



Appeal Decision

Site visit made on 21 September 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2020

Appeal Ref: APP/B1930/W/20/3249093

Queen Elizabeth The Queen Mother Centre, Station Road, Bricket Wood AL2 3PJ

- 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 R. Clarke on behalf of Dimensions against the decision of St Albans City & District Council.
 - The application Ref 5/19/2333, dated 10 September 2019, was refused by notice dated 7 January 2020.
 - The development proposed is nine supported housing units to be used by people with learning disabilities and autism, incorporating two detached bungalows, four semi-detached bungalows, three apartments and staff facility in two storey building with habitable accommodation in loft, and associated parking, access and landscaping, following demolition of existing buildings.
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Decision

1. The appeal is allowed and planning permission is granted for nine supported housing units to be used by people with learning disabilities and autism, incorporating two detached bungalows, four semi-detached bungalows, three apartments and staff facility in two storey building with habitable accommodation in loft, and associated parking, access and landscaping, following demolition of existing buildings at Queen Elizabeth The Queen Mother Centre, Station Road, Bricket Wood AL2 3PJ, in accordance with the terms of the application, 5/19/2333, dated 10 September 2019, subject to the conditions set out at the end of this decision.

Procedural Matter

2. It has come to my attention that the emerging St Albans City and District Council Local Plan 2020-2036 (the SACDCLP) was submitted for examination in March 2019. Nevertheless, there is nothing before me to indicate that the SACDCLP is currently at a stage that should attract anything more than limited weight. I shall consider the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect upon the openness of the Green Belt; and
 - The effect upon the character and appearance of the area.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (February 2019) (the Framework) sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, unless one of several stated exceptions apply. These exceptions include limited infilling in villages.
5. The site is situated to Bricket Wood's eastern edge and has a close physical relationship to a variety of other developed sites. For the purposes of Green Belt assessment, I am content that the site forms part of the village. In the absence of either a nationally or locally prescribed definition for limited infilling, I must fully consider the specific circumstances to hand, including the site's relationship to existing adjoining developments and the nature and size of the proposed development itself, in order to assess whether or not the proposal would represent limited infilling.
6. The appeal site is approximately centrally positioned within a loosely laid out row of development that either addresses or is setback from Station Road. The site currently contains buildings concentrated towards its northern side as well as landscaped grounds with often well-planted boundaries. Beyond the appeal site's northern boundary, two sizeable buildings exist upon the adjacent site alongside soft landscaped grounds and hard surfaced areas. To the appeal site's southern side, to the opposite side of Drop Lane, is located residential development that includes a spacious plot set alongside the Lane.
7. The alignment of the site's rear boundary closely corresponds to where the eastern boundaries of developed plots to the south sit. To the northern side of the site, the hard-surfaced areas that are in place jut out beyond the alignment of the appeal site's rear boundary line. Furthermore, hard surfacing in the form of a multi-use games/parking area partly borders the site's rear boundary.
8. The lands situated to the rear (east) of the site (except for the above-mentioned multi-use games/parking area) tend to be open and rural in their makeup. Indeed, the site's eastern boundary adjoins, for most of its extent, a grassed field that is bound to much of its perimeter by planted hedgerows. Nevertheless, even in these circumstances, it is not the case that a site must be fully surrounded by adjoining development to potentially offer an infill development opportunity.
9. The appeal site's rear boundary position is respectful of the extent of existing development contained upon the site itself and the rear boundary positions of adjoining developed sites. The hard-surfaced areas that abut the site, whilst open in their makeup and not containing of any significant buildings/structures, still constitute development and influence how the eastern edge of the settlement is read and experienced. To my mind, the proposed scheme would be sufficiently enclosed or surrounded by adjoining developments to represent infill development.
10. The various blocks of replacement development that are proposed, would introduce built form to open grassed areas of the appeal site and, when compared to the existing buildings to be demolished, would provide for an increase in volume, floorspace and footprint terms. I will consider the

implications of this in a character and appearance context later. Nevertheless, for the purposes of assessing whether the proposal would represent limited infilling within a village, it is important to note that the site, when considered in the context of the village of Bricket Wood as a whole, is of modest proportions. When factoring in the relatively low number of proposed new units, the development proposal can, to my mind, be considered to represent limited infilling within a village.

11. I have noted reference to appeal decisions¹ relating to sites located elsewhere where consideration was given by the respective Inspectors to whether the schemes represented limited infilling within a village. However, each of these other sites is located within a different local authority area and different development plans would have been in place. There are also material differences in site and case circumstances, when compared to the appeal proposal before me here. These other decisions are thus of limited relevance.
12. Nevertheless, for the above reasons, the proposed development, by virtue of being limited infilling within a village, would not be inappropriate development in the Green Belt. It is thus not necessary for me to consider whether any other stated Framework exception (to the construction of new buildings being regarded as inappropriate development) applies. Very special circumstances do not need to be demonstrated in order to justify the proposal. The proposal does not conflict with the Framework in so far as its policies affirm that inappropriate development is, by definition, harmful to the Green Belt.
13. I have considered saved Policy 1 of the St Albans District Local Plan Review (November 1994) (the Local Plan Review). Although saved Policy 1 contains reference to development types where very special circumstances do not need to be demonstrated, it does not fully reflect the exceptions to inappropriate development that are clearly set out in the Framework and that are relevant to this case. Saved Policy 1 is thus of limited relevance to my considerations.

Effect on openness

14. I have found that the proposal would not be inappropriate development in the Green Belt in accordance with an exception that does not expressly state a need to assess its effect on openness or whether it would conflict with the purposes of including land within the Green Belt. The proposal should not therefore be regarded as harmful either to the openness of the Green Belt or to the purposes of including land within it².
15. The proposal would not therefore cause harm to the openness of the Green Belt and would accord with the Framework in so far as its policies confirm that the essential characteristics of Green Belts are their openness and permanence.

Character and appearance

16. The appeal site contains buildings of sizeable extent that are concentrated towards its northern side. The site's remaining areas contain a plentiful array of planting, including to its boundaries. Properties situated close to the site are of mixed specification, are set on a variety of different orientations and building lines and are often positioned on generously sized plots. The area tends to be heavily planted and much of the site's wider surroundings are inherently rural

¹ APP/Y3615/W/16/3150853; APP/M3645/W/16/3141780

² Court of Appeal judgement *Lee Valley Regional Park Authority v Epping Forest District Council*, 2016 refers²

in their makeup. Thus, a loose, green and semi-rural character and appearance is in place.

17. The complex of buildings that are intended to be constructed would be cohesively designed and laid out around a central space to remain clear of built form. Whilst the scheme would introduce development to the southern side of the site, the new buildings that are proposed would be bungalows of inobtrusive scale and height. Only the proposed block of flats would be above single-storey height, and this would be positioned in a similar position to where the main building on-site is presently located to the site's northern side.
18. The various planting that exists on and adjacent to the site currently plays an important role in softening the visual appearance of the existing buildings and contributes in no small part to the area's semi-rural character and appearance. Limited tree removals would be necessitated by the scheme. Whilst a Lime tree of value would be lost, it is located centrally within the site and thus makes a somewhat restricted visual contribution to the area. The proposed buildings would be set away from the site's western, southern and eastern boundaries. Consistent with assessments contained within the submitted Arboricultural Report (April 2018), only limited elements of existing boundary screening would realistically need to be removed or altered in order to accommodate the proposal. New trees and shrubbery are intended to supplement/reinforce the existing boundary planting to be retained.
19. The complex of buildings that is proposed would be relatively loose knit. Indeed, separation between buildings would be provided and various areas would remain landscaped and clear of built form. When also factoring in the sizeable extent of the existing on-site buildings to be demolished, the array of existing boundary planting to be retained/supplemented and the single-storey height of most of the intended development, the proposal would not represent an unduly dense or visually prominent re-development of the site.
20. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The proposal accords with saved Policies 69 and 74 of the Local Plan Review in so far as these policies require development to take into account landscaping factors as well as the scale and character of its surroundings in terms of height, size, scale, density or plot to floorspace ratio.
21. The proposal accords with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conditions

22. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
23. In the interests of certainty, a condition specifying the approved plans is required. In the interests of protecting the character and appearance of the area, conditions are reasonable and necessary that secure full details of the development's external surfaces and of the hard and soft landscaping to be installed/planted/retained (including an implementation programme and full

- details of levels, enclosures and other minor installations). It is not necessary to secure details of car parking layouts, pedestrian accesses and circulation areas, as these are already depicted acceptably upon the approved site plan referenced L(0)102B. I have no reason to consider that the scheme would prejudice highway or pedestrian safety.
24. Also in the interests of protecting the character and appearance of the area and of affording appropriate protection to existing trees and hedging of value, conditions are reasonable and necessary to secure that protective measures are installed during construction works and that replacement planting is undertaken in appropriate circumstances.
25. In the interests of protecting human health and maintaining the quality of groundwater, conditions are reasonable and necessary that ensure that potential sources of contamination are appropriately investigated, remediated, validated and reported where not previously identified. The potential prospect of surface water directly infiltrating into the ground would not raise undue concerns post-remediation.
26. Given the limited extent of approved parking/circulation areas and the anticipated absence of any significant tanking/filling areas, it would not be reasonable or necessary to specifically require, via condition, the installation of either petrol/oil interceptors or secondary containment facilities. Nevertheless, in the interests of water quality and preventing disruption to the public water supply, a scheme of mitigation measures to guard against the risk of turbidity in the relevant chalk aquifer is both reasonable and necessary.
27. To protect the general amenities of the area, a scheme for the storage and collection of waste and recyclables is both reasonable and necessary to secure via condition. It is not necessary to secure the details of the scheme prior to the commencement of development as such facilities would likely only be installed towards the conclusion of the construction phase. The appropriate trigger-point is instead prior to first occupation.
28. In the interests of on-site safety and protecting the living conditions of neighbouring residents and future occupiers of the development, a scheme of external lighting is reasonable and necessary to secure via condition prior to the scheme's first occupation. Indeed, any pre-commencement requirement is not necessary given that installed lighting would normally be anticipated to be used in association with the scheme's occupation. In the interests of protecting neighbouring living conditions, if the piling of foundations is to be undertaken, an associated method statement for piling is both reasonable and necessary to secure.
29. To promote the achievement of a net-gain in biodiversity, a condition securing the submission and implementation of a Biodiversity Gain Plan is both reasonable and necessary. To ensure that biodiversity and, more specifically, legally protected species are appropriately conserved/enhanced, a condition securing the implementation of various recommendations as set out in related surveys and assessments is both reasonable and necessary. Indeed, these include the need to pursue a mitigation licence from Natural England with respect to on-site bats.
30. As set out in the Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do

so. The Council has requested that a condition be imposed removing future rights related to a range of operations, including extensions, roof additions/alterations, outbuildings and enclosures. When noting the sensitivities of its Green Belt and semi-rural edge-of-settlement location, I see justification for such rights to be removed and for the recommended condition to be imposed. Indeed, to appropriately safeguard the area's character and appearance, the precise position and specification of perimeter boundary treatment shall require careful attention as part of the detailed scheme of hard and soft landscaping that is to come forward.

31. I note that a type of specialist housing for persons with learning difficulties and/or autism is proposed, and that on-site care provision is intended. This is fully reflected in the description of development under consideration and upon the suite of proposed plans submitted and I have considered the appeal on this basis. Whilst the appellant has suggested that a personal permission specific to the company/charity represented by the appellant could be imposed, the Planning Practice Guidance is clear that permission usually runs with the land and that it is rarely appropriate to provide otherwise. I see no clear justification for such a condition to be imposed here.

Conclusion

32. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: L(0)100A, L(0)102B, L(0)103A, L(0)110, L(0)112, L(0)113, L(0)114, L(0)115, L(0)117.
- 3) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include (a) existing and proposed ground levels and proposed finished slab levels; (b) means of enclosure; (c) hard surfacing materials; (d) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting); (e) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, manholes, supports); (f) retained historic landscape features and proposals for restoration where relevant; (g) existing trees to be retained; (h) existing hedgerows to be retained.
- 4) Soft landscape works required to be submitted under Condition 3 of this permission shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishments); schedules of plants, noting species, plant sizes and

- proposed numbers/densities where appropriate; and an implementation programme.
- 5) All hard and soft landscape works approved under Condition 3 of this permission shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
 - 6) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the plans and particulars to be approved under Condition 3 of this permission, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work); if any retained tree is removed, uprooted or is destroyed or dies, another tree shall be planted at the same place and the tree shall be of such size and species and be planted at such time as may be specified in writing by the Local Planning Authority. The above stated requirements shall have effect until the expiration of 5 years from the date of the first occupation of the development hereby permitted. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the recommendations set out in BS 5837 (2005) and the submitted Arboricultural Report (April 2018) and accompanying Tree Protection Plan before demolition or any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with the requirements of this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority. In this condition "retained tree" means an existing tree which is to be retained in accordance with the plans and particulars to be approved under Condition 3 of this permission.
 - 7) All existing hedges or hedgerows shall be retained, unless shown on the approved plans as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be in accordance with relevant British Standard BS 5837 (2005). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following practical completion of the development hereby permitted shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species in the same place or in another position if agreed in writing by the Local Planning Authority.
 - 8) No development shall take place until details of mitigation measures to minimise the risk of turbidity in the chalk aquifer, which could travel to the public water abstraction point and cause disruption to the service, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved mitigation measures.

- 9) Prior to the commencement of the development hereby permitted, a desktop study shall be carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The desktop study shall comply with 'BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice'. Copies of the desk-top study shall be submitted to and approved in writing by the Local Planning Authority without delay upon completion.
- 10) A site investigation shall be carried out by a competent person to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and provide information for a detailed assessment of the risk to all receptors that may be affected. The site investigation shall comply with 'BS10175:2011+A2:2017 Investigation of potentially contaminated sites – Code of practice' and shall not be commenced until: (i) a desk-top study has been completed satisfying the requirements of Condition 9 above; (ii) the requirements of the Local Planning Authority for site investigations have been fully established; and (iii) the extent and methodology have been agreed in writing with the Local Planning Authority. Copies of the interpretative report on the completed site investigation shall be submitted to and approved in writing by the Local Planning Authority without delay upon completion.
- 11) A verification report demonstrating completion of any works set out in the interpretative report on the completed site investigation, as secured via Condition 10 of this permission, and the effectiveness of any remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of validation sampling and monitoring to demonstrate that the site remediation criteria have been met. It shall also include any plan for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. This long-term monitoring and maintenance plan shall be implemented as approved.
- 12) No construction works shall take place until reclamation of the site has been carried out in full accordance with the details that shall have been submitted to and approved in writing by the Local Planning Authority under the requirements of Conditions 9, 10 and 11 of this permission. Upon completion of the works of reclamation, a validation report, to confirm that the works have been completed in accordance with the approved documents and plans, shall be submitted to and approved in writing by the Local Planning Authority.
- 13) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken and, where necessary, a remediation scheme shall be prepared, subject to the approval in writing of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report shall be prepared, which shall be subject to approval in writing by the Local Planning Authority prior to the occupation of any buildings.

- 14) No above ground construction works shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted including building and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. Sample materials shall be made available on site when seeking to discharge this condition. Development shall be carried out in accordance with the approved details.
- 15) Prior to any above-ground works, a Biodiversity Gain Plan shall be prepared and submitted to and approved in writing by the Local Planning Authority. The plan shall detail how biodiversity is to be incorporated within the development scheme and shall include details of native-species planting and/or fruit/nut tree planting as well as the location of any habitat boxes/features to be installed. The development shall be carried out in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.
- 16) The development hereby permitted shall be carried out in full accordance with the various recommendations and mitigation measures set out at Section 7 of the submitted Preliminary Ecological Appraisal (Middlemarch Environmental, April 2018) with the exception of recommendation R3, Section 6 of the submitted Great Crested Newt Habitat Suitability Index Assessment and eDNA Sampling (Middlemarch Environmental, June 2017) and Section 6 of the submitted Dusk Emergence And Dawn Re-Entry Bat Surveys (Middlemarch Environmental, October 2019), which shall include obtaining a development licence from Natural England prior to any works being undertaken.
- 17) If piling is considered the most appropriate method of foundation construction, prior to the commencement of development a method statement detailing the type of piling and noise emissions shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the agreed details.
- 18) Prior to the first occupation of the development hereby permitted, a scheme for the storage and collection of waste and recyclables including details of screened facilities for the storage of refuse shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse storage and collection area(s) shall remain thereafter and shall not be used for any other purpose.
- 19) This permission does not extend to the installation of external lighting. Prior to the first occupation of the development hereby permitted, a scheme for such works shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 20) Notwithstanding the provisions of Classes A to E of Part 1 and Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of any supported housing unit hereby permitted, including any roof additions or alterations, and no building or enclosure shall be constructed within the application site without the prior written permission of the Local Planning Authority.