
Appeal Decision

Hearing Held on 3 February 2021

Site visit made on 3 February 2021

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/J1915/W/20/3249086

Greenleys, Slough Road, Allens Green CM21 0LR

- 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 Stuart Hicks against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1492/FUL, dated 16 July 2019, was refused by notice dated 24 September 2019.
 - The development proposed is described as the demolition of an existing barn, nissen huts and hard standing. Construction of five detached dwellings. Construction of associated access roads and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are four main issues. These are a) The principle of the proposed development with specific regard to its location and access to services; b) whether or not the proposed development would represent the unacceptable loss of an employment use; c) whether or not the proposed development would provide an acceptable housing mix; and d) the effect of the proposed development on the character and appearance of the area.

Reasons

The Principle of Development

3. The appeal site is on the edge of Allen's Green, a rural hamlet to the north west of Sawbridgeworth. It consists mainly of dwellings set back from and facing the three roads that form it. A village hall sits on the opposite side of Slough Road to the appeal site and there is a public house a short distance to the north east. As a small settlement largely bereft of services it seems sufficiently clear that incumbent occupiers have to travel from Allen's Green to access them. This would likely be to High Wych, Sawbridgeworth and Bishop's Stortford. Between them, these settlements offer a wide range of education and employment opportunities, health care, retail and leisure facilities on which occupiers would rely day to day.
4. I agree with the appellant that, with regard to travelling to High Wych and Sawbridgeworth, the distances would be eminently possible by bicycle. That

said, the roads around Allen's Green are narrow and rural without street lighting in the main and they do not have segregated foot or cycle ways. I could not agree therefore that accessing services by bicycle would be particularly desirable. Notwithstanding the fact that this option would not be practical for either parents with young children or those less able bodied. It was also established at the hearing that Allen's Green is not connected to the wider area by public transport nor a practically usable public rights of way network.

5. With this in mind, it seems likely that future occupiers of the appeal site would have to rely on the use of the private car to access essential services. This is the least sustainable travel option.
6. The Local Plan¹ identifies Allen's Green as a Group 3 village. Moving on from the above and in keeping with the plan's commitment to encourage sustainable patterns of new development, Policy VILL3 establishes (in terms of development in group 3 villages) that limited infill development identified in an adopted Neighbourhood Plan (NP) will be permitted. As a scheme for five dwellings I would not define the appeal proposals as limited. As the redevelopment of a site on the edge of the settlement, I would also not consider the proposed development to constitute infill. In any case, the appeal site is not identified in a NP.
7. Whilst part of a village, the appeal site is also in an area of the district identified as the rural area beyond the Green Belt. Policy GBR2 sets out development that may be acceptable in this area. Amongst other things, it identifies that limited infilling or the partial or complete redevelopment of previously developed sites may be appropriate.
8. I could agree that, based on discussion at the hearing and the written evidence, at the very least half of the appeal site could be considered as previously developed land. That said, GBR2 goes on to state that the development of such should be in sustainable locations where appropriate to the character, appearance and setting of the site. I shall come onto an assessment of the appeal scheme in the context of the character and appearance of the area as part of another main issue but taking into account my earlier findings, I would not consider the appeal site to be a sustainable location.
9. Considering the principle of the appeal scheme acceptable would therefore, taking into account my findings on this main issue, amount to encouraging unsustainable patterns of development. This would be contrary to the aims of the policies I have cited above and not reduce the need to travel and encourage such by sustainable means as advocated by the Framework².

Employment Site

10. The appeal site consists of four Nissen hut style buildings and a barn type building. The complex was, up until 2018, home to three small businesses operating small scale manufacturing and storage. The site was purchased by the current owners in 2017. During this process a survey revealed there was significant amounts of asbestos in the fabric of the Nissen huts. On this basis, the decision was taken to serve notice on the occupant businesses. They

¹ East Herts District Plan 2018

² The National Planning Policy Framework 2019

vacated in early 2018. Some of the site was historically connected with agriculture. The appeal site is not allocated or designated as an employment site in the development plan.

11. Amongst other things, Policy ED1 of the Local Plan presumes against the loss of employment sites, stating that development causing such will only be permitted subject to certain criteria. Whilst specifying a proportionate approach should be taken for a non designated employment site, schemes need to demonstrate that the retention of the site or premises for use classes B1, B2 and B8 has been fully explored without success. In addition, they should consider whether improvements to the existing site/premises would make it more attractive to alternative B1, B2 or B8 uses. Evidence of a period of marketing of at least 12 months must be provided. Furthermore, consideration needs to be given to the retention of the B1, B2 or B8 use through a partial conversion to a non-employment generating use and a proposal should not prejudice the continued viability of existing employment areas, existing operational employment sites and neighbouring uses.
12. It seems sufficiently clear that, with the appeal site being stand alone, that a proposal for its redevelopment would not prejudice the continued viability of existing areas or neighbouring uses which, in the case of the latter, are predominantly residential in any case.
13. The appellant has undertaken some marketing of the premises albeit I have not seen precise details of the methods or materials therefore or what the marketing entailed precisely. I appreciate that it is unlikely one could market premises that were unsafe for occupation, but this would not necessarily prevent one from advertising a site for sale or rent as a going concern that required redevelopment. This does not appear to have happened as far as I can see.
14. Some work was done on the valuation of the appeal site, looking at the cost of the refurbishment of the buildings and the complete redevelopment of the site for commercial use. Whilst both assessments came out at negative values they were limited in their scope and relied on a comparison of developing small single units for a narrow end use. Whilst I understand to an extent the reasons why the assessments took the route they did, little consideration appears to have been given to the range of uses referred to in Policy ED1.
15. Limited consideration has been given to the partial redevelopment of the site. There was discussion at the hearing of the constraints of the site's size and how some employment uses may not be compatible with residential uses. Be this as it may, there would be a large number that would be. Notwithstanding that there was, up until recently, an extant planning permission for the change of use of the barn type building on site that the appellant advised they would have 'made work' with the employment use of the site if it had been implemented. This scheme has since been resubmitted for prior approval.
16. It seems sufficiently clear that any future use would probably have to replace the existing buildings given the nature and extent of the asbestos in them, but that is not to necessarily say the site could not continue as one for employment. Indeed, limited consideration appears to have been given to uses that may give rise to higher possible rental/sale yields such as, for example, live work units. Or a more detailed exploration of how a higher sales or rental value may affect the viability of a redevelopment scheme. I have also not seen

any compelling evidence that the site could not be put to use as one single enterprise as opposed to a number of small units which is what the valuation exercises focussed on.

17. It may well ultimately be that the appeal site is unsuitable for a future employment use when taking into account the location of it. I am also aware, as I have mentioned above, that ED1 advocates a proportionate approach to the loss of non designated employment sites. However, and even taking this into account, I feel that attempts to satisfy its requirements have fallen short of its expectations. Particularly since the policy is worded to infer a presumption in favour of the retention of employment sites unless it can otherwise be proven. In regard to this main issue therefore, I find that the appeal scheme would represent the unacceptable loss of an employment site. Contrary to the aims of Policy ED1 of the Local Plan as I have identified them.

Housing Mix

18. The appeal scheme would provide five dwellings. Two would be five bed, two four bed and one three bed. Policy HOU1 of the Local Plan sets out the Council's expectations in regard to ensuring an appropriate mix of housing tenures, types and sizes in order to create mixed and balanced communities appropriate to local character. Account needs to be taken of the latest Strategic Housing Market Assessment (SHMA) and any other up to date evidence.
19. The Council's most recent SHMA dates from 2015. The evidence base for which revealed something of a higher need for three and four bed dwellings over five and two bed. It is the Council's view that since the proposed development appears to provide predominantly for four and five bed dwellings then it would be contrary to HOU1.
20. I disagree. Firstly, it seems clear that HOU1 requires a mix of dwellings and I am satisfied that in providing three different types in a small development the appeal scheme achieves that objective. Secondly, Allen's Green is a small but diverse settlement in terms of property type, size and even design with a mix of large detached dwellings and contrasting smaller terraced examples. Plot size and space provision also vary substantially across the range. Again, three different property types and sizes in the proposed development would, in regard to this matter alone, sit appropriate with the character of types in the area. Thirdly, whilst HOU1 cites the most recent SHMA it strikes me from the language in the policy that its findings do not necessarily have to be slavishly followed if I can borrow the words of the appellant. In any event it seems, in regard to the SHMA specifically, that the proposed development would 'take account' of its findings given that it would provide three dwellings out of the two highest need categories (three and four bed). Granted, the higher percentage need would appear, from the Council's evidence, to be for three bed but in even providing one, I feel sufficient 'account' has been taken of the SHMA's findings.
21. Moving on, I am mindful that the Council's most recent SHMA is approaching six years old and consequently I am unsure as to how up to date its findings on market need for three bed dwellings are and specifically any effect new planning permissions in that period have had thereon.

22. Taking all of these matters into account I feel that the proposed development would provide an acceptable housing mix to ensure a mixed and balanced community. Thus, I find no conflict with Policy HOU1. The aims of which I have set out above.

Character and Appearance

23. The appeal site is an irregular land parcel that fronts onto Slough Road. It comprises four Nissen hut style buildings and a barn type building. They are all single storey. There is some hardstanding around the buildings and the rear extent of the site opens up into a grass field stretching north. An L shape arrangement of tall mature leylandii trees line the north and eastern elevations of the Nissen huts. Beyond the trees the site is laid to grass and some further hardstanding. Allen's Green is a small but diverse settlement in terms of buildings. A distinct rural character dominates the landscape and where built development occurs it is concentrated on main road frontages and is of single tier depth.
24. The proposed development would provide five detached and not insignificantly sized dwellings. Whilst this would not be an issue in and of itself in the context of the built form of the settlement generally, together they would exude a semi urban quality which would jar slightly with the prevailing rurality of the wider area. That said, the evolved and slightly hotchpotch built up nature of the site as it stands is the current situation and to my mind a development of well-designed dwellings with formalised curtilages and gardens would be a noticeable improvement visually.
25. Even so, I share the Council's concerns in regard to the plot that would be located to the north of the site. It would be of the backland type which would not be reflective of the settlement's characteristic grain. This two tier depth would stand out unacceptably. I see that attempts have been made to emulate an agrarian building but for me the rear plot leans too far to a unique dwelling design with distinctly un agricultural proportions, lacking the traditional simplicity of a converted barn. Its situation would be noticeably detached from the main group and as such it would detract from the togetherness of the development as a whole, making it appear isolated.
26. The building would be to the rear of the site and thus semi screened by the frontage buildings and any additional landscaping. However, the new access point and substance of the driveway would allude to its presence in the street scene. In any case, a reduction in the effect of the building on the appearance of the area would not accordingly reduce how it would affect the character of the area in built form terms.
27. Whilst I appreciate that the leylandii trees are not native and could be removed without the express permission of the Council, for me they contribute positively to what is a verdant street scene which includes a number of other stand alone trees and frontage hedges. Their loss to facilitate the main body of the appeal scheme in the frontage dwellings would therefore be a shame and reduce the natural green quality of the immediate area.
28. The appeal scheme would therefore, for the reasons I have set out, cause harm to the character and appearance of the area. Such that it would conflict with Policy DES4 of the Local Plan which seeks to ensure, amongst other things,

that new development should be of a high standard of design and layout to reflect and promote local distinctiveness.

Other Matters

29. As I have alluded to above, the appeal site was previously home to three small businesses. This would have involved journeys to and from it in the form of staff, deliveries and visitors. There was discussion at the hearing as to whether the appeal site is, or was, a destination in its own right, attracting journeys to and from it and thus some form of 'trade off' against the fact that the same would occur from a development of dwellings. This would be true to a point. Insofar as one could legitimately argue that a commercial use or uses would be as locationally unsustainable as a residential one.
30. That said, it would depend entirely on what business or businesses were located at the appeal site as some would generate more journeys than others. One would therefore have to know what was to be located there to be able to make a meaningful comparison. I am also mindful of the fact that the site is limited in terms of the size of business or businesses that could operate from it. Leaning me towards concluding that five dwellings could potentially generate more journeys than small commercial operation. In any case, one could argue that an employment use would be more beneficial to the rural economy in the longer term than a development of private dwellings. This could, if one were balancing factors of harm vs benefit, be worthy of some weight
31. There is mention in the written evidence of the increasing use of electric bikes and the fact that, over the next 10-15 years more people will use electric cars. Even if this is the case, I could not ascribe these matters more than moderate weight since one could not enforce a requirement for a future occupier to own either an electric bike or car, even if a condition was imposed to require the installation of charging points and other infrastructure. In any case, these matters do not, at least for the time being, have sufficient an effect on the fundamental principles of the spatial spread of development and specifically ensuring it is located close to services to reduce the need to travel and the reliance on the private car.
32. I note that the larger settlements I have referred to in my findings on the first main issue do have access to public transport but it remains that to get to that, occupiers would still likely have to rely on the use of the private car for the reasons I have given.
33. The appeal site is located opposite two grade II listed buildings. These being the barn and farmhouse at Dukes Farm. Intrinsically linked to an agricultural past, the setting of these buildings is noticeably rural, with open and undeveloped fields stretching to the north and south. The proposed development would run against this but then it would represent the redevelopment of a site that, for the most part, is already developed and as such the existing situation in terms of the presence of built form would not change dramatically. In addition, the dwellings would be set well back from the road edge to prevent crowding of the buildings and allow them space to be appreciated for what they are. Indeed, their close inter relationship would not be impinged upon by what would be a noticeably separate development of detached dwellings where some landscaping could be provided on the road edge to reflect the prevailing rurality of the area and the setting of the buildings. I do not therefore see that the appeal scheme would adversely

affect the setting of the grade II listed buildings. Accordingly, there be no conflict with section 16 of the Framework in this regard.

34. The appellant has suggested there would be some benefits to the appeal scheme. Economically, the proposed development would support jobs in the construction industry. There would also be expenditure from future residents going forwards. However, I am mindful that the sustaining of employment would be short term and the expenditure of occupiers would, for the reasons I have set out above, be likely directed further afield. In addition, the scheme would lose an employment site which would have the potential to sustain jobs and generate money for the local economy in itself so there is something of a neutral effect here. Occupiers could help sustain the local public house, but this cannot be guaranteed and in any case I am not advised if the business is in immediate need of additional support to survive.
35. The provision for housing would be positive although I have not been advised as to there being a housing undersupply on the Council's part. Indeed, the Council's development plan is only two years old.
36. The appeal scheme would not give rise to any adverse effects in terms of the living conditions of neighbours, the safe use of the highway, ecology and a number of other matters. These are however a lack of harm as opposed to a benefit. With this and the above in mind, I could attach some weight to the benefits of the proposed development but not such that they would be sufficient to outweigh the harms and conflicts with the development plan that I have found, to which I attach substantial weight.

Conclusion

37. I have found in the appellant's favour with regard to the third main issue but this and the compliance with the development plan in that regard would amount to a lack of harm which, by definition, cannot be used to weigh against it. It would therefore be insufficient, in light of the other harms I have found, to make the proposed development acceptable. Harms that would result in multiple conflicts with the development plan. It is for these reasons that the appeal is dismissed.

John Morrison

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

- Mr Stuart Hicks Appellant
- Ms Katrina Hulse BA (Hons) MA PgDipLaw MRTPI Agent
- Mr Stuart Wighton BA (Hons) BArch RIBA Architect

FOR THE LOCAL PLANNING AUTHORITY:

- Miss Eilis Edmonds MAURP BA (Hons) East Hertfordshire Council

INTERESTED PARTIES:

- Miss Karen Davis Local Resident
- Mr Brian Sullivan Local Resident