

Appeal Decision

Site visit made on 4 July 2019

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/J1915/W/18/3210624

63 and 65 Lower Road and land adjacent to 65 Lower Road, Great Amwell, Hertfordshire SG12 9SZ

- 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 Mr P Shilston against the decision of East Herts Council.
 - The application Ref 3/18/1063/FUL, dated 8 May 2018, was refused by notice dated 15 August 2018.
 - The development proposed is the erection of five dwellings comprising of the replacement of two existing bungalows with a pair of semi-detached dwellings; and the erection of three detached dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm to the Green Belt; whether the houses would be in a sustainable location with regard to the spatial strategy of the development plan; the effect on the character and appearance of the area; the effect on biodiversity; the effect on the living conditions of neighbouring residents with regard to privacy and outlook; and whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Procedural Matters

3. Since the Council's decision, the East Herts District Plan 2018 (DP) has been adopted and now forms part of the development plan. The policies of the East Herts Local Plan Second Review 2007 no longer have effect.

Reasons

4. The proposal would result in the replacement of the two existing dwellings, the introduction of a dormer bungalow in the existing gardens and the addition of two new houses on Lower Road on land outside the adopted settlement boundary. Great Amwell is a Group 2 Village that is within, and washed over by, the Green Belt.
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5. In addition to the concerns raised within the reason for refusal, a number of other concerns have been raised by third parties, consultees and by the planning officer within the Delegated Officer Report. Although not supported by the Council, concern has been raised with regard to the impact of the dormer bungalow on neighbouring residents. Impacts on the character and appearance of the area and on biodiversity have also been raised as concerns. The suitability of the site with regard to the spatial policies of the development plan were also raised, including identified conflict with the then emerging policy VILL2. I have considered all of these matters in my assessment.

Inappropriateness and any other harm to the Green Belt

6. DP policy GBR1 advises that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (the Framework). The Framework advises that new buildings should be regarded as inappropriate unless they fall within an exception set out in paragraph 145. The exceptions include (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and (e) limited infilling in villages.
7. The appellant suggests that the two new properties on Lower Road would represent infill development between the road junction and the existing houses. Although the Framework does not provide a definition, these properties would simply extend the area of development rather than represent infilling. The bungalow to the rear would represent a new building with no other development to either side, other than modest garden structures. This similarly does not represent infilling.
8. Although I note the Council's view that their policies no longer include a requirement that replacement dwellings should not be materially larger than those that they replace, this is a requirement of paragraph 145(d) of the Framework. This therefore remains material when considering whether development is inappropriate.
9. The two existing houses were built separately but the replacement of two buildings with a single building containing semi-detached properties would not be incompatible with the part (d) requirements. The new building would be in the same use. Both existing properties are modest, of predominantly single storey with two bedrooms each. They are both of limited height with regard to their eaves and ridge. The houses that would replace them would be two storey properties with large roof forms. They are shown as having four bedrooms each.
10. I have not been provided with calculations of the floor areas or the volumes of the existing and proposed houses which would assist in providing a comparison between the existing and proposed sizes of these houses. The Framework does not provide guidance as to what constitutes 'materially larger' which is therefore a matter of judgement. Whilst it would appear that the proposed houses would be materially larger, in order to make a definitive judgement, the size calculations should be taken into account. However, as I am considering the development as a whole, given my findings with regard to the three additional houses, I conclude in any event, that the proposal represents inappropriate development in the Green Belt.

11. The combined elements of the proposal would result in a considerable amount of new development, much of which would be on land that is currently open. It would therefore reduce the openness of the Green Belt and be contrary to the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. As much of the site lies outside the defined settlement, the proposal would also be at odds with one of the five purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment.

Any other harm

12. As a Neighbourhood Plan for the area has not been adopted, DP policy VILL2 (IV) limits new development to the defined built-up area. The two properties outside the settlement boundary would therefore unequivocally be contrary to this policy. Policy VILL2(II) accepts limited infill development but I have already found that the proposal does not represent infill development.
13. The appellant makes reference to the general requirements of policy VILL2(V). The development must satisfy the other requirements of the policy before these become relevant. However, the two new Lower Road properties would conflict with part (e) as they would represent an extension of ribbon development. The first floor master bedroom of the bungalow would allow overlooking of the neighbouring garden and the side gable would be located unacceptably close to the boundary, resulting in it being overbearing when in that garden. It would therefore be contrary to part (g) which seeks to resist development that would be significantly detrimental to the amenity of neighbouring occupiers.
14. The proposal would result in the removal of extensive areas of vegetation to allow the development of the two new properties on Lower Road. The roadside vegetation would also be substantially reduced. Whilst the retention of vegetation to the west of the site would help to soften the appearance of the new houses, this element of the proposal would result in harm to the character and appearance of the area.
15. The proposed bungalow would replace low level domestic buildings. With care, much of the important surrounding vegetation could be retained. Its position would however be at odds with the general pattern of development in the immediate vicinity and it would be prominent in views from the adjacent public footpath. This element of the proposal would also detract from the character and appearance of the area.
16. There is a relatively large pond within the site which together with the surrounding vegetation provide habitats for a variety of species. The potential impact of the proposal in this regard has not been adequately considered. The potential impacts on bats, as a result of the demolition of the existing buildings, have also not been addressed. Given the lack of information in this regard, it cannot be assumed that the proposal would not result in harm to biodiversity and protected species. It is suggested that mitigation measures could be required by conditions but without appropriate evidence provided as part of the application, including indications as to whether further survey information would be necessary, such conditions would be unacceptably

imprecise. The potential harm to biodiversity results in significant environmental concerns.

Other considerations

17. The houses would be closely related to the settlement which the appellant advises was ranked second of the Group 2 Villages in terms of facilities and services. These would be accessible by foot and by bicycle; or by very short journeys in private cars. There is also a bus stop nearby which provides good links to high order settlements and the railway station in Ware. This location therefore has many benefits with regard to accessibility.
18. The appellant suggests that a more logical and defensible boundary for the settlement would include this land. However, this would be a matter for consideration during the formulation of a Neighbourhood Plan. I acknowledge however that the settlement boundary is drawn tightly around the built-up area and this does limit the potential for additional housing elsewhere which has implications for any likely increase in future support for local services.
19. The houses would result in social benefits, supported by paragraph 59 of the Framework, in providing three extra dwellings which would contribute to housing supply. I have considered this in the light of the overall housing supply position set out in the newly adopted DP.
20. The new residents would contribute to the social life, services and facilities of the village and other nearby communities and would make an important contribution to supporting such facilities and services, particularly as they have been designed as family homes.
21. There would be economic advantages from the construction works involved in building the new dwellings. Residents would also contribute to the economy by their own economic activity and by their use of local shops and services.
22. The two replacement dwellings would improve upon the appearance of the existing dwellings. This would be a positive feature with regard to environmental objectives. It is likely also that they would be built to higher standards with regard to thermal efficiency. The potential to introduce renewable energy provision would also offer benefits and reduce the overall environmental impact of the proposal.

Conclusions

23. The proposal would result in inappropriate development within the Green Belt. It would also reduce the openness of the Green Belt. The *Framework* is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
24. The *Framework* is clear that substantial weight should be given to any harm to the Green Belt. In addition to the Green Belt harm from inappropriateness and the reduction in openness, there are also environmental concerns relating to the impact on the character and appearance of the area and on biodiversity. Although this is an accessible location, I have also found conflict with the Council's spatial strategy including conflict with DP policy VILL2. The harm that would result to the living conditions of the neighbouring residents also weighs against the proposal.

25. Although I have had regard to all the considerations put forward, I conclude that the social, economic and environmental benefits, including the accessibility of the site, do not clearly outweigh the harm from inappropriateness, the reduction in openness and the other harm that has been identified. As very special circumstances only exist if the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, I must conclude that very special circumstances do not exist. The proposal would therefore result in conflict with DP policy GBR1 and the Framework.
26. The appellant has suggested that a split decision could be issued allowing the two replacement dwellings. The DP is silent with regard to replacement dwellings. However, as the existing dwellings are within a Group 2 Village, their replacement would not be at odds with the DP spatial strategy. I am mindful that the appellant sought pre-application advice which I am advised offered support for this element of the scheme. As a result, the application documents contain a lack of detail with regard to whether this element of the proposal on its own, represents inappropriate development. I am mindful also that the application should have included a Preliminary Roost Assessment with regard to the potential for roosting bats. I am not therefore able to reach a positive decision with regard to this element of the proposal on the basis of the evidence submitted.
27. Overall, I conclude that material considerations do not indicate that the proposal should be determined otherwise than in accordance with the development plan. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR