
Appeal Decision

Site visit made on 9 June 2020 by Emma Worby BSc (Hons) MSc

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Appeal Ref: APP/J1915/W/19/3242278

Land adjacent to Lamorna, B1368 North from Junc With Hare Street Road to Biggin Hill, Hare Street, SG9 0DX

- 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 Steve Lathbury against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0970/OUT, dated 25 April 2019, was refused by notice dated 16 July 2019.
 - The development proposed is a residential development of three detached dwellings.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeals Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural matter

3. The application was submitted in outline form, and I have considered the appeal on the same basis. The matters for consideration are access, appearance, layout and scale, with landscaping a reserved matter for future consideration.

Main Issues

4. The main issues in the appeal are:
 - whether the proposed development would provide a suitable site for housing, including in terms of the proximity of services and facilities,
 - the effect of the proposed development on the character and appearance of the surrounding area,
 - whether sufficient information has been submitted with regards to the possible existence and remediation of contaminated land,
 - whether the proposal is suitable with regard to meeting local housing need.

Reasons for the Recommendation

Suitable Site for Housing

5. The appeal site is an area of land adjacent to the dwelling known as 'Lamorna' and a residential site of 5 dwellings which are currently under construction. The land is largely covered with hardstanding and has a commercial use as a haulage and storage yard.
6. Policy GBR2 of the East Herts District Plan (2018) stipulates which types of development in the rural area beyond the green belt, in which the appeal site is located, would be permitted. The appellant claims that the proposed development would fall under the stipulation of paragraph (e) which states 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.'
7. Although the appeal site is a hard-surfaced yard with a lawful commercial use, I saw from my site visit that there are no permanent buildings located on the site and no evidence that there previously has been. In line with the definition in Annex 2 of the National Planning Policy Framework, this site would therefore not fall under the definition of previously developed land. As such, the proposal would not accord with the requirements of Policy GBR2. This appeal site differs from the adjacent residential development site in this respect as that, I understand, contained permanent buildings and so would have been considered previously developed land.
8. Furthermore, the appeal site is substantially outside of the defined village boundary of the closest village to the appeal site, Hare Street, with that village containing only a limited number of services and facilities. Therefore it is likely that the residents of the proposed dwellings would be required to travel outside the village regularly by car to access other facilities. It is acknowledged that in a rural area many trips will often need to be undertaken by car. However in this case, due to the site's significant distance from the nearest services or facilities, it is unlikely that any trips, even for day to day needs, would be undertaken by sustainable means. Therefore, the appeal site is not within a sustainable location in terms of its access to services and facilities.
9. In conclusion, the proposed development would not provide a suitable site for housing and would be contrary to Policy GBR2 as set out above.

Character and Appearance

10. The site is currently used commercially, however, as it is set back from the road and has no permanent buildings, it has little visibility from the public realm and therefore makes a limited contribution to the character and appearance of the area. Although the proposed development would reduce the amount of hardstanding and would not encroach onto the surrounding countryside, due to the height of the proposed buildings, the proposal would be more visible from the main road and surrounding area than at present and therefore would have a greater visual impact. In this respect also, this scheme would differ from the development on the adjacent site as that site contained buildings, and hence their impact upon the character and appearance of the area would have been greater and so the benefit of their removal also greater.

11. Although the design and layout of the proposed dwellings is typical in nature, the visual impact of the proposed development on the currently open and inobtrusive piece of land would be significant and would not enhance the current appearance of the site from the surrounding area. When viewed alongside the 5 new dwellings, the proposal would cumulatively create a larger housing development which would appear incongruous within this rural environment. Although the development of the 5 new dwellings may have changed the pattern of development locally, this does not mean that an extension of that development onto currently open and undeveloped land would necessarily be suitable or compatible with this countryside location.
12. Overall, the proposed development would harm the character and appearance of the surrounding area. It would therefore be contrary to Policies GBR2 and DES4 of the East Herts District Plan (2018) and HD2 of the Buntingford Community Area Neighbourhood Plan (2014-2031). These collectively seek to ensure that new development respects or improves, and is appropriate to, the character, appearance and setting of the surrounding area and does not impact adversely on views from the surrounding countryside.

Contaminated Land

13. No information has been provided within the planning application regarding the presence of contaminated land and any necessary remediation works. The Council's Environmental Health Officer has not objected to the application and has indicated that a condition could be included to deal with the contamination of land before the development begins. I agree.
14. Therefore the proposed development would not be contrary to the aim of Policy EQ1 of the East Herts District Plan (2018) which requires evidence to show that unacceptable risks from contamination and land instability will be successfully addressed through remediation during and following the development.

Local Housing Need

15. Policy HD7 of the Buntingford Community Area Neighbourhood Plan (2014-2031) states that 'new housing should reflect local requirements which are for a mix of sizes with a majority having 2 or 3 bedrooms and a small but significant number being bungalows.' The proposal would provide three 4-bedroom dwellings and therefore would not contribute to this majority requirement.
16. However, although there is a greater need for smaller dwellings, the policy does not categorically restrict larger dwelling from being built. Also, in this instance, I consider it would be unnecessary for a development of only three dwellings to be required to reflect local housing need in terms of mix and tenure especially if one would be occupied by the appellant's son and therefore only two would be immediately accessible to the open market. Therefore, the proposed development would not be contrary to Policy HD7.

Other Matters

17. The site is currently used as a haulage and storage yard however the appellant has noted that they may no longer be able to use it as such due to its impact on the residents of the new neighbouring residential development. Any impacts of the appeal site, in its current state, on the new neighbouring residential development should have been fully considered at application stage, and

therefore the cessation of the appellant's business would not be beneficial to their amenity. It has also been stated that the current proposal should be viewed as the phased completion of a small housing development. Although adjacent to one another, this site is a separate planning unit and therefore must be considered as such.

18. I note that the proposal is a self-build project and paragraph 61 footnote 26 of the Framework states that Councils are required to keep a self-build register and give enough suitable development permissions to meet the identified demand. Nevertheless, proposals are still required to be appropriate in all other respects and therefore this would not outweigh the harm previously identified.
19. A dismissed appeal for a similar proposal on a site, known as 'Natkriskee', also on Hare Street has been identified in the appellant's design and access statement. The appellant has suggested why this is different from their proposal. However, whilst each case is considered on its own merit, both of these sites are similar in that they are not located on previously developed land, and therefore my recommendation is consistent with that decision.
20. The appellant has highlighted that they requested pre-application advice from the Council prior to the application being submitted and received a belated and contradictory response. However, the conduct of the Council would have no bearing on my consideration of this appeal.

Planning Balance, Conclusions and Recommendation

21. It has been found that the proposal would not be contrary to local housing need and that potential contaminated land issues can be dealt with by way of condition. However, the site has been found as an unsuitable site for housing, in an unsustainable location in terms of access to facilities, and would result in harm to the character and appearance of the surrounding area. In this instance, it is not considered that the benefits would outweigh the harms identified.
22. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR