
Appeal Decision

Site visit made on 30 April 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/J1915/W/19/3222257

Chipping House, Chipping, Buntingford, Herts SG9 0PG

- 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 Simon Trewin against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1984/FUL, dated 20 September 2018, was refused by notice dated 16 November 2018.
 - The development proposed is the erection of 2no. four bed dwellings with associated access, parking and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no. four bed dwellings with associated access, parking and landscaping, in accordance with the terms of the application, Ref 3/18/1984/FUL dated 20 September 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. The planning application form describes the development as the erection of two new detached houses and freestanding garages. The Council modified the description in the decision notice and that has been used by the appellant in the appeal form. The Council's description includes reference to the access, parking and landscaping, therefore I have used it in the banner.
3. The Council refers in the decision notice to policy GBR1 of the East Herts District Plan¹. This policy relates to development in the Green Belt. The appeal site is in not the Green Belt, and consequently the policy cannot be a consideration. The appellant suggests that the Council intended to refer to policy GBR2 - Rural Area Beyond the Green Belt in its reason for refusal. That policy is referred to in the planning officer report, which the Council relies on as its statement of case. I have therefore proceeded on the basis that the decision notice should have referred to policy GBR2 and the reference to GBR1 is an administrative error.

Main Issues

4. These are the effect of the development on the character and appearance of the area; and whether the site is a sustainable location, having regard to the development plan.

¹ Adopted October 2018

Reasons

The site and the proposal

5. The appeal site (the site) comprises the rear garden of Chipping House, within the settlement of Chipping. The nearest town is Buntingford, around two kilometres distance to the south. Chipping House fronts onto Ermine Street – the A10 road. The site is well landscaped and contains a number of mature trees as well as areas of lawn and other planting.
6. The dwellings would be 2 storey, located in the rear part of the garden to Chipping House. Constructed of tile and brick, and with detached garages to the front, they would be accessed from the existing lane which serves a number of properties to the north of the site.

The development plan context

7. The development plan comprises the East Herts District Plan (the local plan) and the Buntingford Community Neighbourhood Plan² (the neighbourhood plan).
8. Policy GBR2 of the local plan permits development in the rural area beyond the greenbelt subject to a number of criteria, including the limited infilling or partial or complete redevelopment of previously developed sites in sustainable locations, and where the development will be appropriate to the character, appearance and setting of the site and/or surrounding area.
9. Policy VILL3 controls development within Group 3 villages such as Chipping. It provides that limited infill development may be acceptable if identified in an adopted neighbourhood plan. It goes on to set out further criteria including that the development should relate well to the village in terms of its location, layout and connectivity, and also be well designed and in keeping with the character of the village. It should not unacceptably block important views or detract from the openness of the countryside.
10. The neighbourhood plan sets out a number of policies in relation to housing development and with particular regard to housing outside of the two larger settlements of Buntingford and Cottered. Policy HD1 permits development which, amongst other things, would be small-scale infill development within or immediately adjoining significant existing clusters of development.

Character and appearance

11. The focal point of the disagreement is whether the proposal would constitute infill development within the meanings used in the development plan, and if not whether there would be harm to character and appearance. Related to this is the pattern of the existing settlement. The Council considers Chipping to be linear in form, whilst the appellant's view is that it is effectively a cluster within the central part of the settlement.
12. The dictionary definition of infill development is that it should be limited to buildings constructed to occupy the space between existing structures. The Planning Portal glossary definition is: 'the development of a relatively small gap between the existing buildings'. It is a matter of opinion as to whether the site constitutes infill development by either of these definitions. It could be argued

² Adopted May 2017

that the site occupies a space between Chipping House and a property called The Homesteads, a short distance approximately northeast of the site. I do not find this argument alone convincing, given that the site borders the open countryside and not curtilage of the other property.

13. However, I give significant weight to the terms of neighbourhood plan Policy HD1. The site is demonstrably within or immediately adjoining a significant existing cluster of development, and in that respect, at least as far as the neighbourhood plan is concerned, constitutes infill development. Local Plan Policy VILL3 takes infill development as identified in an adopted neighbourhood plan as its starting point. It therefore follows that in this context the development is capable of being described as infill development.
14. The site could also be described as backland development, defined in the Planning Portal glossary as 'Development of 'landlocked' sites behind existing buildings, such as rear gardens and private open space, usually within predominantly residential areas. Such sites often have no street frontages'. However the site is not landlocked, given the lane that would provide access to the A10 road, and would not give rise to the type of issues which typically make backland development inappropriate, such as noise and disturbance to existing residents.
15. Due to the location of the settlement either side of the A10 road, it retains a form that is broadly linear. However, within the vicinity there are developments which add depth to the settlement, such as The Square and Royal Oak Close. Given this, and the size and location of the plots, there would be limited effects on the pattern and form of the settlement.
16. There would also be little effect on the character or appearance of the countryside due to the existing landscaping along the edge of the site, bordering the fields beyond.
17. In terms of the character of the settlement itself, the two dwellings would be set away from the A10 road and would mainly be apparent only to the occupiers of Chipping house, and residents of the properties lying north of the access lane. The proposed houses would be traditional in appearance and would not appear out of character with other housing within the settlement, which is varied in terms of architectural styles and size of plots. Some existing trees would be removed however a large Ash would be retained.
18. In terms of the density of development, both houses would have reasonable sized rear gardens and Chipping House would remain a good sized plot. The neighbourhood plan policy HD5 clearly does not amount to a prohibition on the development of garden ground but seeks to ensure that any such development retains reasonable areas of private garden, and the proposal achieves that objective.
19. I therefore conclude that the proposal would be acceptable in terms of the effect on the character and appearance of the area, and in this respect would not conflict with Policies GBR2 and VILL3 of the Local Plan and Policies HD1, HD2 and HD5 of the neighbourhood plan.

The sustainability of the location.

20. The settlement does not contain a shop or other services apart from a public house. However there is a good bus service to Buntingford where there are

shops, services, schools and health facilities. Whilst it is likely that the occupiers of the proposed dwellings would use cars for some trips, other more sustainable modes could easily be used, such as the bus or cycling. The site is located a short distance from the bus stop.

21. The location is therefore sustainable for the scale of housing development proposed. The local plan classification of Chipping as a Group 3 village reflects this, as do the policies in the neighbourhood plan which do not seek to exclude Chipping from any development.
22. I therefore conclude that the proposal would not conflict with Policy GBR2 of the Local Plan, which amongst other things, permits limited infilling in sustainable locations.

Other Matters

23. A number of objections to the planning application concern the additional traffic which would use the track leading to the site from the A10 road. The Highways Authority does not object subject to the submission of details of the junction arrangements and visibility splays. On my site visit I looked at the visibility at the access point, which appeared satisfactory subject to the maintenance of adjoining vegetation. I have made the approval of the junction arrangements subject to a planning condition.
24. An interested party has suggested that approval of the dwellings would set a precedent for further similar developments within the village, which would be detrimental to the setting and have a greater impact in terms of traffic safety. It is suggested that the neighbourhood planning team sought to ensure that Group 3 villages such as Chipping are protected from developments such as that proposed. However, each scheme must be considered on its individual merits and in terms of compliance with development plan policies. For the reasons I have already given, I conclude that the appeal proposal is acceptable.

Conditions

25. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Government's Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case; however some have been edited for precision and clarity.
26. In addition to the abovementioned condition regarding access, for certainty I attach the normal planning conditions limiting the period of the consent to 3 years and requiring the development to be carried out in accordance with the approved plans.
27. The Hertfordshire County Council Archaeologist advises that the site is within an area of archaeological significance identified in the Local Plan, and amongst other things the site is less than 50m from the Roman road/medieval highway. The site appears to have remained undeveloped, therefore any remains are likely to be well preserved. The Planning Practice Guidance advises that where there is potential for a site to include heritage assets with archaeological interest a proportionate response should be taken when considering the need for field evaluation³. A planning condition should therefore be attached to the

³ Planning Practice Guidance Paragraph 040 Reference ID:18a-040-20140306 Rev date 06 03 2014

- consent requiring a programme of archaeological evaluation to be carried out prior to development.
28. In the interest of achieving a visually attractive development, I attach conditions requiring details of external materials; fences and other boundary enclosures; and landscaping to be approved. Any approved landscaping works are to be maintained for a period of 5 years to ensure establishment.
29. The Local Lead Flood Authority consider that insufficient information was submitted with the application to enable it to reach a conclusion on the impact of the proposal. A planning condition is therefore required relating to details of the arrangements for dealing with surface water arising from the development.
30. In the interests of the living conditions of residents near the site, I attach conditions limiting the times during which construction takes place, and also measures for wheel washing prior to the commencement of construction works.
31. In order to ensure that provision is made for the parking and turning of cars, I attach a condition requiring the proposed driveways are to be completed before the dwellings are occupied. The Council suggests that this condition should also cover surface water drainage, however this matter is already dealt with under another condition.

Conclusion

32. Bringing the above points together, the local and neighbourhood plans seek to permit well-designed small-scale development within or adjoining settlements such as Chipping, where the proposal would be appropriate to the pattern and form of the settlement and the character of the surrounding area, and would be in a sustainable location. The proposal would meet these objectives and comply with the above noted policies of the development plan.
33. For the above reasons and taking account of other matters raised, the appeal is allowed.

Tim Wheeler

INSPECTOR

Schedule of conditions

- 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:
1:1250 scale location plan, ref – CH:01; 1:200 scale site plan ref – CH:02 Rev A; site layout and landscaping ref – CH:03 Rev A; house plans A – ref CH:04; house B plans – ref CH:05; house A elevations – ref CH:06; house B elevations – ref CH:07; garage plans and elevation – ref CH:08
- 3) Prior to the commencement of the development hereby permitted full details shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority to illustrate: i) Junction Arrangement ii) Visibility Splays iii) Access Arrangement from the A10 road.
- 4) No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the 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) Prior to any building works being commenced samples of the external materials to be used in the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.
- 6) Prior to the first occupation of the approved dwellings, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected and retained in accordance with the approved details.
- 7) Prior to first occupation of the approved dwellings, details of landscaping shall be submitted to and approved in writing by the Local Planning Authority, including full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

- 9) Neither of the approved dwellings shall be occupied until surface water drainage works 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 provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall 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; include a timetable for its implementation; and 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.
- 10) During the period of construction of the approved development no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 11) Prior to the commencement of construction, wheel washing facilities shall be established within the site in accordance with details to be submitted to and approved in writing by the Local Planning Authority and shall be kept in operation at all times during construction works.
- 12) Before the new dwelling units are occupied all on site vehicular areas shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory arrangements for the parking and turning of vehicles outside highway limits.