The Planning Inspectorate

Appeal Decision

Site visit made on 16 January 2018

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2018

Appeal Ref: APP/P1940/W/17/3183388
Land adjoining 1 Cecil Lodge Cottage, Bedmond Road, Abbots Langley, Herts WD5 0QB

- 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 Clovercourt Ltd against the decision of Three Rivers District Council.
- The application Ref 17/1057/FUL, dated 18 May 2017, was refused by notice dated 13 July 2017.
- The development proposed is erection of 3 two storey dwellings (1 x detached and 2 x semi detached) including access, garage, car parking and landscaping.

Decision

1. The appeal is allowed. Planning permission is granted for the erection of 3 two storey dwellings (1 x detached and 2 x semi detached) including access, garage, car parking and landscaping at Land adjoining 1 Cecil Lodge Cottage, Bedmond Road, Abbots Langley, Herts WD5 0QB, in accordance with the terms of the application, Ref 17/1057/FUL, dated 18 May 2017, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are (a) whether the proposal would constitute inappropriate development in the Green Belt, (b) the effect of the proposal on the openness of the Green Belt, and (c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

3. The appeal site has an irregular shape with an agricultural barn to its north-eastern corner facing an open grassed area bound by a belt of trees to its southern and western sides. It includes an unmade road linking the main part of the site to a junction with Bedmond Road to its north-western corner. The trees are the subject of a recent Tree Preservation Order and the site is located within the Green Belt.

4. The site is located towards the northern edge to Abbots Langley within a predominantly residential area. To the north of the site are 1-4 Cecil Lodge Cottages, locally listed buildings, and beyond these other attractive dwellings also fronting the unmade road including Mansion House Farm, a listed building.

To the east of the site is Thistle Lodge, a detached house fronting Love Lane whilst to the south are semi-detached houses fronting Tibbs Hill Road.

5. The proposal is to demolish the barn and to erect 3 houses on the open part of the site to align with Cecil Lodge Cottages; these would front an extension to the unmade road. Paragraph 89 of the National Planning Policy Framework (The Framework) states that the construction of new buildings should be regarded as inappropriate development unless it complies with cited exceptions. One of these is, "*limited infilling in villages*".

6. Policy CP11 of the Three Rivers District Council Core Strategy (2011) (CS) and Policy DM2 of the Development Management Policies LDD (2013) (DMP) set out the Council's policies in relation to Green Belt and reflect the guidance in the Framework. The site is located within the settlement boundary of Abbots Langley which is designated as a Key Centre in the settlement hierarchy of the Core Strategy. This equates to a medium sized settlement. The CS identifies two villages in the District, Bedmond and Sarratt. The appeal site is not located within one of these designated villages. The Council considers that Abbots Langley is a much larger settlement, more akin to a town, and has concluded that this exception to paragraph 89 of the Framework should not apply.

7. However, the Framework does not specify that a village must be designated as such in the development plan. Neither does it specify any limitation to the size a village can be. The appellant has drawn my attention to two court decisions on this exception. In David Tate v Northumberland County Council[1] (2017) the Judge concludes that subjective decisions are to be made on the facts of the case and made collectively by those exercising planning judgement. In Wood v Secretary of State for Communities and Local Government and Gravesham Borough Council[2], it was concluded that whether or not a proposed development constitutes limited infilling in a village for the purposes of paragraph 89 NPPF is a question of planning judgement and the answer to that question would depend upon an assessment of the position on the ground.

8. Notwithstanding its size, the sense and identity of Abbots Langley as a distinct settlement is defined by its extensive boundaries with open countryside and separation to the adjacent settlement of Leavesden. The appellant has pointed to Abbots Langley being referred to as a village on the Council's web site, on entrance signs at either end of the High Street and in documents relating to local community groups. The formal designation of Abbots Langley in the current development plan as a "Key Centre" in the settlement hierarchy may not be picked up in common parlance and there is evidence that locally it is sometimes known as a village. On this basis it is my judgement that Abbots Langley can be regarded as a "village" for the purposes of paragraph 89.

9. The Framework does not define what is meant by "limited infilling" but in the context of the ordinary meaning of these words, the proposal would satisfy this requirement. The site is a relatively small site and the proposal for just 3 houses. The proposal would infill the gap of housing on the eastern side of Bedmond Road between Cecil Lodge Cottages and Tibbs Hill Road with housing also to the east of this gap fronting Love Lane.

[1] Case number CO/4198/2016
[2] EWCA Civ 195 at [12]).

10. I therefore conclude that the proposal would constitute limited infill within a village and would therefore not be inappropriate development within the Green Belt. Accordingly, there is no need to examine if very special circumstances exist to outweigh any harm arising from inappropriateness. Neither would there be any conflict with Policy CP11 of the CS or with Policy DM2 of the DMP that are consistent with the Framework.

11. The Council's decision notice refers to harm to the openness of the Green Belt. In view of my finding that the proposal is not inappropriate development, the impact on openness does not fall to be formally considered, but the impact of proposal on the openness of the Green Belt would be offset to a large degree by the removal of the barn that has a similar footprint to the proposed houses.

12. There have been several representations from local residents mainly in support of the proposal. Objections have been raised in relation to the impact on heritage assets nearby. The Council have not objected to the proposal on these grounds and I have found no reason to disagree with their conclusions on this issue.

Conditions

13. The Council has suggested a number of planning conditions that I have considered against the advice in Planning Practice Guidance. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans. Conditions are necessary to secure details of finishing materials to the houses and boundary enclosures in the interests of the appearance of the site and to control the position and nature of side windows in the interests of privacy for the occupiers of adjoining dwellings. The proposed parking and turning spaces need to be provided and retained in the interests of highway safety. Conditions are necessary to secure the protection of trees at the site and implementation of landscape measures in accordance with the detailed proposals submitted with the application in the interests of the appearance of the site. The Council's suggested conditions in relation to energy saving and provision of fire hydrants are also necessary in the interests of sustainability and safety.

14. The Council's suggested condition regarding turning space for refuse collection vehicles is not necessary in view of the limited length of the road and to safeguard the roots to protected trees; I have imposed the appellant's alternative suggested condition on submission of details of bin collection arrangements. I have not included the Council's suggested condition to remove specified classes of permitted development allowances; notwithstanding the site's Green Belt location, a general precautionary condition would be contrary to Planning Practice Guidance.

Conclusion

15. For the reasons given the appeal is allowed subject to conditions.

Rory MacLeod

INSPECTOR

Schedule of 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: J613/200 Rev B, J613/201 Rev A, J613/202, J613/203 Rev A, J613/204 Rev A, J613/205, J613/206, J613/207, J613/208 Rev A, J613/209 Rev A, J613/210, J613/211, 722.17.1A

3) No development shall commence above ground 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) The buildings hereby permitted shall not be occupied until the first floor flank windows have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification), no windows/dormer windows or similar openings shall be constructed in the northern flank elevation of the detached dwelling hereby approved.

6) No dwelling shall be occupied until parking and turning spaces have been laid out within the site in accordance with drawing no. J613/201 Rev A. The parking and turning spaces shall thereafter be kept permanently available for the use of residents and visitors to the site.

7) Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently maintained as such thereafter.

8) Prior to occupation of the development hereby permitted details of the bin collection arrangements to be submitted to and approved in writing by the Local Planning Authority. The bin collection arrangements shall be implemented in accordance with the approved details and maintained as such thereafter.

9) The landscaping works shall be carried out in accordance with the approved details (Landscape Specification and Maintenance report 722.17 prepared by Elizabeth Greenwood dated April 2016) during the first planting season after completion of the approved development. All trees and plants shown on Dwg no.722.17.1A shall be maintained, including the replacement of any trees or plants which die are removed or become seriously damaged or diseased for a period for five years from the date the approved scheme was completed. Replacements should be planted during the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

10) No operations (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with Arboricultural Impact Assessment ATS0114 V1 prepared by Ian Lorman dated May 2017.

11) The development shall not be occupied until the energy saving and renewable energy measures detailed within the Carbon Reduction Study submitted as part of the application are incorporated into the approved development.

12) Should they be required, detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.