



Appeal Decision

Site visit made on 21 September 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Appeal Ref: APP/J1915/W/22/3294678

Land adjacent to 1 Coltsfoot Lane, Bulls Green, Knebworth, SG3 6SB

- 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 David Brown against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2474/FUL, dated 24 September 2021, was refused by notice dated 6 December 2021.
 - The development proposed is described as '*Proposed new 5 bedroomed dwelling with integral double garage on former garden land at No 1 Coltsfoot Lane, situated between Nos 1 and 7 Coltsfoot Lane*'.
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Decision

1. The appeal is allowed and planning permission is granted for Proposed new 5 bedroomed dwelling with integral double garage on former garden land at No 1 Coltsfoot Lane, situated between Nos 1 and 7 Coltsfoot Lane at Land adjacent to 1 Coltsfoot Lane, Bulls Green, Knebworth, SG3 6SB in accordance with the terms of the application, Ref 3/21/2474/FUL, dated 24 September 2021, subject to the conditions set out in Appendix A.

Main Issues

2. The main parties agree that the appeal site is located within the Green Belt. As such, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the *National Planning Policy Framework* (the Framework) and any relevant development plan policies;
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposal would be in a suitable location, with particular reference to policies concerned with accessibility to services;
 - The effect of the proposed development on highway safety with regard to visibility splays.

Reasons

Whether inappropriate development

3. The *National Planning Policy Framework* (the Framework) sets out national policy on Green Belts and is an important material consideration. Policy GBR1

of the *East Herts District Plan 2018* (LP) sets out that planning applications in East Herts will be considered in line with the provisions of the Framework.

4. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 149 and 150 of the Framework indicate limited exceptions to inappropriate development. Those listed in Paragraph 150 are of limited relevance in this case and it is not suggested by the parties that the proposal would fall into any of those exceptions: I concur.
5. Paragraph 149 sets out exceptions to inappropriate development which includes part e); '*limited infilling in villages*'. The appeal site in this case is a parcel of land located between Nos 1 and 7 Coltsfoot Lane, as shown on drawing 2007-01 Proposed Block Plan. It would be limited in nature through the erection of a single dwellinghouse.
6. It would be located between two existing dwellings, and having spacing arrangements between the proposed and existing built form not dissimilar to those found in the local area. It would fill a gap between buildings in an otherwise built-up frontage. As such, it would represent infilling in this case.
7. Lastly it would be within the settlement of Bulls Green. During my site inspection I saw that this settlement is clustered around and along the highways such as Coltsfoot Lane, Bramfield Road, Burnham Green Road – which leads to the settlement of Burnham Green – and Queen Hoo Lane. The facts on the ground clearly indicate that this settlement is a village in planning policy terms.
8. Accordingly, whilst noting the Council's position that they consider it would not benefit from this exception, following my considerations above I find that the proposal would represent limited infilling in a village. The proposed development would therefore benefit from the exception set out in Paragraph 149, part e) and as such does not represent inappropriate development in the Green Belt. It would therefore comply with Policy GBR1 of the LP.

Character and appearance

9. The appeal site is an approximately rectangular-shaped undeveloped parcel of land that lies adjacent to the centre of the settlement of Bulls Green. I understand that it was formerly located within the residential curtilage of no.1 Coltsfoot Lane. The proposal seeks the erection of a five bedroom, two storey dwelling with integral double garage and associated access and landscaping.
10. The street scene is generally characterised by large detached or semi-detached two storey houses set back from the highway. For example, opposite the appeal site, to the north as shown on drawing 2007-01 Proposed Block Plan there are two large, detached dwellings with detached double garages within their grounds. Similarly, Nos 1 and 7 Coltsfoot Lane are also large, detached houses with footprints not entirely dissimilar to that proposed. Whilst I concur with the Council's assessment that 'there is no uniform character'¹ within this part of the settlement, it is clear that the scale, mass, and design of the proposed dwelling is not out of keeping with the character of the area.

¹ See Page 2, Paragraph 3.5, Statement of Case, East Herts Council

11. I acknowledge that there would be a change in the character of the appeal site from its currently open form to that of a developed nature through the erection of a new dwelling. However, the proposed scheme is not out of keeping with the character or appearance of this part of the settlement. The proposed dwelling would continue to be set back from the highway; as is typical of the wider street scene. Moreover it would be possible, through the use of conditions, to secure landscape improvements including soft and hard landscaping in order to promote and enhance that already found locally.
12. I therefore find that the proposed development would not result in harm to the character and appearance of the area. As such, it would accord with Policies VILL3, DES3 and DES4 of the LP, which, amongst other aims, seek to ensure that all development should be well designed and in keeping with the character of the village, that developments demonstrate how they will retain, protect and enhance existing landscape features and promote local distinctiveness.

Accessibility of services and facilities

13. The appeal site is located in Bulls Green. This settlement has extremely limited services; essentially a public house. More widely the Council confirmed in the Officer's Report that day-to-day services could be provided in Burnham Green, Datchworth, Watton at Stone and Welwyn Garden City. These are all in three miles of the appeal site. Access to the national arterial route of the A1(M) is also within a similar distance from the appeal site.
14. The initial journey to access these services would take place along the narrow, unlit and winding country roads that lead to the settlements. In practical terms, these would not be conducive to occupiers with young children, older persons, or people with mobility issues. In terms of bus services, I understand that these are infrequent; roughly one or two journeys a day. The reality, therefore, is that future occupiers are likely to be reliant upon private motor vehicles for a majority of their journeys when accessing local services in nearby settlements.
15. Paragraph 105 of the Framework sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. Existing residents of Bulls Green will presumably also utilise a number of transport solutions to meet their day-to-day needs. The appeal site is not entirely well-placed for future residents to access day-to-day services and facilities other than by traveling via private motorised transport. At the same time, future residents would utilise transport modes similar to neighbouring occupiers. The fact of rural life is that private motor vehicles are typically the primary mode of transport. Nonetheless, it is possible, through the use of appropriately worded planning conditions to secure an electrical vehicle (EV) charging point at the appeal site, which would encourage a move away from internal combustion engine private motor vehicles.
16. Moreover, the settlements of Datchworth, Knebworth, and Burnham Green are located a short distance to the north, north west and south west respectively. These provide further day to day services and facilities such as village halls, pre-schools, public houses, railway stations, and/or convenience stores. A little further to the north is Stevenage, and to the south west is Welwyn Garden City, with the A1(M) located a short drive from the appeal site. These larger

settlements will no doubt provide further services for existing residents of the settlement and potentially for future occupiers of the proposal.

17. Future occupiers would likely be reliant upon private motor vehicles for most day-to-day activities. The site is, nonetheless, served by infrequent bus routes, with railway stations and access to the A1(M) located a short distance from the appeal site. It would also be possible for future occupiers to use other public transport options such as taxi services from nearby larger settlements such as Welwyn Garden City. There is also the opportunity to provide an EV charging point which would encourage the move to electrical vehicles.
18. Accordingly, the proposal would be in a suitable location, with particular reference to policies concerned with accessibility to services, given these considerations above. I therefore find that the proposal would accord with Policies DPS2, VILL3, and TRA1 of the LP, which, amongst other aims, seek to ensure a range of sustainable transport options are available to occupants. It would also accord with the aforesaid Policies of the Framework, including recognising the different needs between urban and rural areas.

Highway safety

19. In terms of highway safety, I note that the visibility splays lie outside of the appeal site, the Appellant has demonstrated (see Drawing 2007-12 Rev A at Appendix 10 of their statement) that the provision of the splays is possible. There is no evidence suggesting that these would not be appropriate to the scale and size of the proposed development. I am reinforced in this conclusion by the fact the local highways authority has not objected to the proposal on highway safety grounds.
20. There are trees to the west of the access which are subject to a Tree Preservation Order (TPO). These lie outside the appeal site, but potentially within the required visibility splays. I note the Council's concerns that a full tree survey has not been submitted. However, as the Council acknowledge whilst there may be some pruning of the trees required, it is not likely that the trees would need felling. Moreover, any works to the tree(s) subject to the TPO, if required, would require further approval from the local planning authority. It is also possible, through the use of appropriately worded planning conditions, to secure landscaping within the appeal site which would fulfil the requirements of s197 of the TCPA and the duty for the preservation or planting of trees.
21. Accordingly, the proposal would accord with Policies TRA2 and DES3 of the LP, which, amongst other aims, seek to ensure safe and suitable access can be achieved for all users.

Other Matters

22. A number of concerns have been raised by interested parties. I now consider these before considering the imposition of any planning conditions and a final conclusion.
23. In terms of the proposal setting a precedent elsewhere within or nearby to the settlement, it is well established planning practice that each proposal is considered on its own merits; as I have done here. Granting permission in this case does not mean that other similar proposals would also have to be granted.

24. I note concerns raised over ecology and the potential presence and/or usage of the site for bats, birds and other species. An ecological survey has been undertaken by a person holding both Bat and Great Crested Newt Licenses issued/approved by Natural England, and membership of the Chartered Institute of Ecology and Environmental Management (CIEEM). Put simply, this report does not find any significant ecological impact arising from the development on protected species. Given the paucity of detailed evidence to the contrary I see no reason to disagree.
25. My attention has been drawn to a dismissed appeal decision from 2019, ref 3208037 at Rats Castle Cottage nearby. However, this relates to a different site, within a specific context (for example the setting of a Grade ii listed building). It does not, therefore, alter my assessment of the scheme before me.
26. In terms of concerns over privacy and overlooking, in the main openings would be situated to the front and rear of the proposed building. These would either overlook the highway and front 'garden' area of the building, or the rear garden area. Any views of adjacent dwellings would be at oblique angles and over a distance given the angles and relative layout of building footprints. There are windows proposed in the flank wall as shown on drawing 2007-04 serving bedrooms 3 and 4 as labelled on the plans. These could be conditioned so as to be obscured glazed and fixed shut, which would mitigate any overlooking from them.
27. In terms of loss of light, there are gaps between the existing and proposed buildings – which for Nos 1 and 7 include garages (built or otherwise approved). The height of the proposed building is not dissimilar to the adjacent buildings, and the rear gardens face approximately south. The combination of the gaps between the built form, relative building heights and layouts, and the south facing aspect mean that any loss of direct and/or indirect light is likely to be minimal and not materially harmful to neighbouring occupiers.
28. The appeal site would be accessed over Common Land, which the Appellant understands is subject to different legislative considerations and applications. That is a separate matter for the main parties to resolve elsewhere.
29. Taking into account other matters raised by interested parties, I do not find, whether individually or cumulatively, they provide justification for the dismissal of the appeal scheme.

Conditions

30. A number of conditions have been suggested by the local planning authority. I have considered these in light of Paragraph 56 of the Framework and the national Planning Practice Guidance and the use of planning conditions. The Appellant has confirmed agreement to the suggested conditions in their final comments.
31. Conditions requiring the proposal to be started within three years and in accordance with the submitted drawings are reasonable and necessary to provide certainty.
32. Conditions requiring details of the vehicle access (including gradients and surface water drainage arrangements) and visibility splays are necessary in order to minimise extraneous material being discharged onto the public

highway. Conditions requiring details of materials, ground levels, landscaping, restricting external lighting, and requiring tree protection measures are put in place are necessary in order to ensure good design.

33. Conditions requiring the installation of a specific gas fired boiler and provision of an electrical vehicle charging point are necessary and reasonable in order to reduce any impacts on air quality on existing and new occupiers.
34. Conditions restricting the exercise of permitted development rights are reasonable in this case given the sites location within the Green Belt and rural settlement. Lastly a condition requiring obscured glazing in the first floor flank windows is necessary for the reasons given in paragraph 26 of this decision.

Conclusion

35. The proposed development would accord with the adopted development plan when considered as a whole, and there are no material considerations indicating a decision otherwise than in accordance with it.
36. For the reasons given above, I conclude that the appeal should be allowed.

C Parker

INSPECTOR

Appendix A – List of conditions 3294678

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2007-01, 2007-02, 2007-03, 2007-04, 2007-05, 2007-06, 2007-07, 2007-08 rev A, 2007-09 rev A, 2007-10 rev A, 2007-11, 2007-12 and 2007-12 Rev A.
3. No development shall commence until details of the proposed vehicular access as indicated in the drawing (Ref 2007-12) from Coltsfoot Lane have been submitted to and approved in writing by the local planning authority. The details shall include gradient, vehicular visibilities and surface water drainage arrangements to ensure there is no water discharge onto the highway carriageway. Thereafter the works shall be carried out in accordance with the approved details.
4. Prior to any above ground construction works being commenced (including any clearing of the site), the external materials of construction for the development hereby permitted shall submitted to and approved in writing by the local planning authority. Thereafter the development should be implemented in accordance with the approved details.
5. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
6. Concurrent with the construction of the new access, visibility splays of 2.4 metres x 25 metres shall be provided in both (east and west) directions onto Coltsfoot Lane. Thereafter they shall be permanently maintained as such, within which there should be no obstruction to visibility between 600mm and 2 m above the carriageway level.
7. No external lighting shall be provided without the prior written permission of the local planning authority.
8. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted to and approved in writing by the local planning authority. These shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
9. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, (or any subsequent relevant British Standard or guidance), for the duration of the works on site and until at least five years following contractual practical completion of the approved

development. In the event that trees or hedging become damaged or otherwise defective during such period, the local planning authority shall be notified as soon as reasonably practicable and no later than 14 days after such events have occurred, and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the local planning authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the local planning authority.

10. Any gas-fired boiler to be installed shall meet a minimum standard of <40 mgNO_x/kWh. Thereafter the gas-fired boiler will be maintained in good working order and shall only be replaced by another of equivalent or better emission levels.
11. Prior to occupation of the development, a single electric vehicle charging point per dwelling shall be provided. Thereafter, the electrical vehicle charging point shall be retained and maintained in good working order.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any amending Order, the enlargement, improvement or other alteration of any dwellinghouse as described in Schedule 2, Part 1, Classes A, AA, and B of the Order shall not be undertaken without the prior written permission of the local planning authority.
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, no works or development as described in Schedule 2, Part 1, Class E of the Order shall not be undertaken without the prior written permission of the local planning authority.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any amending Order, no works or development as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without the prior written permission of the local planning authority.
15. The building hereby permitted shall not be occupied until the windows at the first floor east flank wall serving Bedroom 4 and Bedroom 3 as shown on drawing 2007-04 have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

*****END OF CONDITIONS*****