



Appeal Decision

Hearing held on 9 February 2022

Site visit made on 10 February 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Appeal Ref: APP/J1915/W/21/3276833

Toad Hall, Sacombe Green, Sacombe SG12 0JQ

- 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 Rachel Milton against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2077/FUL, dated 20 October 2020, was refused by notice dated 25 February 2021.
 - The development proposed is described as Creation of 4x three-bedroom dwellings and 4x B1 office use units and associated car parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development description in the banner heading above is taken from the application form. The decision notice and Statement of Common Ground (SoCG) refer to boundary works set out on the plans and the office use as Use Class E, reflecting changes to the Town and Country Planning (Use Classes) Order 1987. It was agreed the appeal scheme would be determined on the basis of being for the 'Creation of 4 three-bedroom dwellings and 4 office use units (Class E) together with associated car parking and boundary works'.
3. The Council's fourth reason for refusal does not specify which future occupiers of the proposed development it alleges would experience unsatisfactory living conditions. It was clarified the concerns relate to houses 1 and 2, which is reflected in my setting out of the main issues below.
4. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021, and the 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The Council and the Appellant were given the opportunity to comment upon the implications of these for their cases, which I have taken into account in determining this appeal.
5. Following the closure of the Hearing an interested party submitted additional comments in respect of the demand for the proposed accommodation. However, as they were submitted after the closure of the event, I have not had regard to the comments in determining the appeal.

Main Issues

6. The main issues are:

- whether or not the proposed development is compliant with policies for the protection and development of equestrian facilities;
- whether or not the proposed development would be in a suitable location having regard to its location in the countryside and the accessibility of services and facilities;
- the effect of the proposed development upon the character and appearance of the area; and,
- whether or not the proposed development would provide suitable living conditions for the future occupiers of houses 1 and 2 with particular reference to the adequacy of private outdoor space provision.

Reasons

Protection of equestrian facilities

7. The East Herts District Plan (2018) (the LP) seeks existing equestrian buildings should wherever possible, be re-used. Policy CFLR6 of the LP states proposals resulting in the loss of equestrian facilities, should be accompanied by an Equestrian Needs Assessment (ENA) demonstrating the facilities are no longer needed. No ENA is provided. The Council stated at the hearing there is no specification in LP policies or other guidance of what an ENA should comprise. It advised it would expect an ENA to amongst other things, provide evidence demonstrating the facility has sought to be retained, other equestrian uses have been explored, and sufficient information provided to demonstrate it is not viable. The appellant did not disagree with these expectations.
8. No substantive evidence has been provided that the site has been marketed at a realistic value for sale or let, or other specialist valuation evidence provided. Such information would have provided a good indication of whether or not the appeal site premises is no longer needed, as required by CFLR6.
9. The appellant's financial information suggests the business has been operating at a loss since the year ending 31 March 2018, which have increased, such that I am informed it is expected to close. However, at my visit a significant number of animals were in the main and an additional building. It is not clear from the evidence I heard, if and how many are from the appellant's other premises, how many are in the ownership of the appellant and her family, and how many are customers specific to the appeal site premises.
10. The written financial information is limited in detail, although certain larger costs such maintenance and cleaning in relation to the construction and repair of the buildings were explained. I heard nothing to lead me to doubt these are not accurate. The previous annual insurance costs are not explicitly set out. There was also not sufficient clarity in respect of business rate expenditure. However, even if this was significantly less than quoted, the business would still have made losses based upon the figures I am provided with.
11. A number of reasons were advanced for the stables and livery making losses. I am informed there has been a continued year on year national downturn in riding participation, exacerbated by the Covid-19 pandemic. However, detailed

figures are not before me. There was also conflicting evidence as to whether any such national trends are reflected locally. It is advanced there is a high prevalence of other competitor businesses in the area, resulting in a high rate of vacancies at the appeal site and closure of another premises. However, the evidence I heard from the appellant and an interested party was contradictory. There is not sufficient substantive evidence to demonstrate either the number stable or livery spaces is particularly high for the area, or the specific reasons another stable has closed.

12. I am provided with some details of other businesses in the area and facilities and services they offer, which I am informed, cannot be offered by the appeal site business. Some facilities such as an indoor arena would clearly be costly, although do not seem to be offered by all competitors. While noting the size of the appeal site enterprise, the reasons why many of the other services, facilities and events cannot be offered at the appeal site is not fully clear. While I am informed the business has offered a greater range of services without success, the full range and details could not be explained at the hearing. Overall, it is not demonstrated that business losses are as a result of inherent limitations with the premises and/or that the premises are no longer needed.
13. For the reasons set out above the proposed development conflicts with Policy CFLR6 of the LP for the protection and development of equestrian facilities. Amongst other things it seeks to resist the loss of equestrian facilities, unless it is demonstrated the facilities are no longer needed.
14. The Council's reason for refusal refers to Policies ED1 and ED2 of the LP. However, as this site is in use as an equestrian and not a B Class or B Class-related Sui Generis use, their relevance to this main issue is not clear, and I have not concluded against these policies.

Location

15. The spatial strategy directs development to ensure it takes place in the most suitable locations in the District including where it is sustainable. Policy DPS2 of the LP seeks to deliver sustainable development in accordance with a hierarchy. The last location in the hierarchy is limited development within the villages, which from what I heard is not solely restricted to Group 1 and 2 villages. Part II of Policy VILL3 does not refer to limited infill development 'only' being permitted within Group 3 villages when identified in an adopted Neighbourhood Plan. Therefore, based upon what I heard, neither of these policies, in principle, preclude development at Sacombe Green.
16. The appeal site comprises the eastern most grouping of the cluster of buildings of Sacombe Green. Its proximity to other buildings means its location and layout relates reasonably well to the settlement. While Marshall's Lane is narrow, the speed limit is 30mph, there is good forward visibility, and it appears to have limited vehicle movements along it. I see no reason it would not be used as a shared surface within the immediate vicinity of the appeal site, which leads me to conclude the site relates reasonably well to the settlement in terms of its connectivity. I was not provided with substantive evidence the scale of this proposal would result in harm having regard to the potential cumulative impact of development in the locality. For these reasons I do not find a conflict with Policy VILL3 Parts II and III(a) and (b).

17. The general support for new employment use in Policies ED1, ED2 and ED4 of the LP is subject to it being located or accessed sustainably. Sacombe Green is a Group 3 village which paragraph 10.3.11 of the LP identifies as characteristically having a poor range of services and facilities with it often necessary for residents of such villages to travel for most of their daily needs. Policy GBR2 of the LP permits (d) the replacement and conversion of buildings, as well as (e) the partial or complete redevelopment of previously developed sites, in sustainable locations.
18. A church and bus stop approximately 800m and 1km (respectively) west of the appeal site are accessed along a narrow unlit road with some high maturely vegetated verges, and by a rural right of way. These are unlikely to be viewed as particularly attractive or convenient by future occupiers to walk or cycle to access those facilities. Facilities such as a church, primary school, petrol station, convenience store and bus stop are at High Cross, approximately 2.3km away. The narrow, unlit winding highway route to these facilities with limited refuge opportunities, would not be likely to be particularly attractive or convenient for occupants or users of the appeal site walk or cycle along.
19. For most requirements for day to day living such as larger food and clothing stores, secondary education, a range of leisure and employment opportunities, professional and medical services, or dining out, trips to other settlements would be frequently required. Many facilities at the nearest larger settlements of Watton at Stone, Hertford or Ware are approximately 3.8 – 8km from the appeal site. The distance and nature of the highway and rights of way routes to these are not likely to be regarded as particularly attractive or convenient by many future occupiers, employees, and visitors to the site for walking and cycling. While there might be some reduction in vehicular movements if the development was a type of live/work proposal, occupiers and users of the appeal site are likely to rely upon a motor vehicle for the majority of journeys. Given the distance to many services and facilities, this would soon add up to a considerable number of vehicular miles and associated emissions per year.
20. Opportunities to maximise sustainable transport solutions will vary between rural and urban areas, and the number of trips may be limited compared to a viable use of the appeal site. However, the vehicle movements and associated vehicular mileage from the existing use is not provided. Therefore, it is not demonstrated that as a material consideration, these are equal to greater than the proposed use, off-setting the harm from private vehicle journeys from the proposed development.
21. Impacts from carbon emissions would diminish as combustion engines are replaced by ultra-low emission and electric vehicles. Nevertheless, the development would be likely to be constructed in the short term, so it is not clear that future occupiers would use these vehicles. Moreover, while electric vehicle charging points could be provided, it is by no means certain that all occupiers would use an electronic vehicle, or that such a requirement could be enforced. Accordingly, this cannot be relied upon as a means of mitigating the significantly inaccessible location of the site in the short to medium term.
22. For the reasons set out above, the location of the development in the countryside at a Group 3 village would not in principle conflict with Policies DPS2 or VILL3, the relevant provisions of which I have referred to above. It would be located where it would enhance or maintain the vitality of rural

communities and not be isolated from a settlement, so does not conflict with paragraphs 79 and 80 of the Framework. However, the development would not be in a suitable location having regard to the accessibility of services and facilities, in conflict with the aims of Policies TRA1, GBR2(e), and DPS2 of the LP. Amongst other things, these seek to ensure development is located sustainably to enable sustainable journeys to be made to key services and facilities to aid carbon emission reduction. It would also conflict with the aims of paragraphs 104 and 105 of the Framework, which seek to promote walking, cycling and public transport.

23. As Policy DES4 which is referred to in the Council's first reason for refusal, mainly relates to design-related considerations, it is of less relevance to this main issue than the policies I have referred to above.

Character and appearance

24. Sacombe Green is an informal cluster of dwellings and rural buildings. While they do not have one overriding architectural style, a distinctive characteristic is the relatively low density sporadic informal layout often within generous spacious plots and surrounds, and mature landscaped areas. The appeal site buildings may be of little architectural merit. However, these and the appeal site as a whole is in keeping with and contributes positively to the character and appearance of the area given the functional rural layout, and the setting of the buildings within wide open rural and maturely landscaped surrounds.
25. The status of a sheeted covered structure present at my visit, that is not on the plans before me, is not clear. Therefore, I have not had regard to it in my assessment of the built development. Having regard to the survey plan before me, the proposed development would result in a small increase in the footprint of buildings, with a significant reduction in hardstanding area. However, there would be a comparatively significant increase in the volume, resulting in an increased bulk and mass of new buildings. The proposed walled patio areas around dwellings 1 and 2, would result in the perception of a further increased amount of built development at the appeal site.
26. The dwellings would be at a density of 8 per hectare for the overall site, although this does not include the office building. The design of the reused main building and sensitive use of materials, demonstrates some aspects of good design, and the position of hardstanding areas would broadly reflect the existing appeal site arrangement. However, the subdivision of the appeal site with multiple gardens and parking areas, the size and number of windows on the buildings, and associated residential paraphernalia would result in the appeal site taking on a much more domesticated appearance.
27. The development would concentrate the built development in a similar area of the site as existing buildings. However, even if the timber shed was utilised for storage, the design of the site layout, close proximity of new buildings, the subdivision of the appeal site into many plots and garden areas, would result in a somewhat dense domesticated form of development with multiple buildings and small plots concentrated in one part of the site, at the edge of the settlement. This would be markedly and harmfully at odds with the surrounding pattern of development and is not typical of layouts in the area.
28. Despite some mature landscaping to the north and west, the appeal buildings are clearly visible through gaps between trees from some neighbouring

dwellings, significant sections of Marshall's Lane, as well as open land to the south and east. Therefore, the development would not be viewed in isolation. Once matured additional planting would mitigate the visibility of the development to a degree. However, this is likely to take several years to mature sufficiently and would not fully mitigate the harm. Therefore, there would still be harm to the character and appearance of the area. The evidence does not demonstrate this and other planning conditions, could adequately overcome or mitigate the harm.

29. For the reasons set out above the proposed development would not be in keeping with and would be harmful to the character and appearance of the area, in conflict with Policies GBR2 and DES4 of the LP. In combination and amongst other things these require that development is compatible with, respects and improves the character and appearance of the area, including with reference to the design and layout, and improves local distinctiveness.
30. The retention of existing landscape features and additional planting, secured by a planning condition, would ensure the development would not conflict with Policy DES3 of the LP as it would retain, protect, and enhance existing landscape features. However, this does not overcome the harm I have found.

Living conditions

31. Private outdoor space is of benefit to well-being, and of functional use for household and leisure activities, such as drying clothes, play space, sitting outside, fresh air, gardening, and other hobbies. The Council confirmed it does not have quantified standards for such space in new dwellings. The size of the dwellings is such that they could be of appeal for families with children.
32. The private outdoor space for house 1 would be distributed between two separate small areas of a limited width and depth. Their size and shape would have very limited scope for use for many leisure activities, feeling somewhat cramped for future occupiers. This is particularly so as a result of them being separate spaces at almost opposite ends of the dwelling. These spaces would not provide satisfactory living conditions to the future occupiers of house 1.
33. The private space on house 2 appears slightly larger. While it is lacking in depth, its width along the property would be supplemented by the southern patio area, which could be made sufficiently private with an adequate wall height secured by suitably worded planning conditions. The overall space would be of an adequate shape and size. However, the outlook of the larger space would be highly dominated by the proximity to house 3. This would feel highly overbearing and oppressive for a significant proportion of the space, such that it would not be adequately mitigated by the good outlook to the northeast. Therefore, it would provide poor quality unsatisfactory living conditions.
34. The wider grounds available for access by future occupiers, would have limited useable space outside of the hardstanding and new landscaping areas, of limited functionality and use. The wider rights of way network and lanes would provide opportunities for walking and cycling in the area. However, such spaces and resources, do not have the same level of privacy, functionality, or benefits that adequate quality private outdoor space would have. For similar reasons, while I am of the view the generous indoor space partly off-sets the inadequate outdoor spaces, it does not fully compensate or mitigate the harm from the absence of a sufficient quantity and quality of outdoor space.

Although prospective purchasers would be aware of the garden limitations, all occupiers should be provided with good quality living conditions including from adequate private outdoor space.

35. For the reasons set out above the proposed development would not provide satisfactory living conditions to the occupiers of houses 1 and 2, with particular reference to private outdoor space provision. This would conflict with the aims of Policy DES4 of the LP which seeks that development is of a high standard of design that does not result significant detrimental impacts on the amenity of occupiers. It would also conflict with paragraph 130f) of the Framework which expects development to provide a high standard of amenity for future users.

Other Matters

36. The previously dismissed appeal at this site was in relation to a different scheme and considered against different development plan policies, as well as preceding the Framework. Therefore, it is of limited relevance. The schemes at the East Herts Equestrian Centre were in the Green Belt, relate to the conversion of existing buildings and are significantly closer to a Group 1 settlement with a range of services and facilities. Ref. 3/19/1597/FUL was the subject of an ENA exploring other equestrian uses. The proposal at Courtyard Garden Lodge was for the reuse of a building for a single dwelling only, significantly closer to services and facilities at a Group 2 Village and Buntingford. Therefore, the examples provided are not directly comparable to or justify allowing this appeal proposal, which I have considered on its own merits and impacts.
37. Concerns are suggested by the Council in respect of the location of the offices resulting in noise and disturbance to house 4. From what I heard and the evidence before me in respect of the layout and likely use of the units and garden, subject to the imposition of suitably worded planning conditions the development would be unlikely to result in harmful living conditions from noise and disturbance.

Planning Balance

38. While it is suggested there has been an under delivery of housing in the area in previous years, I am informed that the Council has a 2021 HDT measurement of 130% and can demonstrate a Housing Land Supply (HLS) of in excess of 5 years. However, a 5 year HLS should not be viewed as a ceiling.
39. The proposed development would utilise previously developed land to provide a moderate temporary economic benefit during construction and a modest on-going spend in the local economy once occupied. There would be likely to be an increase in people employed at the site helping to meet demand for small office accommodation, compliant with the thrust of employment land related policies, which would be a moderate benefit. As a windfall site for four dwellings and offices it would make a small contribution to the objective of significantly boosting the supply of housing, and would be likely to enhance the vitality of rural communities, resulting in a limited social benefit. As a small to medium sized site, it is likely to be built out relatively quickly.
40. The development could secure a moderate net gain in biodiversity by means of a suitably worded planning condition. The landscape improvement that could be secured is likely to take several years and would overall be a limited benefit.

Resource and energy efficiency construction and consumption of the new buildings, is unlikely to result in any overall net gain in renewable energy production but does appear to be likely to result in reduced energy use compared to the existing use, such that it would be a limited overall benefit. Overall, the benefits are attributed moderate weight in favour of the scheme.

41. If I were to agree the development is or could be made compliant with policies in respect of matters such as flood risk, drainage, parking provision, highway access and safety, protected species, detailed design and materials, and the living conditions of future and neighbouring occupiers, these would all be neutral matters in the planning balance. My findings in respect of compliance with some of the locational policies of the LP are also a neutral matter.
42. However, the proposed development conflicts with policies for the loss of equine facilities and it is poorly located for access to services and facilities. It would result in harm to the character and appearance of the area and would not provide satisfactory living conditions to the future occupiers with reference to private outdoor space. The policy conflicts and harm are such that these matters attract significant weight against the scheme, which outweighs the benefits of the development. Therefore, the appeal should not succeed.

Conclusion

43. The proposed development would be contrary to the development plan and the Framework taken as a whole. There are no other considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Hayden Todd, BRP (Hons) RTPI (Planning Consultant, Aitchison Rafferty)

Mr Matthew Briffa, RIBA (Architect, Briffa Phillips)

Miss Leigh Brown (Personal Consultant)

Mr Danie Erasmus (Group Operations Manager, Uavend)

FOR THE COUNCIL

Mr Nick Reed (Planning Officer, East Hertfordshire District Council)

Ms Rachael Collard (Principal Planning Officer, East Hertfordshire District Council)

INTERESTED PARTIES

Ms Elizabeth Gregg-Smith;

Mr Steve Russell;