properties in the Conservation Area, running parallel with the road, rather than creating a more suburban cul-de-sac arrangement as set out in the previous withdrawn application³. Furthermore, the bulk and massing of the buildings would not be out of character with residential properties on Winters Lane or the nearby High Street, which vary considerably in their proportions.
16. In terms of the proposed development's design, the proposed houses are sufficiently varied to provide some interest within the street scene, with a range of different architectural features employed on the proposed detached and semi-detached houses respectively. While the proposed development does not seek to replicate the design of the existing bungalows on Winters Lane, the proposed houses are relatively simple in design and at 2 storeys in height are generally respectful of the scale of buildings within the wider Conservation Area. Though the Council considers that they would not reflect the range and style of dwellings within the wider area, I consider that sufficient attention to detail in terms of the palette of materials put forward to address the materials condition would result in the proposed houses appearing sufficiently different from one another to support the existing variety of housing within the wider Conservation Area.
17. Access to the proposed development would be by means of an improved access opposite No 6 and 2 passing places would be installed on Winters Lane opposites Nos 4 and 12. With native hedging proposed along the site's frontage, I do not consider that the amendments to the existing access or the insertion of passing places would materially detract from the character of the area. While local residents are concerned about the opportunistic parking of vehicles within the passing places, the proposed development provides an appropriate level of on-site parking. Furthermore, I do not have any substantive evidence of parking problems within the area which would lead me to conclude that the insertion of passing places is likely to lead to parking within them.
18. In concluding on this main issue, I find that, in accordance with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990, anticipating the development permitted, the setting of the listed building at the White Lion public house and the character and appearance of the

³ 3/16/2389/FUL.

Walkern Conservation Area would be preserved. For the same reasons, the proposed development would accord with paragraph 132 of the National Planning Policy Framework (the Framework), which confirms that great weight should be afforded to the conservation of designated heritage assets, including their setting. The proposed development would also accord with policies ENV1 and BH6 of the East Herts Local Plan Second Review April 2007 (the Local Plan).

19. Policy ENV1 states amongst other things that development will be of a high standard of design and layout to reflect local distinctiveness, and that the impact of any loss of open land on the character and appearance of the locality should be considered. Policy BH6 confirms, amongst other matters, that new developments in or adjacent to a Conservation Area will be permitted where they are sympathetic to the general character and appearance of the area, and important views within, into, and out of the Conservation Area or its setting are respected.

Planning Balance

20. The appellant has submitted evidence consisting of data from the Council's 2016 Annual Monitoring Report (AMR) which confirms that the Council is unable to demonstrate 5 year Housing Land Supply (HLS). The AMR indicates that HLS in East Hertfordshire is between 3.1 and 3.6 years with 20% buffers employed in both calculations due to past undersupply. These figures use the Sedgfield and Liverpool methods respectively, which are common approaches to establishing the level of housing supply in an area. The Council has confirmed these figures in their officer report. I have therefore had regard to the extent of the shortfall and the range of figures provided.
21. In these circumstances, paragraph 49 of the Framework applies which states that relevant policies for the supply of housing should not be considered up to date where HLS cannot be demonstrated. Paragraph 14 of the Framework 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 Framework taken as whole or specific policies in the Framework indicate development should be restricted. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight.
22. Walkern is classified as a Category 1 Village where policy OSV1 of the Local Plan permits certain forms of development. As the appeal site lies directly outside the confines of the village boundary of Walkern defined by the Local Plan, policy OSV1 is not relevant in this instance. The appeal site falls within the Rural Area beyond the Green Belt where inappropriate development is restricted under policy GBC2 of the Local Plan other than for purposes set out in policy GBC3 of the Local Plan, none of which would apply to the proposed development. However, the strict application of policies GBC2 and GBC3 would prevent improvements to the existing shortfall in the supply of housing. As a result of this, I afford the conflict with them limited weight in this decision, especially as the proposed development lies immediately adjacent to the settlement boundary.
23. Reference has been made to both the pre-submission East Herts District Plan and the emerging Walkern Neighbourhood Plan, which does not allocate the

appeal site for development. I am aware that the pre-submission East Herts District Plan has been submitted for examination and has not yet been adopted. I consequently give this plan very limited weight in this instance. The pre-submission Walkern Neighbourhood Plan was recently subject to consultation and is likely to be submitted for examination in January 2018. As the Walkern Neighbourhood Plan has not yet been examined, I do not know the extent to which there are unresolved objections to the plan. Thus the amount of weight I afford to the emerging Walkern Neighbourhood Plan is also very limited.

24. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Whilst outside the settlement boundary defined in the Local Plan, this proposed development would nonetheless be located opposite existing houses and within easy walking distance of its services and facilities. Environmental benefits include the visual improvements to a site used to store building materials, improved landscaping in the form of native hedgerows, and the introduction of 2 passing places on Winters Lane. Although some reliance on the private car is to be expected for some journeys, the proposed development would provide 4 houses with the social benefits of introducing more housing suitable for families to the village, and the economic benefits of work for the local construction industry during the construction phase and greater demand for local services and facilities in the longer term. I attach modest weight to these benefits.
25. In environmental terms, the proposed development would involve the loss of a field within a wider area of fields to the rear of the High Street. I have already discussed the effect of the proposed development on the Conservation Area and the listed White Lion public house above. The intrinsic environmental qualities of the field are limited due to its existing use and its coniferous hedging. Furthermore, the eastern field would remain more open than the western field and would be subject to landscaping enhancements.
26. Land at Froghall Lane on Walkern's western side has planning permission for up to 85 homes⁴. While I note local residents' concerns regarding the extent of development proposed in and around Walkern and east of Stevenage, there remains an undersupply of housing within East Hertfordshire and the proposed development would contribute 4 further houses providing family accommodation to the overall requirement for the supply of housing. Although I note that the emerging Neighbourhood Plan does not identify 4 bedroom houses as being in demand in the village, I have limited information on the level of need for 4 bedroom homes across East Hertfordshire and consider that the proposed houses could assist in meeting the housing shortfall across the district.
27. Whilst the 4 houses proposed would make only a modest contribution to the supply of housing, it would nonetheless provide a positive benefit in a district where there is a shortfall in housing land supply of up to 1.9 years. The proposed development would not harm the character and appearance of the village. Therefore there would be no adverse effects in this respect to significantly and demonstrably outweigh the benefits this proposal would offer. Under the presumption in favour of sustainable development, the proposal

⁴ APP/J1915/W/15/3127807, decision issued 22 February 2016.

would therefore gain support through paragraph 14 of the Framework. In this case, it is a material consideration which outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.

Other Matters

28. Local residents have raised a range of further concerns regarding loss of vegetation and wildlife from the site, use of Green Belt land, effects on the River Beane Area of Outstanding Natural Beauty (AONB), and local roofline restrictions. Whilst I recognise the importance of maintaining the character and appearance of the area and maintaining and enhancing biodiversity, the land does not lie within either the Green Belt or an AONB as far as I am aware, and the Council has not notified me of any protected species on the site or any specific roofline restrictions in the locality. I acknowledge that there may also be some concern about the precedent effect of the proposed development. However, each application and appeal is considered on its own merits.
29. Although I note concerns about traffic congestion along the High Street, the need for heavy traffic to bypass Winters Lane, and the narrowness of Winters Lane and the damage previously done to the house at 33 High Street due to vehicles turning, I have little substantive evidence that traffic movements resulting from the proposed development would be significant enough to warrant dismissal of this appeal. Furthermore, the highways authority has not objected to the proposed development. The Council considers that the proposed development would not have a detrimental effect on the living conditions of neighbouring occupiers or the future occupiers of the appeal site, or upon the safety and operation of the surrounding highway network. Subject to conditions to address access and parking, I concur with the Council's view. Though I acknowledge concerns raised regarding the effect of the proposed development on the public footpath, I do not consider that the proposed development would impinge on the use of this footpath, which is subject to protection under separate legislation.

Conditions

30. It is necessary to specify conditions confirming the approved plans to ensure certainty and require approval of the materials, and hard and soft landscaping for the proposed development in the interests of visual amenity. The Council's suggested conditions for refuse storage, boundary treatments, hard and soft landscaping, car parking, access road and driveways have been amalgamated. While the appellant does not consider a refuse storage condition necessary, the siting of the refuse storage area would indicate that it would be visible from both the houses on the appeal site and the road. Furthermore, the Council contends that insufficient space is shown for bins. As such, it is necessary that its appearance and size is controlled in the interests of visual amenity and practical use in the future. Conditions 6, 7 and 9 are necessary to ensure that appropriate vehicular access, visibility splays, and passing places are provided in the interests of highway safety.
31. It is also necessary to impose conditions relating to contamination of land and/or groundwater and a programme of archaeological work as the appeal site has previously been used to store building materials with the associated potential for contaminants to be present, and it also lies in an area of archaeological significance. Given the site's constrained highway access, I

consider it necessary to require the submission of a Construction Method Statement to ensure that the construction stage of development does not affect highway safety. This condition and the proposed condition on the operation of plant and machinery have been combined as they both aim to ensure that the impact of construction is minimised. I have restricted permitted development rights as I consider it necessary to control any potential detrimental effect of future extensions on the character and appearance of the area. Surface water drainage is conditioned to ensure that surface water from the development is managed appropriately, while the arboricultural works are also subject to a condition to ensure that retained trees are safeguarded during construction.

32. Materials and landscaping details do not need to be submitted prior to commencement of development as they are not necessary to prevent ground preparation works from taking place. However, the Construction Method Statement, site access, passing places, contamination and archaeological conditions are pre-commencement conditions as they involve elements that need to be addressed before construction works begin. I have not included conditions on ground levels or restriction of further accesses, as I do not consider these conditions necessary.

Conclusion

33. At the heart of the Framework is a presumption in favour of sustainable development. I find the proposed scheme would accord with that expectation having regard to the development plan and to the Framework as a whole. For the reasons given above, and having taken account of all other matters raised, this appeal should be allowed.

J Gilbert

INSPECTOR

Schedule of 13 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 approved plans listed 1080-001 B; 1080-101 C; 1080-066 D; 1080-410 A; 1080-411 A; 1080-412; 1080-413; OS 1249-16.4D; OS 1249-16.3A E; OS 1249-16.3B D; OS 1254-16.2A B; OS 1254-16.2B B.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) phasing of the development of the site, including all highway works;
 - ii) methods of accessing the site including construction vehicle numbers and routing;
 - iii) location and details of wheel washing facilities; and
 - iv) associated areas for parking and storage of materials clear of the public highway; and
 - v) delivery, demolition, and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place within the site shown outlined in red on the Site Location Plan 1080-001 B until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. This condition will only be considered to be discharged when the local planning authority has received and approved an archaeological report of all the required archaeological works and, if appropriate, a commitment to publication has been made.
- 5) No development shall take place until a scheme to deal with contamination of land and/or groundwater has been submitted and approved by the local planning authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the local planning authority dispenses with any such requirement specifically and in writing:
 - i) A desktop study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the Local Planning Authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. Copies of the desktop study shall be submitted to the local planning authority without delay upon completion.
 - ii) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (a) a desktop study has been completed satisfying the requirements of paragraph (i) above; (b) the requirements of the local planning authority for site investigations have been fully established; and (c) the extent and methodology have been agreed in writing with the local planning authority. Copies of a report on the completed site investigation shall be submitted to the local planning authority without delay on completion.
 - iii) A written method statement for the remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the local planning authority prior to commencement and all requirements shall be implemented and completed to the satisfaction of the local planning authority by a competent person.
- 6) Prior to the commencement of any development, full design details of the proposed vehicular access shall be submitted to and be approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved and the access shall be completed prior to the first occupation of any dwelling.
- 7) Prior to the commencement of any development, details of the arrangements for the adoption of the proposed passing places under Section 38 of the Highways Act 1980 (as shown on plan 1080-066 D) shall have been submitted to and approved in writing by the local planning authority.
- 8) Prior to construction above slab level, samples of the external materials to be used in the construction of the development hereby permitted shall be

submitted to and approved in writing by the local planning authority.
Development shall be carried out in accordance with the approved materials.

- 9) Concurrent with the construction of the access, visibility splays of 2.4m by 43m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility above 600mm in height above the carriageway level.
- 10) Prior to the occupation of the dwellings, surface water drainage works shall have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment shall be provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) Prior to the occupation of the dwellings, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) boundary treatments;
 - ii) refuse storage;
 - iii) hard surfacing materials, including the access road, driveways and car parking areas; and
 - iv) soft landscaping, including proposed finished levels or contours; planting plans with schedules of plant species, plant sizes and proposed planting numbers/densities; written specifications (including cultivation and other operations associated with plant and grass establishment) and a programme of implementation.

The hard and soft landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The hard and soft landscaping shall be retained on site thereafter. Any trees or plants which die, become seriously damaged or diseased, or are removed, within a period of 5 years from planting, shall be replaced in the next planting season with others of similar size and species.

- 12) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(or any order revoking and re-enacting that Order with or without modification), no development as specified in Schedule 2, Part 1, Classes A, B, C and E shall be erected other than that which is expressly authorised by this permission.

- 13) The Arboricultural Impact Assessment (Ref OS 1254-16-Doc1 Rvs A) submitted with the application and the recommendations contained therein shall be implemented in full.