



Appeal Decision

Site visit made on 20 August 2019

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2019

Appeal Ref: APP/J1915/W/19/3230519

Prestwick, Ermine Street, Buntingford, Hertfordshire SG9 9RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Bethell against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2277/OUT, dated 12 October 2018, was refused by notice dated 12 December 2018.
 - The development proposed is the construction of a new house and garage and ancillary development.
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Decision

1. The appeal is allowed and outline planning permission is granted for the construction of new house and garage and ancillary development at Prestwick, Ermine Street, Buntingford, Hertfordshire SG9 9RT in accordance with the terms of the application, Ref 3/18/2277/OUT, dated 12 October 2018 subject to the conditions set out in the attached schedule.

Procedural Matter

2. Outline planning permission is sought with all matters reserved. I have had regard to the plans submitted as part of the application and note the illustrative layout shown on plan no. 182/004. However, I have treated all plans as illustrative.

Main Issue

3. The main issue is whether or not the appeal site is a suitable location for the proposed development having regard to its accessibility to local facilities and the provisions of the development plan.

Reasons

4. The appeal site is part of a cluster of houses to the north of the village of Buntingford with an access onto Ermine Street at the junction of this road with Parkside which runs to the north. The site contains a bungalow which is set back a significant distance from the road with an associated detached garage, a timber outbuilding used as an office and, at the rear of the site, a builder's yard comprising an area of hardstanding together with further outbuildings.
5. The appeal scheme proposes the removal of the existing builder's yard and construction of a new dwelling and garage. The existing bungalow would

- remain and the submitted illustrative material shows a new dwelling located on land in front of this dwelling accessed via a shared driveway.
6. The main parties have both referred to a previous appeal decision for a new house on the site in 2016¹. In dismissing that appeal, the Inspector concluded that the site was isolated from services and would not provide suitable opportunities for sustainable transport so as to offer an acceptable location for the development.
 7. Since that appeal decision, the Buntingford Community Area Neighbourhood Plan 2017 (BCANP) and the East Herts District Plan 2018 (EHDP) have been adopted. Policy DPS2 of the EHDP identifies the Council's strategy to deliver sustainable development and prioritises the development of sustainable brownfield sites and then sites within the existing urban areas including Buntingford.
 8. There is no dispute between the main parties that the site is outside of the settlement boundary of Buntingford and that it is therefore part of the 'Rural Area Beyond the Green Belt'. EHDP Policy GBR2 seeks to maintain the Rural Area Beyond the Green Belt as a valued countryside resource by concentrating development within existing settlements. However, it does not preclude new development within these areas where it would be compatible with the character and appearance of the rural area. Types of development that the policy advises will be permitted include limited infilling or the partial or complete redevelopment of previously developed sites in sustainable locations, where development is appropriate to the character, appearance and setting of the site and/or surrounding area.
 9. BCANP Policy HD1 advises that residential development outside of the settlement boundaries of Buntingford consistent with other policies of the plan will be permitted in circumstances including small scale infill development within or immediately adjoining significant existing clusters of development.
 10. While not part of a defined settlement boundary, the site is part of a cluster of development in a ribbon to the west side of Ermine Street. The BCANP does not elucidate what is meant by 'significant' in the context of existing clusters of development. However, given the number of dwellings here, their scale and their relatively close arrangement which is apparent from Ermine Street, I find that this is a significant cluster in the context of the surroundings. I also note that the proposed dwelling would replace the existing builder's yard and would be located forward of the existing dwelling, filling the gap between this dwelling and the adjacent ribbon of development and Ermine Street. In my view, it would thus constitute a small scale infill development within the existing cluster of development in accordance with BCANP Policy HD1.
 11. The development of sustainable brownfield sites is supported by EHDP Policies DPS2 and GBR2 in sustainable locations where appropriate to the character, appearance and setting of the site and/or surrounding area and do not stipulate that this support is restricted to sites within settlement boundaries.
 12. As an outline application, matters including the detail of the layout of development on the site, scale and appearance are reserved for future consideration. However, the proposed development would replace the existing

¹ Ref APP/J1915/W/16/3147451

builder's yard on the site and would be positioned forward of the existing dwelling to be closer to the road and the adjacent ribbon of residential development here. In common with the Inspector's conclusion on the previous appeal on the site, I consider that the site would be capable of accommodating a dwelling appropriate to the character, appearance and setting of the site and area.

13. Turning to whether this would be a sustainable location, I have had regard to the conclusion of the Inspector considering the previous appeal that the site was isolated and that it would not provide suitable opportunities for sustainable transport so as to offer an acceptable location for the development. However, in light of clarification of the meaning of 'isolated' by the High Court as confirmed by the Court of Appeal² since this decision and, with regard to other dwellings forming part of this cluster which are in close proximity to the appeal site, the development would not result in an isolated new dwelling in the countryside in the meaning set out in paragraph 79 of the National Planning Policy Framework (the Framework).
14. At the time of the previous appeal, the footway from the site into Buntingford was described as unlit for much of its length with vehicles travelling along this section of road at quite high speeds, which was considered to discourage walking and cycling. Together with the lack of any nearby bus stop, the Inspector found that the site would not therefore provide suitable opportunities for sustainable transport so as to offer an acceptable location for the development.
15. The context of the site has however changed since this decision with the development of 180 new dwellings to the south on land in close proximity to the site. I saw on my site visit that this development is now nearing completion and that it serves to extend the edge of the settlement to within a single field of the appeal site. As such, the appeal site no longer appears remote from the settlement.
16. Furthermore, a new footway with lighting has been implemented to the west side of Ermine Street running south from this development to connect to Buntingford, and a new bus service is also being provided through this site. The appellant has also provided details of a new community bus service which has been introduced. The timetable indicates that this runs on Mondays, Tuesdays, Thursdays and Fridays only and provides just 4 services a day. However, it serves a stop at Parkside very close to the appeal site, which would offer a potentially useful service to future occupiers of the site.
17. Buntingford is identified through EHDP Policy DPS2 as one of the District's main urban areas, and I saw that a range of services are available here to meet some everyday needs. While the site is not close to the main centre of Buntingford where many of these are located, the distance would be reasonably walkable. Given the provision of the new footway to the west of Ermine Street, the improvements to the route as a consequence of the separation of this footway from vehicles by a verge, the lighting provided and the activity and natural surveillance contributed by the new residential development, it would not be an unduly difficult or unpleasant route that would discourage walking or cycling. The provision of bus services in close proximity

² Braintree DC v SSCLG & Ors [2017] EWHC 2743 (Admin), Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

to the site also offers future occupiers a further realistic travel alternative to use of a private motor vehicle. Moreover, given the removal of the existing builder's yard from the site, any change in vehicular use would be slight.

18. I am mindful of the advice at paragraph 103 of the Framework that opportunities to maximise sustainable transport solutions will not be the same in rural areas as urban locations and that this should be taken into account in decision-making. Additionally, paragraph 78 promotes housing development in rural areas where it will enhance or maintain the vitality of rural communities. The provision of a new dwelling and the associated economic benefits generated by the proposal, such as expenditure within the local economy would make a small but nevertheless positive contribution to this objective.
19. In this context and with regard to the material change in circumstances since the previous appeal decision on the site, while the site is located outside of the settlement boundary, I conclude that there would be opportunities for travel by sustainable means other than the private motor vehicle and that the site would be a suitable location for the proposed development having regard to its accessibility to local facilities. It would also comply with the provisions of EHDP Policies DPS2 and GBR2 and BCANP Policy HD1.

Other Matters

20. The Council's report on the application refers to other appeal decisions where new residential development was found to conflict with Policies GBR2, DPS1 and DPS2 of the EHDP. However, I have not been provided with full details of these and so cannot make any direct comparison. In any case, I have considered the appeal before me on its own merits.
21. Third parties have raised concern that the proposed development would cause additional drainage problems, and about obstruction to Parkside during construction. However, there is no firm evidence that the development would have any material adverse impact on drainage, and disruption during construction would be short-term and could be mitigated by careful construction management.

Conditions

22. I have considered the Council's suggested conditions. Where necessary, I have altered the conditions for clarity and to ensure compliance with the relevant tests, and to avoid the use of pre-commencement clauses where this is not essential for the condition to achieve its purpose.
23. I have attached conditions relating to the submission of reserved matters including layout and the removal of the existing builder's yard use and the time limits associated with this. I have also included a condition specifying the relevant plans for the avoidance of doubt and in the interest of certainty. Conditions to address potential contamination on the site and in respect of hours of construction are necessary to ensure the protection of the land and water environment and to protect the living conditions of occupiers of neighbouring properties. The appellant has questioned the need for a condition to require measures to mitigate road noise impacts. However, I note that this was raised by Environmental Health during the consideration of the application. Noise from the A10 to the rear of the site was noticeable on the site at my

visit, and I agree that a condition is required to ensure acceptable living conditions for future occupiers.

24. While I note that Hertfordshire County Council have suggested a condition to require provision of fire hydrants, given the existing dwelling present on the site and that this is covered by other legislation, I do not consider that this would be reasonable or necessary.

Conclusion

25. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout including removal of the existing builder's yard use, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Except where matters are reserved for final approval, the development hereby permitted shall be carried out in accordance with the following approved plans: 181/001, 182/002, 182/003.
- 5) No above ground development shall commence until a scheme for protecting the proposed dwelling from noise from road traffic has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the dwelling is occupied and retained thereafter.
- 6) Any evidence of contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed.