
Appeal Decision

Site visit made on 25 May 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2022

Appeal Ref: APP/X1925/W/21/3278436

Land between Teanga Cluig and Libre View, Bell Lane, Nuthampstead SG8 8ND

- 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 Adam Uzzell against the decision of North Hertfordshire District Council.
 - The application Ref 21/01157/OP, dated 12 April 2021, was refused by notice dated 09 June 2021.
 - The development proposed is erection of one dwelling (all matters reserved).
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of one dwelling (all matters reserved) at Land between Teanga Cluig and Libre View, Bell Lane, Nuthampstead SG8 8ND in accordance with the terms of the application, Ref 21/01157/OP, dated 12 April 2021, subject to the conditions listed in the attached schedule.

Preliminary Matters

2. The application was submitted in outline, with all matters, comprising appearance, scale, landscaping, access and layout, reserved for future consideration. The submissions nevertheless include an indicative proposed block plan which shows how the proposed dwelling and access could be set out on the site. For clarity, whilst I have had regard to the indicative block plan, I have determined the appeal with all matters reserved.
3. The parties have referred to policies contained within the emerging North Hertfordshire District Council Local Plan 2011-2031 (ELP). Given the stage of preparation and the degree of consistency with the National Planning Policy Framework (the Framework), I attach significant weight to the emerging policies. Notwithstanding this, the starting point for determining this appeal remains the North Hertfordshire District Council – District Local Plan No.2 with Alterations 1996 (saved policies 2007) (SLP).

Main Issue

4. The main issues are:
 - i) whether or not the site is a suitable location for market housing having regard to local and national planning policy;
 - ii) the planning balance, having regard to housing provision.

Reasons

Location

5. The appeal site is located within an area designated by the SLP as 'Rural Area Beyond the Green Belt'. SLP Policy 6 (Rural Area Beyond the Green Belt) controls new development in this area, with planning permission being limited to a closed list of exceptions, including, '(iii) where it is a single dwelling on a small plot located within the built core of the settlement which will not result in outward expansion of the settlement or have any other adverse impact on the local environment or other policy aims within the Rural Areas.' The Council accepts that the development meets criterion (iii) of SLP Policy 6 and advises that the development is, therefore, wholly compliant with the policy.
6. ELP Policy SP5 states that the LPA will operate a general policy of restraint in Rural Areas Beyond the Green Belt through the application of detailed policies. ELP Policy CGB1 (Rural Areas Beyond the Green Belt) supports development in Rural Areas Beyond the Green Belt, subject to a limited range of criteria, including infilling within Category B villages. Policy SP2 (Settlement Hierarchy), however, classifies Nuthampstead as a Category C village and, therefore, the infill housing proposed is not supported by ELP Policies CGB1, SP5 and SP2.
7. The site is not isolated in that it is located within an existing settlement. Facilities at Nuthampstead include a public house and a small industrial estate opposite the site. As such, there are some community facilities and employment opportunities within walking and cycling distance of the site. Future occupiers would, however, most likely need to travel to larger settlements such as Barkway, Royston and Buntingford to meet the majority of their day-to-day needs, such as employment, schools, shops, healthcare and leisure.
8. Journeys to these settlements would include significant stretches along unlit country lanes, often without footways or any specific facilities for cyclists. As such, there would likely be a limited use of walking and cycling to access services given the conditions of the routes and the distances involved. I have no substantive evidence that public transport serves Nuthampstead with any frequency or reliability. It is therefore likely that prospective residents would be heavily reliant on private motorised transport as opposed to more sustainable modes of transport for trips to serve their everyday needs and employment. I acknowledge that the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, it also advises that transport issues should be considered so that opportunities to promote walking, cycling and public transport use are identified and pursued.
9. Overall, the identified conflict with the spatial strategy of the ELP and with Framework policies directing housing to the most sustainable locations would outweigh the development's support within SLP Policy 6. As such, the site is not a suitable location for market housing having regard to local and national planning policy.

Planning balance

10. The Council is not able to demonstrate a five-year supply of deliverable housing sites and the shortfall is notably deficient¹. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date. That does not mean that they carry no weight, but paragraph 11. d) ii. of the Framework (the tilted balance) is engaged. This requires permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
11. The adverse impacts of the development relate primarily to its conflict with the ELP spatial strategy for the area and its conflict with the Framework's support of directing housing to the most sustainable locations. I attach significant weight to the identified conflict with the ELP policies. I attach moderate weight to conflict with the Framework's environmental objective given the future occupiers would have some access to local facilities by sustainable modes of transport.
12. The proposal would have the benefit of adding additional housing to the local supply, mix and choice of homes in an area of established undersupply and historic under delivery². The proposal would also be likely to contribute to the local economy, in terms of generating short term employment during the construction phase. Furthermore, future occupiers may make some contribution to enhancing and maintaining the vitality of Nuthampstead through use of the existing local employment sites and public house. In light of the significant shortfall in the Council's five-year housing land supply, and given the site is within an established settlement, I attach moderate weight to the development's positive contributions to the social and economic objectives of the Framework.
13. The Council has not objected to the proposal with regards to its effect on character and appearance, highways, drainage, protected species and biodiversity. I see no reason to disagree. It would be possible to secure net gains for biodiversity through an appropriate condition. However, in the absence of any substantive evidence before me regarding the extent of biodiversity gains, I afford such gains limited weight.
14. I note that the Highway Authority has objected to the proposal due to the lack of information demonstrating the appropriate visibility splays. Bell Lane, however, has a relatively straight alignment adjacent to the site, with good visibility both to the east and west. I have no substantive evidence before me to suggest that appropriate visibility splays cannot be achieved and controlled at the reserved matters stage.
15. Overall, on balance, I find the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole
16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with

¹ 2.2 years deliverable housing land supply (para 4.3.3 in the Council's Officer Report)

² The 2021 Housing Delivery Test indicates that the Council managed to deliver only 49% of the total number of homes required within the previous three years.

the development plan unless material considerations indicate otherwise. The Council's refusal reasons do not identify any conflicts with the development plan. Indeed, the proposal is supported by SLP Policy S6. Given I have found the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, there are no considerations which indicate that the appeal should be determined, other than in accordance with the adopted development plan. In reaching this conclusion, I have had regard to the earlier dismissed appeal decision³ on this site. That decision was reached, however, prior to the Framework and did not involve the application of a 'tilted balance'.

Conditions

17. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. Where appropriate, I have amended and added to the list of suggested conditions for clarity and to ensure compliance with national policy and guidance. I have omitted the Council's suggested materials and removal of permitted development rights conditions. Those conditions are not justified at this stage and can be applied, if necessary, at the reserved matters stage.
18. Conditions to ensure the development is implemented in accordance with the reserved matters, required to be first submitted and approved, and within the standard time period, are necessary (1,2,3). For the avoidance of doubt, a condition requiring the development to be carried out in accordance with the relevant location plan (4) is necessary, as is one securing a maximum number of dwellings on the site (5). A condition to secure the implementation of a Construction Method Statement is also necessary in the interests of highway safety and to protect the living conditions of local residents (6). To protect the character of the area, a condition securing site levels (7) is necessary.
19. In order to prevent increased risks of flooding, and in the interests of the principles of sustainable drainage, a condition is necessary to ensure the appropriate surface and foul water drainage of the site (8). In the interests of ecology, conditions ensuring enhancement of biodiversity (9) and control of external lighting are necessary (11). In the interests of sustainable transport choices, it is necessary to have a condition securing provision of an electric vehicle charging point (10). In the interests of living conditions and preventing pollution, a condition controlling for any unexpected land contamination is necessary (12). Conditions 6 to 9 inclusive are pre-commencement conditions as these measures will need to be agreed and/or put in place before works begin to prevent the development resulting in harm with regard to the respective matters the conditions are seeking to control.

Conclusion

20. For the above reasons, the appeal is allowed subject to the conditions in the attached schedule.

S D Castle

INSPECTOR

³ PINS ref: APP/X1925/A/08/2084220

**Schedule of Conditions attached to Appeal Decision Appeal Ref:
APP/X1925/W/21/3278436
Land between Teanga Cluig and Libre View, Bell Lane, Nuthampstead
SG8 8ND**

1. Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. The development shall be carried out in accordance with the following approved plans: Sheet No.1 (Site Location Plan).
5. The development hereby approved shall not exceed 1 dwelling.

Pre-commencement

6. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include details of:
 - i. Construction working hours
 - ii. Parking and turning facilities for vehicles of site operatives and visitors
 - iii. Loading and unloading of materials
 - iv. Storage of plant and materials used in constructing the development
 - v. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
 - vi. Dust mitigation measures
 - vii. Noise and vibration mitigation measures

The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

7. No development shall commence until full details of the finished site levels and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. No construction work shall be carried out other than in accordance with the approved details.

8. Prior to the commencement of the development hereby approved, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and an agreed timetable and shall be retained thereafter.
9. No development shall begin until a Biodiversity Enhancement Strategy [BES] to achieve biodiversity enhancements, including details of bird and bat boxes, has been submitted to and approved in writing by the local planning authority. The BES shall be implemented in accordance with the approved details (including a timetable) and shall be adhered to thereafter.
10. Prior to the first occupation of the dwelling hereby permitted, details of the location of at least one electric vehicle charging point on the development shall have been submitted to and approved in writing by the local planning authority. The electric vehicle charging point(s) shall be installed prior to first occupation of the permitted dwelling and shall be maintained and kept in good working order thereafter.
11. No development above slab level shall begin until details of any external lighting to be installed within the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and no other external lighting shall be installed on the site without the written approval of the local planning authority.
12. Any suspected contamination encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; in such a case, a scheme to render this contamination harmless, shall be submitted to, and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.