



Appeal Decision

Site visit made on 24 August 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/J1915/W/21/3271796

Land between Waingate and Rainbow Lodge, Levens Green, Ware, Hertfordshire SG11 1HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Glen Stacey against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2073/PIP, dated 21 October 2020, was refused by notice dated 1 December 2020.
 - The development proposed is for the erection of a dwelling and detached garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second, Technical Details Consent (TDC) stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent TDC application if permission in principle is granted. I have determined the appeal accordingly.
5. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes, but no comments have been received. Therefore, I will not prejudice any party by taking the Framework into account in reaching my decision.

Main Issues

6. The main issue of the appeal is whether the location, the proposed land use and the amount of development is suitable with particular regard to:

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

- i. local and national policy relating to the sustainability of the location and accessibility to services and facilities; and,
- ii. the effect on ecology/biodiversity.

Reasons

The sustainability of the location.

7. The development strategy for the Council is set out in Policy DPS2 of the adopted East Herts District Plan 2018 (DP). Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. DP Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The site is located within Levens Green, which has the characteristics of a rural hamlet, lacking in its own services and facilities.
8. The DP identifies Levens Green as a Group 3 village, which establishes that limited infill development identified in an adopted Neighbourhood Plan (NP) will be permitted. However, the appeal site does not benefit from a made NP. DP Policy GBR2 permits development in the rural area beyond the Green Belt subject to a number of criteria, including the limited infilling or partial or complete redevelopment of previously developed sites (PDS) in sustainable locations, and where the development will be appropriate to the character, appearance and setting of the site and/or surrounding area.
9. The Council have not raised any concerns surrounding the effect of the scheme on character and appearance, and I agree that a scheme could be developed to avoid any harmful issues in this regard. Additionally, the appellant is not relying on PDS. Nonetheless, DP Policy GBR2 goes on to state that development should be in sustainable locations. In addition, DP Policy TRA1 requires new development to be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives. Although, I do not consider the site to be isolated in the context of paragraph 80 of the Framework, given its proximity to other properties, it would appear highly likely that future occupiers would have to rely heavily on the use of a private motor vehicle.
10. The appellant asserts that a range of services and facilities are present in settlements in the wider area, particularly at Dane End, Standon and Puckeridge. However, the road network in the locality of the site generally comprises unlit rural lanes with no footpaths. These circumstances do not lend themselves to regular pedestrian activity and would be unlikely to encourage cycling to access the neighbouring services and facilities, in particular, at times of darkness or inclement weather conditions. Therefore, the site is not ideally located in terms of access to services and facilities by modes of transport other than by private motor vehicle, where a dependency on motorised travel would occur.
11. I acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that development in one village may support services in a village nearby. I also accept that the proposed development is unlikely to generate significant vehicle movements. Nonetheless, the proposed development would be contrary to the aims of the

policies cited above and not reduce the need to travel and encourage such travel by sustainable means as advocated by the Framework.

12. For the reasons given above, I find that the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development. Accordingly, there would be conflict with the Council's overall development strategy aims contained within DP Policies DPS2, GBR2, VILL3 and TRA1. The proposed development would also be contrary to the requirements of the Framework.

Ecology/biodiversity

13. The appeal site is in a rural location where there could be a wide variety of species using the land for foraging or as a natural habitat. I am aware that both protected and non-protected species may be directly impacted upon. I acknowledge the Ecological Appraisal undertaken by Coyne Environmental dated March 2021 (EA) submitted by the appellant to support his submission. However, there is a misgiving in the findings of the EA surrounding a failure to establish whether any protected species are present or not, with particular regard to reptiles.
14. Ecological protection matters are not diminished within the 'in principle' parameters triggered for consideration. This is underlined by statutory obligations to protect biodiversity under: Schedule 5 of the Wildlife and Countryside Act 1981 as amended; Regulation 39 of the Habitats Regulations 1994 (European protected animal species), and the provisions of Section 41 of the Natural Environment & Rural Communities Act 2006. Whilst I am satisfied that Biodiversity Net Gain could be secured at the TDC stage, there are potential risks to ecology in the locality, where it would not be appropriate to rely on the TDC stage, as adequate information would need to inform a decision on ecological interests at this point. This is also to ensure any on site mitigation or further surveys are acceptable, realistic, and achievable.
15. Therefore, in the absence of a reptile survey, or any substantive evidence to the contrary, I conclude that the proposed development could give rise to an unacceptable risk of harm to protected species. It would therefore conflict with the biodiversity aims of DP Policies NE2, NE3 and the requirements of the Framework. This is a matter to which I afford very significant weight in the overall planning balance.

Planning Balance and Conclusion

16. Whilst I acknowledge the factors in favour of the proposed development, such as the economic and social benefits during the construction phase and the subsequent occupation of the proposed development, and an absence of other identified harm. These considerations do not outweigh or overcome the harm that I have identified on the main issues. Consequently, the scheme would not accord with the development plan when considered as a whole and the evidence does not indicate a decision other than in accordance with the development plan would be justified. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR