
Appeal Decision

Site visit made on 10 November 2020

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 25 November 2020

Appeal Ref: APP/J1915/W/20/3252844

Land adjacent Lorne Croft, Wellpond Green, Standon SG11 1NJ

- 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 & Mrs L. & M. Petrie against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/0307/FUL, dated 19 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the erection of a detached, four-bedroom dwelling with associated driveway and amenity area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the suitability of the site as a location for a residential development;
 - the effect of the development upon the character and appearance of the surrounding area;
 - the effect of the development upon ecology;
 - the effect of the development upon highway safety;
 - whether appropriate refuse storage could be provided; and
 - if any harm caused in respect of the above issues is outweighed by the personal circumstances of the appellant.

Reasons

Suitability of the site

3. The appeal site consists of an area adjacent to the garden of Lorne Croft. It has a more natural appearance that contrasts with the form of the existing dwelling and its garden. The site is accessed via a track and is near to other dwellings.
4. Whilst this siting means that the dwelling would not be isolated, residents of the proposed dwelling would need to travel to other settlements in order to access all of the services and facilities that they may require on a day-to-day basis.

5. Whilst I acknowledge that the relevant distances might not be overly large, the surrounding road network is of a narrow, sinuous and sometimes uneven nature. These characteristics are combined with limited streetlighting and verges and a lack of separate environments for pedestrians and cyclists. This means that any pedestrians or cyclists would potentially come into conflict with motor vehicles owing to the nature of the road network.
6. This would be particularly concerning in times of poor light or inclement weather, where residents might reasonably be reluctant to undertake a potential journey by such a method.
7. In consequence, the lack of a welcoming environment for pedestrians and cyclists is likely to increase the reliance of the occupiers of the development upon private cars as a means of travelling to and from the site, irrespective of the actual distances that might need to be travelled.
8. In addition, the surrounding area does not appear to be well served by public transport. In consequence, there does not seem to be a satisfactory alternative within the surrounding area to travelling by private car.
9. Although the actual appeal site might not be within open countryside, it would be located some distance away from existing houses. Furthermore, these existing houses are generally arranged in a linear form and face one of the highways within the vicinity. The proposed development would be located to the rear of existing dwellings. In consequence, it cannot be considered to represent an infill development within a village as it would not be sited within a linear form of existing developments.
10. I therefore conclude that the appeal site represents an unsuitable location for a residential development. The development, in this regard, would conflict with the requirements of Policies DPS2, VILL3 and GBR2 of the East Hertfordshire District Plan (2018) (the District Plan). These, amongst other matters, require developments to be located in a hierarchy of sustainable settlements; relate well to the village in terms of location, layout and connectivity; and encourage developments to maintain the countryside.

Character and appearance

11. The appeal site is located to the rear of the existing dwelling, which is also served by a garden and some outbuildings. Near to the appeal site are some additional buildings, some of which are in use as residential dwellings. In addition, the site is next to open countryside. The site is also in the Nags Head Field, Wellpond Green Local Wildlife Site due to its grassland interest.
12. Whilst the proposed dwelling would be of a single storey, it would have a relatively large footprint. In consequence, the development would amount to a relatively sizeable building that would be at odds with the predominantly open and verdant character of the precise appeal site.
13. By reason of the site's individual location, it forms a transitional space between the open countryside and the more developed form of the settlement of Wellpond Green. Although within the curtilage of the existing dwelling, the specific location of the proposed dwelling currently has a very different appearance to the remainder of the garden and built form. In consequence, its development and replacement with a dwelling would lead to an erosion of this characteristic owing to the increase in built form. This would occur even if I

were to agree with the appellant that the proposed development was not in a backland location.

14. In addition, the proposed development would include an area for vehicle parking and manoeuvring, as well as a driveway. Owing to the change of surface treatments, this would also add to the overall built form of the development and change in the character of the surrounding area.
15. Furthermore, as a dwelling, there is a likelihood that the garden would include items of domestic paraphernalia, such as sheds. This would add to the general built and developed form of the proposal. In consequence, the proposed development has the potential to significantly alter the character and appearance of the site.
16. This is particularly concerning owing to the general prominence of the site. Views of the appeal proposal would be possible from some of the surrounding dwellings and their gardens, in addition to some of the public routes that exist within the surrounding area. In consequence, the proposal has the potential to be experienced by a significant number of people and, in result, the incongruous form of development would be readily apparent.
17. I therefore conclude that the proposed development would have an adverse effect on the character and appearance of the surrounding area. The development, in this regard, conflicts with Policies GBR2, VILL3, DES2, DES3, DES4, NE1 and NE2 of the District Plan.
18. These policies, amongst other matters, seek to ensure that new developments be well designed and in keeping with the character of the village and the rural area; conserve, enhance or strengthen the character and distinctive features of the landscape; be of a high standard of design and layout; safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

Ecology

19. The appeal site consists of an undeveloped area and part of the garden of the existing dwelling. The site therefore has a natural appearance. There are also some mature trees adjacent to the site's boundaries. Beyond the appeal site is open countryside.
20. By reason of the nature of the proposed development, the undeveloped appearance of the site would be eroded. This would therefore reduce some of the natural features of the site. The consequence of this is that the potential of the site to provide a suitable habitat for wildlife would be diminished.
21. In consequence, the absence of an appropriate survey into the presence of matters of ecological note is particularly concerning. This is because it has not been conclusively demonstrated that the proposed development would not have an adverse effect upon the ability of the site to support wildlife habitats.
22. I acknowledge the suggestion that a condition could be imposed that would cover the carrying out of survey work. This would also, if needed, identify additional mitigation to be provided.
23. However, without certainty regarding the level of ecological activity, it is therefore not possible to reasonably impose such a condition. The reasoning for this is that it is not possible to precisely state the level of mitigation at this

juncture that might be required and whether this could be maintained and retained throughout the life of the development if needed. In consequence, such a condition would lack sufficient precision to be reasonably imposed and would therefore be unreasonable.

24. I therefore conclude that the proposed development would have an adverse effect upon ecology. The development, in this regard, conflicts with Policies NE1 and NE2 of the District Plan. These policies, amongst other matters, seek to ensure that new developments safeguard the nature conservation value of the site; and provide a net gain in biodiversity.

Highway safety

25. The proposed dwelling would be accessed via its driveway, which would cross the existing garden and run from a track. This is, in turn, served by a road.
26. Whilst larger vehicles, such as fire appliances, might only be expected to be at the site on an occasional basis, the fact that the requirement for their presence cannot be discounted does raise some concerns.
27. In particular, the limited space within the site for a larger vehicle to turn around is concerning. It can also be reasonably anticipated that, at times, there might also be multiple cars parked on the site that are associated with occupiers of the development.
28. Whilst I am aware that a larger driveway and turning area could be provided, I do not have details of the likely scale of this before me. In consequence, I am mindful that an increase in the level of built form has the potential to add to the previously adverse effects on the character and appearance of the surrounding area owing to a greater amount of additional hard surfacing, in addition to the greater loss of planting. In result, I do not find that this suggestion is sufficient to overcome my previous concerns.
29. In consequence, should there not be enough room to turn a large vehicle, such as a fire appliance, manoeuvring onto and off the driveway utilising the track may cause conflict with other users, such as pedestrians owing to its relatively narrow width and general lack of forward visibility. This would not be conducive to securing satisfactory levels of highway safety. In reaching this view, I have also had regard to the requirements of the National Planning Policy Framework (the Framework), which is clear that developments that have an adverse effect on highway safety should be resisted.
30. I therefore conclude that the proposed development would have an adverse effect on highway safety. The development, in this regard conflicts with Policy TRA2 of the District Plan. Amongst other matters, this policy requires that new developments are acceptable in highway safety terms.

Refuse storage

31. The proposed development would include a relatively large garden and access road.
32. As a house with a garden, there would be sufficient space within the development to accommodate an area for the storage of refuse in convenient proximity to the dwelling. This would ensure that residents of the development would have adequate access to such a facility.

33. Residents of the development would need to carry such refuse to the edge of the appeal site, which would be some distance. However, the relative infrequency that such journeys would need to be made would not generate excessive levels of inconvenience to the occupiers of the development.
34. Although limited details of refuse storage have been submitted with the proposals, had I been minded to allow this appeal I could have imposed conditions that would require additional refuse storage to be agreed with the Council at an appropriate juncture and for this to be implemented and retained throughout the life of the development.
35. Furthermore, conditions could have been imposed regarding the surfacing of the access into the development. This would have aided the movement of refuse to the appeal site edge.
36. I therefore conclude that the proposed development could provide appropriate refuse storage. The development, in this regard, complies with Policy DES4 of the District Plan. This, amongst other matters, requires that developments make provision for the storage of bins.

Other Matter

37. I note concerns raised by the appellant regarding the manner in which the Council considered the planning application. However, in assessing this appeal, I have limited my considerations to the planning matters before me.

Planning balance and personal circumstances

38. I have carefully considered the reasons why the appellant has applied for planning permission for the proposed development. Given the nature of the information before me, as part of the appeal documentation, it would not be appropriate for me to outline the specific reasons why planning permission was applied for. Nonetheless, I have no doubt that the proposed development would result in improved conditions for the appellant's family. These are personal circumstances to which I attribute weight in favour of the appeal.
39. In weighing the personal circumstances in the planning balance, this must be considered against the very significant effect that the proposal would have on the character and appearance of the surrounding area, the harm arising from the site being an unsuitable location for a residential development and the adverse effects on highway safety and ecology.
40. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act 1998, which requires that decision makers have due regard to Human Rights and any protected characteristics in making a decision.
41. In respect of the above, a refusal of planning permission is a proportionate, and necessary approach to the legitimate aims of ensuring that residential dwellings are located in appropriate locations; that the character and appearance of an area is maintained; and that developments do not have adverse effects on highway safety and ecology.

42. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the family of the appellant's human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant's family, I conclude that this is not a matter that outweighs the harm that would be caused by the proposed development in respect of my previous conclusions on the other main issues.

Conclusion

43. Whilst I recognise that a condition could be imposed that would ensure that appropriate refuse storage could be secured by a condition, this would not overcome my concerns in respect of the other main issues. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR